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## **MAIRO-INYA MUNICIPALITY**



## **MUNICIPAL CHARTER**

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## **PREAMBLE**

### **WHEREAS**

Article 2 of the Constitution provides that the Constitution is the supreme law of the Republic of Kenya and binds all persons and all State organs at both levels of government.

### **WHEREAS**

Article 184 of the Constitution of Kenya 2010 mandated parliament to enact a legislation to provide *inter alia* the criteria for classifying areas as urban areas and cities; establishing the principles of governance and management of urban areas and cities and to provide for participation by residents in the governance of urban areas and cities within 1 year of the promulgation of the Constitution.

### **WHEREAS**

Parliament enacted the Urban Areas and Cities Act in the year 2011 which legislation had an effective date falling after the first elections held under the Constitution of Kenya 2010.

### **WHEREAS**

Section 9 of the Urban Areas and Cities Act empowers the County Governor, on the resolution of the County Assembly, to confer on a qualifying town, the status of a Municipality by grant of a Charter in the prescribed form.

### **WHEREAS**

The Urban Areas and Cities Act does not have the prescribed form of a Municipal Charter.

**WHEREAS**

No regulations have been promulgated under the Urban Areas and Cities Act providing the prescribed form of a Municipal Charter under the Urban Areas and Cities Act.

**WHEREAS**

Section 72 of the Interpretations and General Provisions Act allows for substantial conformity of any instruments required to be in a prescribed form under any statute in Kenya.

**NOW THEREFORE IN EXERCISE** of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Nyandarua **HEREBY GRANTS** the Municipality of **Mairo-Inya** this Municipal Charter on this ..... day of ..... 2023.

.....  
HIS EXCELLENCY (DR) MOSES N. BADILISHA KIARIE

**THE GOVERNOR OF NYANDARUA COUNTY**



## **1. INCORPORATION, NAME AND BOUNDARIES**

### **1.1. INCORPORATION AND NAME**

- 1.1.1. This Charter is the Municipal Charter of the Municipality of Mairo-Inya, within Nyandarua County, Kenya.
- 1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager or acting Municipal Manager, in the absence of both of said officers, on a designated officer of the Board of the Municipality.

### **1.2. BOUNDARIES**

- 1.2.1. The boundaries of the Municipality of Mairo-Inya as now existing or as may subsequently be altered shall be the boundaries of the Municipality of Mairo-Inya.

## **2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY**

### **2.1. POWERS OF THE MUNICIPALITY**

- 2.1.1. The Municipality of Mairo-Inya shall have all the powers, general and special, governmental or proprietary, expressed or implied, which may be possessed or assumed by municipalities under the Urban Areas and Cities Act, the County Governments Act and the Nyandarua County By-laws.
- 2.1.2. No enumeration of specific powers in this Charter shall be held to be exclusive. All such powers shall be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner as Board of the Municipality may determine, or, unless a contrary intent appears in this Charter or in the By-laws and Resolutions of the Board of the Municipality, in such manner as may be provided by the County laws.

## 2.2. OBJECTS OF THE MUNICIPALITY

2.2.1 The objects of the Municipality of Mairo-Inya are to: -

- (i) Provide for efficient and accountable management of the affairs of the Municipality.
- (ii) Provide for a governance mechanism that will enable the inhabitants of the Municipality to:
  - a. Participate in determining the social services and regulatory framework which will best satisfy their needs and expectations.
  - b. Verify whether public resources and authority are utilized or exercised, as the case may be, to their satisfaction.
  - c. Enjoy efficiency in service delivery.
- (iii) Vigorously pursue the developmental opportunities which are available in the Municipality and to institute such measures as are necessary for achieving public order and the provisions of civic amenities, so as to enhance the quality of life of the inhabitants of the Municipality.
- (iv) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- (v) Promote social cohesiveness and a sense of civic duty and responsibility among the inhabitants and stakeholders in the Municipality in order to facilitate collective action and commitment towards achieving the goal of a harmonious and stable community.
- (vi) Providing for services, laws and other matters for Municipality's benefit.
- (vii) Fostering the economic, social and environmental well-being of its community



## 2.3 FUNCTIONS OF THE MUNICIPALITY

2.3.1 The Municipality of Mairo-Inya shall, within the boundaries of the Municipality, perform the following functions:

- (a) Promotion, regulation and provision of refuse collection and solid waste management services;
- (b) Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- (c) Maintenance of urban roads and associated infrastructure;
- (d) Maintenance of storm drainage and flood controls;
- (e) Maintenance of walkways and other non-motorized transport infrastructure;
- (f) Maintenance of recreational parks and green spaces;
- (g) Maintenance of street lighting;
- (h) Maintenance and regulation of traffic controls and parking facilities;
- (i) Maintenance of bus stands and taxi stands;
- (j) Regulation of outdoor advertising;
- (k) Maintenance and regulation of municipal markets and abattoirs;
- (l) Maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promotion and regulation of municipal sports and cultural activities;
- (n) Regulation and provision of animal control and welfare;
- (o) Enforcement of municipal plans and development controls;
- (p) Municipal administration services (including maintenance of administrative offices);
- (q) Promoting infrastructural development and services within municipality;
- (r) Any other functions as may be delegated by the County government.

### **3. THE BOARD OF THE MUNICIPALITY**

#### **3.1. ESTABLISHMENT OF THE BOARD**

- 3.1.1. There shall be a Board of the Municipality of Mairo-Inya to be known as the Mairo-Inya Municipality Board (EMB)<sup>1</sup>.
- 3.1.2. The Board of the Municipality shall be a corporate body with perpetual succession and a common seal and shall in its own corporate name, be capable of<sup>2</sup>:
- (a) Suing and being sued;
  - (b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
  - (c) Borrowing money or making investments;
  - (d) Entering into contracts; and
  - (e) Doing or performing all other act or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law which may lawfully be done or performed by a body corporate.
- 3.1.3. There shall be a principal and agency relationship between the Board of the Municipality and the County Government<sup>3</sup>

#### **3.2. GOVERNANCE AND MANAGEMENT FUNCTIONS OF A BOARD**

- 3.2.1. The Board of the Municipality shall have all the powers and perform all functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.
- 3.2.2. Except as this Charter otherwise provides, all powers of the Municipality shall be vested in the Board of the Municipality.

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<sup>1</sup>Section 12 (1) of the UACA

<sup>2</sup>Section 12 (2) of the Urban Areas and Cities Act (UACA)

<sup>3</sup>Section 11 of the UACA

- 3.2.3. The Board of the Municipality shall exercise the powers in the performance of its duties and obligations.
- 3.2.4. Subject to the Constitution or any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Mairo-Inya
- (a) Exercise executive authority as delegated by the County Government of Nyandarua;
  - (b) Ensure provision of services to its residents;
  - (c) Promote constitutional values and principles;
  - (d) Ensure the implementation and compliance with policies formulated by both the National and County Government;
  - (e) Formulate By-laws;
  - (f) Ensure participation of the residents in decision making, its activities and programmes in accordance to the second Schedule of Urban Areas and cities Act 2011, and Urban Areas and Cities (amendment) Act, 2019
  - (g) Impose such fees, levies and charges as may be authorized by the County government for delivery of services by the Municipality and
  - (h) Exercise such other powers as may be delegated by the County government of Nyandarua.
- 3.2.5. Notwithstanding any other provision of law or this Charter, the Board of the Municipality shall exercise such executive authority as may be delegated by the County Governor for the necessary performance of its functions.
- 3.2.6. The Board of the Municipality shall perform the following functions:
- a) Oversee the affairs of the Municipality;
  - b) Develop or adopt policies, plans, strategies and programmes and set targets for delivery of service.
  - c) Formulate and implement an integrated development plan;

- d) Control land, land sub-division, land development and zoning by public and private sectors for any purposes within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Nyandarua;
- e) Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Nyandarua;
- f) Develop and manage schemes, including site development in collaboration with the relevant national and county agencies;
- g) Maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the board;
- h) Administer and regulate its internal affairs;
- i) Implement applicable national and county legislation;
- j) Enter into such contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions under this Act or other written law;
- k) Monitor and, where appropriate, regulate city and municipal services where those services are provided by service providers other than the board of the city or municipality;
- l) Prepare its budget for approval by the county executive committee and administer the budget as approved;
- m) As may be delegated by the county government, collect rates, taxes levies, duties, fees and surcharges on fees;
- n) Settle and implement tariff, rates and tax and debt collection policies as delegated by the county government;
- o) Monitor the impact and effectiveness of any services, policies, programmes or plans;
- p) Establish, implement and monitor performance management systems;
- q) Promote a safe and healthy environment;
- r) Facilitate and regulate public transport
- s) Perform such other functions as may be delegated to it by the county government or as may be provided for by any written law.

### 3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY

3.3.1. (1) The Board of the Municipality shall be composed of nine (9) members<sup>4</sup>. appointed by the Governor with the approval of the County Assembly

(2) The members of the Board appointed under subsection (1) shall be constituted as follows-

- a) The County executive member for the time being responsible for cities and urban areas or his representative;
- b) Three members who shall be appointed by the County Governor, with the approval of the county assembly;
- c) Four members who shall be nominated by an association and appointed by the county governor, with the approval of the county assembly;
- d) The chief officer responsible for urban development; and
- e) The municipal manager appointed under section 28 who shall be the secretary to the Board and an ex-officio member of the Board.

(3) The four members of the board of a municipality shall be nominated by-

- a) An umbrella body representing professional associations in the area;
- b) An association representing the private sector in the area;
- c) A cluster representing registered associations of the informal sector in the area; and
- d) A cluster representing registered neighborhood associations in the area.

(4) The County Governor shall, while considering the nominated members identified by the organizations specified under section 13(2) require the organizations to produce

- a) Signed minutes as evidence of an accountable process of nomination;
- b) Evidence of compliance with statutory obligations;

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<sup>4</sup>Section 14 of the UACA

- c) Vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the Board.

3.3.2 The Municipal manager is the Secretary of the Board and shall be ex-officio member of the Municipal Board;

3.3.3 In appointing members of the Board of the Municipality, the County Governor shall ensure gender equity, representation of persons with disability, youth and marginalized groups.

3.3.4 A member of a Board shall hold office for a term of five years, on a part-time basis.

#### 3.4 ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD OF THE MUNICIPALITY

3.4.1 A person shall be qualified for appointment as a member of the 'Board if that person-

- a) holds at least a diploma from an institution recognized in Kenya;
- b) has a distinguished career in a medium level management position in either private or public sector;
- c) holds at least five years' post-qualification professional experience; and
- d) satisfies the requirements of Chapter Six of the Constitution;
- e) is ordinarily resident or has a permanent dwelling in the municipality; and
- f) carries on business in the municipality or has lived in the municipality for at least five years

3.4.3 A person shall not be appointed a member of the Board if that person-

- a) is an un-discharged bankrupt;
- b) has been removed from office for contravening the Constitution or any other law;
- c) is not a citizen of Kenya; or
- d) has in the conduct of his or her affairs not met any statutory obligations.

### 3.5 CHAIRPERSON OF THE BOARD

3.5.1 A person shall be qualified for appointment as a chairperson of the Board if that person-

- a) Holds at least a degree from an institution recognized in Kenya;
- b) Has a distinguished career in a medium level management position in either the private or public sector;
- c) Holds at least ten years post qualification professional experience;
- d) Satisfies the requirements of Chapter Six of the Constitution;
- e) Is ordinarily resident or has a permanent dwelling in the municipality; and
- f) Carries on business in the municipality or has lived in the municipality for at least five years.

3.5.2 The Chairperson of the Board shall hold office for a term of five (5) years<sup>5</sup>.

### 3.6 POWERS AND FUNCTIONS OF THE CHAIRPERSON

3.6.1 The Chairperson of the Board of the Municipality shall have the following powers and shall perform the functions set out below:

- (a) The Chairperson shall be the head of the Board of the Municipality;
- (b) Chairing the meetings of the Board of the Municipality; and
- (c) Perform such other duties as may be delegated by the Board of the Municipality.

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<sup>5</sup>Section 17 (4) of the UACA

### 3.7 VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY

- 3.7.1 At the first regular meeting of the Board of the Municipality, members of the Board of the Municipality shall elect from amongst themselves, a Vice-Chairperson of the Board of the Municipality.<sup>6</sup>
- 3.7.2 The Chairperson and the Vice-Chairperson of the Board of the Municipality shall be of opposite gender.
- 3.7.3 The Vice-Chairperson shall, in the absence of the Chairperson, perform the functions of the Chairperson and shall perform such other functions as may be delegated by the Chairperson.

### 3.8 REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON

- 3.8.1 The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by:
- (a) decision of two thirds the members of Board of the Municipality at a duly convened meeting where quorum is present; or
  - (b) A resolution of the County Assembly upon a petition by the residents of the Municipality.<sup>7</sup>
  - (c) By the County Governor.
- 3.8.2 The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under 3.8.1 above may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with the Municipality By- Laws having regard to fair administrative practices.
- 3.8.3 Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of Board of the Municipality may be filled in the manner provided under Article 3.5 and 3.7 respectively.

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<sup>6</sup>Section 12 (2) of the UACA

<sup>7</sup>Section 18 (3) of the UACA



### 3.9 SECRETARY OF THE BOARD OF THE MUNICIPALITY

3.9.1 Where the Municipal Manager of the Municipality is absent from any meeting, the Municipal Manager with the approval of the Board may designate an officer of the Board of the municipality for that purpose

### 3.10 COMMITTEES OF THE BOARD OF THE MUNICIPALITY

3.10.1 The Board of the Municipality may:

- (a) Establish such Committees for any general or special purpose which, in its opinion, would regulate or manage its affairs more efficiently and as may be necessary for the performance of its functions under the Urban Areas and Cities Act;<sup>8</sup>
- (b) Delegate to such Committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of the Board of the Municipality;<sup>9</sup> and
- (c) Include persons who are not members of the Board in any Committee<sup>10</sup>.

3.10.2 The Committees of the Board of the Municipality to which members of the Board of the Municipality delegate any of their powers and functions must follow procedures which are based as far as they are applicable on those provision of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.

### 3.11 REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY

3.11.1 The Board of the Municipality shall not be entitled to a salary.

3.11.2 However, members of the Board of the Municipality shall be paid such allowances as the County Executive Committee shall, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission, determine.<sup>11</sup>

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<sup>8</sup>Section 26 (1) of the UACA

<sup>9</sup>Section 26 (2) of the UACA

<sup>10</sup>Section 26 (3) of the UACA

<sup>11</sup>Section 25 of the UACA

### 3.12 REMOVAL OF MEMBERS OF THE BOARD OF THE MUNICIPALITY

3.12.1 A member of the Board of the Municipality shall cease to hold office if the member<sup>12</sup>:

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the County Governor;
- (e) without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the Board of the Municipality within one financial year;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
- (i) engages in any gross misconduct; or
- (j) dies.

3.12.2 A member of the Board of the Municipality may be removed from office by<sup>13</sup>:

- (a) The County Governor;
- (b) A resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- (c) a resolution of the County Assembly upon a petition by the residents of the Municipality.

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<sup>12</sup>Section 16 of the UACA

<sup>13</sup>Section 18 of the UACA

3.12.3 The procedure for the removal or petition for removal of a member of the Board of the Municipality under 3.11.1 above shall be provided by Regulation under the Urban Areas and Cities Act<sup>14</sup> and in the absence thereof in accordance with the Municipality By- Laws having regard to fair administrative practices.

3.12.4 Any vacancy arising out of the removal of a member of the Board of the Municipality may be filled in the manner provided under Article 3.3 above.<sup>15</sup>

### 3.13 MEETINGS OF THE BOARD OF THE MUNICIPALITY

3.13.1 The Board of the Municipality shall hold its sittings to transact the business of the Board once every three months.<sup>16</sup>

3.13.2 Notwithstanding Article 3.13.1, the Chairperson of the Board of the Municipality may, and upon request in writing by at least one-third of the members of the Board of the Municipality, convene a special meeting to transact any urgent business of the Board of the Municipality.

3.13.3 All regular meetings of the Board of the Municipality called for the purpose of transacting public business, the records of the meetings shall be open to the public.<sup>17</sup>

3.13.4 The Board shall have the privilege of holding executive sessions from which the public is excluded, however, no by-laws, resolution, rule or regulation shall be finally adopted at such an executive session.

### 3.5 QUORUM

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<sup>14</sup>While the UACA provides persons who may remove a member of the Board of a Municipality, the procedure for removal or petitioning for removal is not provided. The Charter proposes that the same be provided in the regulations.

<sup>15</sup>Section 19 of the UACA

<sup>16</sup>Section 23 of the UACA

<sup>17</sup>This is not provided for under the Act. However, in line with the principle of transparency, the same has been included.

3.5.2 A majority of the members of the Board of the Municipality is a quorum to conduct business.<sup>18</sup>

3.5.3 A member of the Board shall declare if they have any personal interest of financial or pecuniary nature in a matter that is before the Board and shall not vote or participate in the decision making on such a matter.

### 3.6 RULES OF THE BOARD

3.6.2 The Board of the Municipality shall by resolution adopt rules to govern its meetings.

### 3.7 RECORD OF INFORMATION OF THE BOARD

3.7.2 The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality.<sup>19</sup>

3.7.3 Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Access to Information Act of 2017.

### 3.8 CITIZEN FORA

3.8.2 The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Mairo-Inya in the management and administration of the Municipality.

3.8.3 All recommendations from the Citizen Fora of the Municipality of Mairo-Inya shall be forwarded to the Board of the Municipality for resolution.

3.8.4 All recommendations on issues raised in the Citizen Fora and addressed by the Board of the Municipality shall be forwarded to the Municipal Manager for implementation

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<sup>18</sup>This is not provided in the Act. However, a majority of the members of the Board of the Municipality is sufficient to constitute quorum.

<sup>19</sup>This is equally not provided but is crucial for the continuity of the functions of the Board of the Municipality.

## **4 LEGISLATIVE AUTHORITY <sup>20</sup>**

### **4.1 BY-LAWS**

- 4.1.1 The Board of the Municipality may make Municipality By-laws/ regulations for better running and management of the municipality and submit them to the County Assembly for approval.

### **4.2 PASSING OF BY-LAWS**

- 4.2.1 Passing of By-laws shall require approval by a majority of the Board members of the Municipality.
- 4.2.2 The Board of the municipality shall ensure public participation in the formulation and amendment of the By-laws.
- 4.2.3 After the adoption of a By-law, the vote of each member must be entered into the Board minutes.

### **4.3 EFFECTIVE DATE OF BY-LAWS**

- 4.3.1 By-laws shall take effect upon approval by the County Assembly and publication in the Kenya Gazette.

## **5 ADMINISTRATIVE AUTHORITY <sup>21</sup>**

### **5.1 RESOLUTIONS**

- 5.1.1 The Board of the Municipality shall exercise its administrative authority by approving resolutions.

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<sup>20</sup>The legislative powers of the Board of the Municipality are not set out in the Act.

<sup>21</sup>The administrative powers of the Board of the Municipality are vital yet not set out in the Act.

## 5.2 APPROVAL OF RESOLUTIONS

5.2.1 Approval of a resolution or any other Board administrative decision shall be a majority municipal Board members.

## 5.3 EFFECTIVE DATE OF RESOLUTION

5.3.1 Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

5.3.2 All resolutions shall be made available for public scrutiny.

## 5.4 APPEAL MECHANISM

5.4.1 A resident of the municipality who is aggrieved by resolution or a decision of the board may appeal by writing to the County Assembly or the Governor.

# 6 THE MUNICIPAL MANAGER

## 6.1 OFFICE OF THE MUNICIPAL MANAGER

6.1.1 There is established the office of the Municipal Manager.<sup>22</sup>

6.1.2 The Municipal Manager shall be the administrative head of the Municipality of Mairo-Inya.

## 6.2 APPOINTMENT AND TERM

6.2.1 The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board<sup>23</sup>.

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<sup>22</sup>Section 28 of the UACA

<sup>23</sup>Section 29 of the UACA and Section 59 (1) (b) of the County Governments Act.

6.2.2 The Municipal Manager shall hold office for a term of 5 years.<sup>24</sup>

### 6.3 QUALIFICATIONS

6.3.1 The Municipal Manager shall<sup>25</sup>:

- (a) Be a citizen of Kenya
- (b) Hold a degree from a university recognized in Kenya or its equivalent; and
- (c) Has at least five years' experience in administration management either in the public or private sector; and.
- (d) Satisfies the requirements of Chapter Six of the Constitution

6.3.2 The Secretary shall be-

- (a) Responsible for the day to day management of the affairs of the Board; and;
- (b) Perform such other duties as maybe assigned by the Board

### 6.4 FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER

6.4.1 The Municipal Manager shall implement the decisions and functions of the Board of the Municipality and shall be answerable to the Board.<sup>26</sup>

6.4.2 The Municipal Manager shall perform the following functions<sup>27</sup>:

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<sup>24</sup>The term of the Municipal Manager is not provided for in the Act. The model Charter proposes that the appointment be contractual.

<sup>25</sup>Section 30 of the UACA

<sup>26</sup>Section 28 of the UACA

<sup>27</sup>The enumeration of the powers and functions of the Municipal Manager is not provided under the Act. A sample of the powers and functions of the Municipal Manager is provided here.

- (a) Act on behalf of the Board of the Municipality-
  - (i) In ensuring the execution of the directives of the Board of the Municipality;
  - (ii) During all intervals between meetings of the Board of the Municipality;
- (b) Prepare and present for approval of the Board of the Municipality, an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Board;
- (c) Be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
- (d) Cause to be prepared, transmitted to the Board of the Municipality, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality.
- (e) Act as an ex-officio member of all committees of the Board of the Municipality; and
- (f) Such other functions as the Board may, by order, confer upon the Municipal Manager.

6.4.3 The Municipal Manager shall be fully responsible for the proper conduct of the administrative work and affairs of the Municipality. The Municipal Manager shall have the power and shall be required to:

- (a) Exercise supervision over all departments and agencies of the Municipality and provide for the coordination of their activities;
- (b) Enforce the provisions of this Charter, Municipal By-laws, and all applicable laws;
- (c) Communicate and implement decisions of the Board of the Municipality;
- (d) Exercise such other powers as may be prescribed by this Charter, by-laws and applicable laws.

6.4.4 Functions of the Municipal Manager:

- (a) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;



- (b) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
- (c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- (d) Organize Municipality departments and administrative structure;
- (e) Prepare and administer the annual Municipality budget;
- (f) Administer Municipality utilities and property;
- (g) Encourage and support regional and intergovernmental cooperation;
- (h) Promote cooperation among the Board of the Municipality, staff and citizens in developing Municipality policies and building a sense of community;
- (i) Perform other duties as directed by the Board of the Municipality;

## 6.5 REMUNERATION

6.5.1 The County Public Service Board shall set the compensation and determine the conditions of employment of the Municipal Manager as guided by the salaries and remuneration commission.

## 6.6 REMOVAL OF THE MUNICIPAL MANAGER

6.6.1 The Municipal Manager may be removed from office by<sup>28</sup>;

- a) The County Governor;
- b) A resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or

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<sup>28</sup> This is not provided for in the Act. The provisions on removal of the Municipal Manager are of persuasive value only.

- c) A resolution of the County Assembly upon a petition by the resident(s) of the Municipality.

6.6.2 The Municipal Manager shall cease to hold office upon the lapse of the employment term of if he/she:

- (a) Is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) Is declared or becomes bankrupt or insolvent;
- (c) Is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) Resigns in writing to the County Governor;
- (e) Without reasonable cause, is absent from three consecutive meetings of the Board of the Municipality;
- (f) Is found guilty of professional misconduct by the relevant professional body;
- (g) Is disqualified from holding a public office under the Constitution;
- (h) Engages in any gross misconduct; or
- (i) Dies.

6.6.3 The procedure for the removal of the Municipal Manager may be provided by the By-laws and in the absence thereof in accordance with Kenyan law having regard to fair administrative practices.

6.6.4 Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 6.2 above.

## 6.7 ACTING MUNICIPAL MANAGER

6.7.1 When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Governor shall appoint a qualified person to be an Acting Municipal Manager.

6.7.2 The County Governor shall inform the County Public Service Board of such appointment within seven (7) days.

6.7.3 The Acting Municipal Manager shall have the authority and duties of the Municipal Manager.

6.7.4 An Acting Municipal Manager shall hold office for a period of not more than six months.

## **7 MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT**

### **7.1 SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE**

7.1.1 The Board of the Municipality shall derive its revenue and funds from<sup>29</sup>:

- (a) Monies allocated by the County Assembly for the purposes of the management and service delivery of the Board;
- (b) Monies or assets that may accrue to the Board in the course of the exercise of its powers or the performance of its functions;
- (c) All monies or grants from any other legitimate source provided or donated to the Board;

### **7.2 APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER**

7.2.1 The Municipality Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner provided under Section 148 of the Public Finance Management Act.<sup>30</sup>

### **7.3 FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER**

7.3.1 The Municipality Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act.

7.3.2 Without prejudice to the foregoing, the Municipality Accounting Officer shall be responsible for managing the finances of the Municipality.

<sup>29</sup>Section 43 of the UACA and Section 172 of the Public Finance Management Act

<sup>30</sup>Section 170 of the Public Finance Management Act

#### 7.4 FINANCIAL YEAR

7.4.1 The Municipality shall operate on an annual budget.

7.4.2 The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth June in each year.<sup>31</sup>

#### 7.5 BUDGET

7.5.1 The budget of the Board of the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act.

#### 7.6. MANAGEMENT OF MUNICIPALITY FINANCES

7.6.1 The Board of the Municipality shall, with the approval of the County Executive Committee member for finance, open and maintain a bank account in the name of the Municipality and paid into county revenue fund account.

7.6.2 All monies received by the Board of the Municipality shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.<sup>32</sup>

#### 7.7 BORROWING BY THE MUNICIPALITY

7.7.1 The Board of the Municipality may only borrow from<sup>33</sup>:-

- (a) from the County Government;
- (b) through the County Government; or
- (c) by way of a bank overdraft.

and subject to such terms as may be imposed by the County Assembly or such terms as provided by law.

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<sup>31</sup>Section 44 of the UACA

<sup>32</sup>Section 179 of the Public Finance Management Act

<sup>33</sup>Section 177 of the Public Finance Management Act

## 7.8 AUDIT

7.8.1 The audit of the Board of the Municipality shall be as provided under Section 46 and 47 of the Urban Areas and Cities Act.

## 8 MUNICIPALITY PERSONNEL<sup>34</sup>

### 8.1 MUNICIPALITY PERSONNEL

8.1.1 The Board of the Municipality may subject to the approval by the County Executive Committee and further by the County Public Service Board, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other any other law.

### 8.2 MANAGEMENT OF MUNICIPAL PERSONNEL

8.2.1 Employees of the Municipality shall be under the general guidance of the Municipal Manager.

### 8.3 RETIREMENT SYSTEMS

8.3.1 The Board of the Municipality may do all things necessary to include its officers and employees, or any of them within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Board of the Municipality.

### 8.4 COMPENSATION OF MUNICIPAL PERSONNEL

8.4.1 The compensation of all employees of the Municipality shall be set by the County public Board upon the advice of the Salaries and Remuneration Commission.

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<sup>34</sup>The following provisions are not provided in statute.

## **9 MUNICIPALITY PROPERTY<sup>35</sup>**

### **9.1 ACQUISITION, POSSESSION AND DISPOSAL**

9.1.1 The Board of the Municipality is a body corporate and may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Municipality in accordance with the provisions of the Public Procurement and Disposal Act.

9.2.2 All town property and funds of every kind belonging to or in the possession of the town (by whatever prior name known) at the time this Charter becomes effective are vested in the Municipality, subject to the terms and conditions thereof.

### **9.2 COMPULSORY ACQUISITION**

9.2.3 Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee to request the National Land Commission to acquire the land on its behalf<sup>36</sup>.

9.2.4 The provisions of the Land Act shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

### **9.3 MUNICIPAL BUILDINGS**

9.3.1 The Board of the Municipality may acquire, obtain by lease or rent, purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Municipality.

### **9.4 PROTECTION OF MUNICIPALITY PROPERTY**

9.4.1 The Board of the Municipality shall endeavor to protect municipal property and to keep all municipal property in good condition.

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<sup>35</sup>The following provisions are not provided in statute.

<sup>36</sup>Section 107 of the Land Act

## 10 GENERAL PROVISIONS

### 10.1 OATH OF OFFICE<sup>37</sup>

10.1.1 Before entering upon the duties of their offices, the Municipal Manager, the Chairperson and Vice-Chairperson and the members of the Board, and all other persons appointed to any office of profit or trust in the Municipality, as determined by Board, shall take and subscribe to the following oath or affirmation:

#### OATH OF BOARD MEMBERS

*I ....., do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office of the Chairperson/ Vice Chairperson/ Board Member of the Mairo-Inya Municipality in Nyandarua County; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; and that I shall do justice to all. (So help me God)*

#### OATH OF MUNICIPAL MANAGER

*I ....., do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office of the Municipal Manager of Mairo-Inya Municipality in Nyandarua County; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall at all times, when so required, faithfully and truly give my counsel and advice to Board Members of Mairo-Inya Municipality and; that I shall do justice to all. (So help me God)*

#### OATH OF OFFICERS OF THE MUNICIPALITY

*I ....., do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya having been appointed as..... in the office of the Mairo-Inya Municipality Board, Nyandarua County; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall at all times, when so required, faithfully and truly give my counsel and advice to Board Members of Mairo-Inya Municipality and; that I shall do justice to all. (So help me God)*

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<sup>37</sup>Section 18 of the Oaths and Statutory Declarations Act

10.1.2 The Board members and the Municipal Manager shall take and subscribe to this oath or affirmation before the County Governor or Deputy Governor. All other officers of the Board taking and subscribing to the oath shall do so before the Municipal Manager.

## 10.2 AMENDMENTS TO THE CHARTER

10.2.1 The County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.

10.2.2 The County Governor shall cause a copy of the Amended Charter to be laid before the County Assembly within 30 days of its amendment for approval.

## 10.3 SEPARABILITY

10.3.1 If, at any time, any provision of this Charter is or becomes illegal, invalid or unenforceable in any respect under Kenyan law, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision will in any way be affected or impaired.

# 11 TRANSITIONAL PROVISIONS

## 11.1 EFFECTIVE DATE OF CHARTER

11.1.1 The provisions of this Charter shall be in effect from and after -----April 2019

## 11.2 RIGHTS AND PRIVILEGES PRESERVED

11.2.1 Nothing in the Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are Town Officials, Officers or Employees at the time of its adoption.

## 11.3 DEPARTMENTS

11.3.1 All Town Departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this Charter becomes effective until changed by the Municipal Manager with the approval of the Board of the Municipality.