

GAZETTE NOTICE NO.....

THE CONSTITUTION OF KENYA, 2010  
THE URBAN AREAS AND CITIES ACT,  
(No. 13 of 2011)

THE MUNICIPALITY OL'KALOU  
MUNICIPAL CHARTER

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 Ol'kalou this Municipal Charter on this 5<sup>th</sup> day of May, 2019.

  
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H. E. FRANCIS T. KIMEMIA

Governor, Nyandarua County

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.

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:

- (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;

- (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.

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 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.

### 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.

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.

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.

### 3.14 QUORUM

3.14.1 A majority of the members of the Board of the Municipality is a quorum to conduct business.

3.14.2 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.

### 3.15 RULES OF THE BOARD

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

### 3.16 RECORD OF INFORMATION OF THE BOARD

3.16.1 The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality.





## 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.

## 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.

6.1.2 The Municipal Manager shall be the administrative head of the Municipality of Ol'Kalou.

### 6.2 APPOINTMENT AND TERM

6.2.1 The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.

6.2.2 The Municipal Manager shall hold office for a term of 5 years.

### 6.3 QUALIFICATIONS

6.3.1 The Municipal Manager shall:

- (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.

6.4.2 The Municipal Manager shall perform the following functions:

- (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;

- 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 resident(s) of the Municipality.

6.6.2 The Municipal Manager shall cease to hold office upon the lapse of the employment term or, 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:

- (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.

### 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.

### 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.

### 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

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#### 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.

#### 7.7 BORROWING BY THE MUNICIPALITY

7.7.1 The Board of the Municipality may only borrow from: -

- (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.

#### 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

##### 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.

### 9. MUNICIPALITY PROPERTY

#### 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.

9.1.2 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.

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.

### 10 GENERAL PROVISIONS

#### 10.1 OATH OF OFFICE

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 Ol'kalou 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 Ol'kalou 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 Ol'kalou 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 Ol'kalou 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 Ol'kalou Municipality and; that I shall do justice to all. (So help me God)

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 upon publication in the Kenya Gazette.

### 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.

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