

EMBU COUNTY GOVERNMENT



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MINISTRY OF LAND, PHYSICAL PLANNING, URBAN DEVELOPMENT, HOUSING, WATER & IRRIGATION,
ENVIRONMENT, & NATURAL RESOURCES

ECG/MOE/APA-3 /VOL.1/7

29th April 2021

The National KUSP Coordinator
P.O Box 34477-00100
Nairobi

RE: FOWARDING OF APA-3 SELF ASSESSMENT DOCUMENTS

Reference is made to your letter ref: **MHIHUD/HUD/UD/5/14/1/IV/(75)** dated **20th April 2021** on the 3rd Annual Self Performance Assessment. I therefore hereby forward Municipality of Embu Municipal Charter.

Yours faithfully



Jayne N. Mugambi
CECM-Urban Development



CHARTER FOR MUNICIPALITY OF EMBU

**Prepared by the Department of Land, Physical Planning and
Urban Development**

County Government of EMBU

OCTOBER, 2018

MUNICIPALITY OF EMBU



MUNICIPAL CHARTER (2018)

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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.

WHEREAS

The County Assembly of EMBU in its sitting on **Thursday** the **13th** day of **September 2018** duly approved the request by the County Executive Committee of the EMBU County Government for grant of this Charter to the now Municipality of EMBU.

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 EMBU County **HEREBY GRANTS** the Municipality of EMBU this Municipal Charter on this [12TH] day of [OCTOBER] 2018.



.....
[H. E MARTIN NYAGA WAMBORA] GOVERNOR - EMBU COUNTY

SEAL OF THE COUNTY GOVERNMENT OF EMBU

1. INCORPORATION, NAME AND BOUNDARIES

1.1 Incorporation and Name

- 1.1.1 This Charter is the Municipal Charter of Municipality of Embu, within Embu County, Kenya.
- 1.1.2 All processes affecting Municipality of Embu (hereinafter referred to as “the Municipality”) shall be served on the Municipal Manager or acting Municipal Manager.

1.2 Boundaries

- 1.2.1. The boundaries of the Municipality shall be defined in the Embu Town Integrated Urban Spatial Development Plan.
- 1.2.2. The boundaries may be altered by the County Executive Committee by an amendment of this Charter approved by the County Assembly.

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1 Powers of the Municipality

1. Prohibit or control the use and development of land and buildings in the interest of proper and orderly development of the municipality
2. To consider and approve all development applications and grant all development permissions
3. To ensure the proper execution and implementation of approved physical development plans
4. To formulate by-laws to regulate zoning in respect of use and density of development
5. To reserve and maintain all land for open spaces, parks, urban forests, riparian and road reserves and green belts in accordance with approved Integrated Urban Development Plans
6. Sue and be sued, enter into contracts and partnerships necessary for the discharge of any of its functions
7. Acquire by way of purchase, lease, exchange or gift; any land for the purpose of any of its functions
8. Establish and maintain such offices and buildings as may be required for the purposes of the municipality
9. Receiving grants and borrowing loans for development
10. Exploring alternative energy sources
11. Meet financial obligations and liabilities
12. Impose levies, fees and other charges for the purposes of any of its functions
13. Responsible for staff remuneration and all other staff expenses
14. Sell, let or otherwise dispose of any movable or immovable property of the municipality
15. Any other power provided in any written law.

2.2 Objects of the Municipality

2.2.1 The objects of the Municipality of Embu 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
- (viii) Any other as may be appropriate within the provisions of any written law

2.3 Functions of the Municipality

1. Control use and development of land and buildings in the interest of proper and orderly development of the municipality
2. Consider and approve all development applications and grant all development permissions
3. Prepare, execute and implement approved physical development plans
4. Formulate by-laws to regulate zoning in respect of use and density of development
5. In liaison with the county departments, implement projects and programs that fall in the area of its jurisdiction
6. Street lighting and lighting of public areas
7. Establish and maintain recreation grounds and facilities for recreation on land belonging to, and on parks, squares and open spaces vested in it;
8. Establish, maintain, let and manage public markets and market buildings
9. Provide, manage and maintain car parks, bus parks and *boda boda* shades
10. Establish, maintain and assist information centres and inquiry bureau;
11. Establish and maintain camping, grazing and outspan grounds, whether within or without its area;
12. Subject to the provisions of the National Museums and Heritage Act, 2006, establish and maintain public monuments;
13. Enforce municipal by-laws
14. Waste collection, transportation, disposal and management
15. Town greening and beautification
16. Advertise and give publicity to the attractions and advantages of the area of the municipality;
17. Prohibit obstructions in or on public places and to provide for the removal and sale of any such obstructions and for the disposal of any moneys derived from any such sale;
18. Charge fees for any license or permit issued in respect of any person or matter, premises or trade, whom or which the municipality is empowered to control or license;
19. Impose fees or charges for any service or facility provided or goods or documents supplied by the municipality or any of its officers in pursuance of or in connection with the discharge of any duty or power of the municipality or otherwise
20. Any other function that is consistent with written law

3.0 THE BOARD OF THE MUNICIPALITY

3.1 Establishment of the Board

3.1.1 There shall be established a Board of the Municipality.

3.1.2 The governance and management of the Municipality shall be in accordance with the laws relating to County Governments; Urban Areas and Cities Act 2011, any other relating bills and any other written law.

3.1.3 The Chief Officers responsible for Urban Development and Finance for the time being, shall be ex-officio members of the board.

3.2 Powers and Functions of the Board of the Municipality

3.2.1. The Board of the Municipality shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of: -

- 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) Resolving conflicts;
- e) Entering into contracts; and
- f) Doing or performing all other acts or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act 2011 or any other written law which may lawfully be done or performed by a body corporate.

3.2.2 Subject to the Constitution, the Urban Areas and Cities Act and any other written law, the Board of the Municipality shall: -

- (a) exercise authority as delegated by the County Executive Committee on the following matters;
 - i. Promotion, regulation and provision of refuse collection and solid waste management services;
 - ii. Promotion and regulation of Environmental conservation and management;
 - iii. Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
 - iv. Construction and maintenance of urban roads, associated infrastructure and ICT hubs;
 - v. Development of municipal plans and budget estimates for implementation;
 - vi. Develop performance management contracting, monitoring and evaluation systems
 - vii. Construction and maintenance of storm drainage and flood controls;
 - viii. Construction and maintenance of walkways, footbridges and other non-motorized transport infrastructure;
 - ix. Construction and maintenance of recreational parks and green spaces;

- x. Construction and maintenance of street lighting;
- xi. Construction, maintenance and regulation of traffic controls and parking facilities;
- xii. Regulation and management of traffic
- xiii. Construction and maintenance of bus stands, taxi stands and *boda boda* shades ;
- xiv. Regulation of outdoor advertising;
- xv. Construction, maintenance and regulation of municipal markets toilets and abattoirs;
- xvi. Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- xvii. Promotion, regulation and provision of municipal sports, cultural and entertainment activities;
- xviii. Promotion, regulation and provision of animal control and welfare;
- xix. Development and enforcement of municipal plans and development control;
- xx. Beautification of the town, including erection of street furniture;
- xxi. Municipal administration services (including construction and maintenance of administrative offices);
- xxii. Promoting and undertaking infrastructural development and services within their jurisdiction;
- xxiii. Maintain proper records of assets and liabilities of the municipal

- (b) Ensure provision of services to its residents;
- (c) Impose such fees, levies and charges as may be authorized by the County Government for efficient service delivery;
- (d) Promote constitutional values and principles;
- (e) Ensure the implementation and compliance with policies formulated by both the National and County Government;
- (f) With the approval of the County executive Committee make by-laws or make recommendations for issues to be included in by-laws;
- (g) Ensure participation of the residents in decision making, in its activities and programs;
- (h) Benchmark on the best practices in urban management and development and implement accordingly;
- (i) Regulate urban transport management system;
- (j) Build capacity of the Board and the staff;
- (k) Develop one stop shop service delivery resource centre; and

- (l) Exercise such other powers as may be delegated by the County Executive Committee.

3.2.3 Notwithstanding the provision of section 3.2.2a of this Charter, such functions shall be delegated gradually as may be determined by the county executive committee.

3.3 Composition and Term of the Board of the Municipality

3.3.1 The Board of the Municipality shall be composed of nine (9) members as per the provisions of the Urban Areas and Cities Act, 2011.

3.3.2 Four (4) members of the Board of the Municipality shall be appointed through a competitive process by the Governor and approved by the County Assembly, and

3.3.3 The remaining five (5) members of the Board shall be nominated by either of the following umbrella bodies:

- (a) an umbrella body representing professional associations in the area; or
- (b) an association representing the private sector in the area; or
- (c) a cluster representing registered associations of the informal sector in the area; or
- (d) a cluster representing registered neighborhood associations in the area; or
- (e) An association of Urban Areas and Cities.

and appointed by the Governor with the approval of the County Assembly.

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

3.3.5 A member of the Board of the Municipality shall hold office for five (5) years on a part-time basis which may be renewed for one further term.

3.4 Eligibility for Appointment as Member of the Board of the Municipality

3.4.1 A person shall not be appointed as a member of the Board of the Municipality unless such person:

- (a) is a Kenyan citizen;
- (b) is ordinarily resident or has a permanent dwelling in the Municipality;
- (c) carries on business in the municipality; or
- (d) has lived in the municipality for at least five years
- (e) Meets the requirements of Chapter six of the Constitution of Kenya, 2010

3.5 Chairperson and Vice-Chairperson of the Board

3.5.1 There shall be a chairperson and vice-chairperson for the board.

3.5.2 The chairperson and the vice chairperson shall be elected by the members of the board from among themselves during the first meeting of the board, and subsequently whenever a vacancy arises and shall be of opposite gender.

3.5.3 The chairperson and vice chairperson shall hold office for a term of five years.

3.6 Powers and Functions of the Chairperson and Vice-chairperson

3.6.1 The chairperson shall—

- a) be the head of the board;
- b) chair meetings of the board;
- c) perform such duties as may be delegated by the board.

3.6.2 The vice chairperson shall, in the absence of the chairperson, perform the functions of chairperson and shall perform such other functions as may be delegated by the chairperson or the board.

3.7 Removal from Office of the Chairperson and Vice-Chairperson

3.7.1 The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by:

- (a) a simple majority decision of the members of Board of the Municipality at a duly convened meeting where quorum (five members) is present; or
- (b) upon petition by a resident of the Municipality.
- (c) the process of removal of chairperson, or vice chairperson, shall only be done after staying in the office for a period not less than one year.

3.7.2 The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under 3.7.1 above may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with Kenyan law having regard to fair labor practices.

3.8 Secretary of the Board of the Municipality

3.8.1 The Municipal manager, or a person acting in his/her capacity, shall be the secretary of the board. The secretary of the board shall not have a voting right.

3.8.2 Where the Secretary of the Board of the Municipality is validly absent from any meeting, the members of the Board of the Municipality shall appoint a Secretary of the Board from the secretariat for purposes of that meeting.

3.9 Committees of the Board of the Municipality

3.9.1 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;
- (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;

3.9.2 Embu Municipal Board shall establish at least three committees which must include: -

- a) Finance and Administration
- b) Technical
- c) Audit

3.9.2 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.

3.10 Remuneration of the Members of the Board of the Municipality

3.10.1 The chairperson, vice chairperson and members of the board shall not receive a salary from the board but shall be paid such allowances and benefits as advised by the Salaries and Remuneration Commission for the time being.

3.11 Removal of Members of the Board of the Municipality

3.11.1 A person may be removed from the office of chairperson, vice chairperson or member of the Board of the Municipality if : -

- (a) unable to perform the functions of the office by reason of mental or physical infirmity; or
- (b) 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; or
- (c) found guilty of professional misconduct by the relevant professional body; or
- (d) fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees; or
- (e) engages in any gross misconduct;
- (f) declared bankrupt

3.12 Meetings of the Board of the Municipality

3.12.1 The Board of the Municipality shall hold its sittings to transact the business of the Board at least once every three months.

3.12.2 Notwithstanding Article 3.12.1, 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 shall, convene a special meeting to transaction any urgent business of the Board of the Municipality.

3.12.3 A Board meeting shall be formally convened through a fourteen days' notice, issued by the secretary to the board, to all board members in writing.

3.12.4 A member of the Board of the Municipality who has an interest in any matter or subject under discussion regarding any subject or transaction under consideration by the Board of the Municipality, shall declare such interest and shall not participate in the proceedings of the Board over such matter or subject.

3.13 Quorum

3.13.1 The quorum of the Board shall be more than one half of its membership (5 members).

3.14 Rules of the Board

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

3.15 Record of Information of the Board

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

3.15.2 The board shall furnish the county executive committee and any other person as the county executive committee may designate, with certified **copies of—**

- A) any proceedings or minutes of the board or its committees within twenty one days after the confirmation of the minutes;
- B) records of any of its accounts; and
- C) Reports, statistics and documents as the county executive committee may require.

3.15.3 The board shall publish all information relating to their operations

3.16 Citizen Fora

3.16.1 Residents of the municipality of Embu may—

- a. Deliberate and make proposals to the relevant bodies or institutions on:
 - i. the provision of services;
 - ii. proposed issues for inclusion in county policies and county legislation;
 - iii. proposed national policies and national legislation;
 - iv. the proposed annual budget estimates of the county and of the national government;
 - v. the proposed development plans of the county and of the national government; and
 - vi. any other matter of concern to the citizens;

- b. Plan strategies for engaging the various levels and units of government on matters of concern to citizens;
- c. Monitor the activities of elected and appointed officials of the urban areas and cities, including members of the board of an urban area or city; and
- d. Receive representations, including feedback on issues raised by the county citizens, from elected and appointed officials.

3.16.2 The board of the municipality shall invite petitions and representations from the Citizen Fora with regard to the administration and management of the affairs within an urban area or city under its jurisdiction.

3.16.3 The board shall make recommendations on the manner in which issues raised at the Citizen Fora, if any, may be addressed and shall accordingly pass the recommendations to the manager for implementation.

3.16.4 The manager shall make a report on the decision made in respect of a petition or presentation made by a citizen fora and reasons for such decision.

4. LEGISLATIVE AUTHORITY

4.1 By-laws

- 4.1.1. The Board may with the approval of the County Executive Committee, make by-laws or make recommendations for issues to be included in by-laws.
- 4.1.2. The by-laws shall be subject to the provisions of the Statutory Instruments Act No. 23 of 2013.
- 4.1.3. Such by-laws shall be in conformity with the Constitution, County Governments Act, the Urban Areas and Cities Act, this Charter and any other written law.
- 4.1.4. Any by-law that is inconsistent with the Constitution, County Governments Act, the Urban Areas and Cities Act, this Charter and any other written law is null and void to the extent of the inconsistency.

4.2 Passing of By-laws

- 4.2.1 After any by-law has been made by the municipality board, it shall be submitted to the Embu County Assembly for approval through the County Executive Committee.
- 4.2.2 Every by-law submitted for approval under subsection (1) shall be accompanied by—
 - a. a certified copy of the minutes of the meeting of the board of the municipality at which the by-law was adopted;
 - b. evidence of public participation;
 - c. copies of any objection to the adoption of the by-law which has been lodged in writing with the municipality, or, if no such objection has been lodged, a statement to that effect.
- 4.2.3 The County Assembly may approve, with or without alteration or reject any such by-law.

4.3 Effective Date of By-laws

- 4.3.1 No by-law shall have the force of law until it has been approved, whether with or without alteration, by the County Assembly, and published, or notice thereof published;
- 4.3.2 Upon the signification of the approval of the County Assembly of any by-law, the clerk of the County Assembly shall cause the by-law, or a notice stating that the by-law has been approved, to be published in the Gazette.
- 4.3.3 The effective date of the by-laws shall be from the date they are published or notice thereof published, or the date stipulated in the Gazette.

5. ADMINISTRATIVE AUTHORITY

5.1 Resolutions

5.1.1. The Board of the Municipality shall make decisions by way of resolution supported by a majority of its members present and/or voting.

5.2 Approval of Resolutions

5.2.1 For day to day running of the affairs of the municipality, no approval of resolutions shall be required

5.2.2 Any resolution by the board on development plans and projects, budgets, partnerships, borrowing and investments of the municipality will be forwarded to the County Executive Committee for approval.

5.3 Effective date of Resolutions

5.3.1 The effective date of the resolutions shall be from the date they are approved by the County Executive Committee.

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 and Secretary to the Board.

6.2 Appointment and Term

6.2.1 The County Public Service Board shall competitively source and recommend at least three names to the County Governor from which the Governor shall choose one for appointment as the Municipal Manager.

6.2.2 The position of the manager will be on job group “R” or equivalent scale.

6.2.3 The Municipal Manager may be appointed for a term of five year contract, with an option for a renewal of contract.

6.2.4 A municipal manager shall not serve for more than two terms.

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
- (c) be a member of a professional body
- (d) Have served and has proven experience in administration or management either in public or private sector for a term of at least five years, three of which should be in senior management
- (e) Be forty years and above
- (f) Demonstrate experience in leadership and managerial skills
- (g) Demonstrate knowledge and understanding of corporate governance
- (h) Satisfy chapter six of the constitution of Kenya 2010

6.4. Functions and Powers of the Municipal Manager

6.4.1 The Municipal Manager shall implement and execute the decisions 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. Carrying out the day-to-day business of the Municipality to ensure that departments, sections and units conform to the overall operational plans and performance targets;
- b. Developing an annual operational plan, for the Board's approval for effective implementation of the strategy of the Municipality;
- c. Implementing the Board's decisions and corporate policies/programs in a results oriented and timely manner to achieve the Municipality's goals and objectives;
- d. Establishing proper internal monitoring and control systems and procedures, performance standards and ensuring compliance of the same by staff;
- e. Ensuring effective communication between the Management and the Board as well as different levels of staff;
- f. Attending to human resource matters including development and implementation of sound Human Resource policies and procedures to maintain conducive working environment for attracting, retaining and motivating employees;
- g. Managing staff matters including organizational structure, welfare, industrial relations, staff development, separation and effective management of successions plans;
- h. Strengthening collaborative partnership and undertaking appropriate liaison with the County Government Departments, sector institutions and other organs of National government in order to advocate, represent and influence policies on the development of infrastructures;
- i. Coordinating and preparing business related proposals, reports and other submissions for consideration by the Board;
- j. Advising the Board concerning future activities and on the development of objectives and policies necessary to steer the Municipality ahead;
- k. Identify and develop mechanisms for managing the risks facing the Municipality;
- l. Be accountable and responsible for all resources and assets of the municipality;
- m. Prepare financial and expenditure statements and present to the board for approval;
- n. Respond to audit queries raised;
- o. Act as the secretary to the Municipal Board;
- p. Such other functions as the Board may confer upon the Municipal Manager.

6.5 Remuneration

6.5.1. The terms of service and remuneration shall be as per the Salaries and Remuneration Commission (6.2.2).

6.6 Removal of the Municipal Manager

6.6.1 A person may be removed from the office of the municipal manager by the county governor upon :

- a. Recommendation by the County Public Service Board
- b. Petition by the County Assembly
- c. Petition by a resident of the Municipality.

6.6.2 Such removal or petition for removal shall be in accordance with the Urban Areas and Cities Act, the County Governments' Act, or any other written law

6.7 Termination of Services of the Municipal Manager

6.7.1 The services of a municipal manager may be terminated on the following grounds:

- a) Upon conviction
- b) If declared bankrupt
- c) If declared of unsound mind
- d) By notice in writing
- e) Breach of contract
- f) Total Incapacitation

6.8 Acting Municipal Manager

6.8.1 When the Municipal Manager is absent or temporarily incapacitated from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Governor; on the recommendation of the County Public Service Board shall appoint a qualified person to be an Acting Municipal Manager.

6.8.2 Notwithstanding the provisions of section 6.8.1, the County Public Service Board in consultation with the County Governor, shall have power to appoint a County Staff who meets the qualification requirement, as an Acting Municipal Manager.

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, subject to all laws and regulations on management of public finances, 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) Levies, fees and charges;
- (c) all monies or grants from any other legitimate source provided or donated to the Board;
- (d) investment income;
- (e) disposal of assets; and
- (f) Borrowing.

7.2 Procurement of Goods and Services

7.2.1 Subject to provisions of the Public Procurement and Assets Disposal Act, 2015, the board shall be a procuring entity.

7.3 Appointment of the Municipality Accounting Officer

7.3.1 The Municipal Manager shall be the authorized and accounting officer for the Municipality.

7.4 Functions and Powers of the Municipality Accounting Officer

7.4.1 The municipal accounting and authorized officer shall be primarily charged with the general responsibility for all matters of finance and accounts 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 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.

7.6 Management of Municipality Finances

7.6.1 The Board of the Municipality shall approve the opening and maintaining of a bank account in the name of the Municipality.

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.

7.6.3 The board shall, within three months of its inception, establish relevant financial and administrative policies to ensure efficient and effective municipal operations.

7.8 Account and Audit

7.8.1 The board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities.

7.8.2 Within a period of three months after the end of each financial year, the board shall submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General together with—

- a) a statement of the income and expenditure of a board for that year; and
- b) a statement of the assets and liabilities of a board on the last day of that financial year.

7.8.3 The Auditor-General shall prepare a financial audit as required under the Public Audit Act, 2003 (No. 12 of 2003) or its successor and shall forward a copy of the report to the relevant board and the County Executive Committee in respect of which the audit report is made.

7.8.4 As soon as is practicable, and in any event not later than thirty days from the date of receipt of the audit report together with the annual statements and abstracts of accounts, the manager or **administrator shall—**

- a) lay the documents before the board or town committee for consideration; and
- b) Make them available to any resident of the area within the jurisdiction of the board, upon application and payment of the prescribed fee.

7.8.5 Where the manager or the administrator of a board fails to table the report as required under this section, that report shall be laid by any other person authorized by the county governor.

7.8.6 Display of audited financial statement The board shall cause its audited annual financial statement to be posted in full in a conspicuous place in the board's offices, or in two widely circulated newspapers and, on the board's website.

8. MUNICIPALITY PERSONNEL

8.1 Municipality Personnel

8.1.1. The Board of the Municipality may request the County Public Service Board to employ such officers and employees as it deems necessary to execute the functions and duties provided by this Charter or any other law.

8.2 Management of Municipal Personnel

8.2.1. The office of the Municipal manager shall be an office in the county public service within the meaning of the Part VII of the County Governments Act, 2012.

8.2.2. All offices in the Municipality shall be as determined by the County Public Service Board.

8.2.3. Employees of the Municipality shall be under the general guidance and supervision of the Municipal Manager.

8.3 Retirement Systems

8.3.1. All officers of a board shall subscribe to an existing pension scheme approved by the Retirement Benefits Authority in accordance with the provisions of the retirement benefits Act No. 12 of 2012, and any other written law.

8.3.2 All officers and employees of the Municipality shall subscribe to an existing pension scheme for officers and staff of the County Government.

8.4 Compensation of Municipal Personnel

8.4.1. The compensation of all employees of the Municipality shall be set by the County Public Service Board as per recommendations of the Salaries and Remuneration Commission.

9. MUNICIPALITY PROPERTY

9.1 Acquisition, Possession and Disposal

9.1.1 The Board of the Municipality may for the purpose of provisions of services assigned to it;

- a) Purchase, lease or otherwise acquire on such terms as the County Executive Committee may approve; premises, plant equipment, and facilities,
- b) Purchase, lease or otherwise acquire land on such terms as the County Executive Committee may approve and
- c) Incur expenditure on administrative items without approval of the County Executive Committee

9.2 Compulsory Acquisition

9.2.1 Subject to provision of the constitution, the Land Act 2012, the National Land Commission Act, and any other written law, the municipality will, upon notification of the county executive and approval by the county assembly, engage the National Land Commission in cases where compulsory acquisition of land is required.

10. GENERAL PROVISIONS

10.1 Oath of Office

Before assuming the duties of their offices, the Chairperson and Vice-Chairperson and the members of the Board, shall subscribe to the code of conduct for public officers and subscribe to the following oath or affirmation:

“I,, being called on to exercise the functions of [Chairperson, vice chairperson, board members etc.] of the Municipality of Embu, do swear/solemnly affirm that that I will at all times be faithful to the Republic of Kenya; that I will obey, respect and uphold the Constitution of Kenya and all other laws of the Republic, that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall do justice to all. – So help me God

10.2 Amendments to the Charter

10.2.1 The County Executive Committee may with the approval of the County Assembly amend any provision of this Charter.

10.3 Reparability

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 come to effect upon publication in the Kenya Gazette

11.2 Protection Against personal Liability

11.2.1 No act, matter or thing done or omitted to be done by —

- a) the chairperson or vice chairperson of the municipality;
- b) any member of the board of the municipality;
- c) any member of staff or other person in the service of the municipal board; or
- d) any person acting under the direction of the board.

shall, if that act, matter or thing was done or omitted to be done in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil action, claim or demand.

11.2.2 Notwithstanding the provisions of subsection (11.2.1), a person who misappropriates, or authorizes the use of funds contrary to existing law or instructions shall be personally accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office.

11.3 Subsequent Regulations and Guidelines

11.3.1 This charter shall be operationalized through subsequent regulations and guidelines as may from time to time be necessary.
