



**BOMET COUNTY ASSEMBLY  
SECOND ASSEMBLY-FIRST SESSION**

**THE COMMITTEE ON URBAN PLANNING, LAND AND HOUSING**

**REPORT**

**ON THE BOMET MUNICIPAL CHARTER**

**DECEMBER, 2017**

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## **1.0 PREFACE**

**Mr. Speaker Sir,**

On behalf of the Committee on Urban Planning, Land and Housing and pursuant to Standing Order 193(5) it is my duty and pleasure to present to the Assembly, the Committee's report on the Bomet County Municipal Charter.

This is one of the Sectoral committees established under the Standing Orders 193(1). Among its functions are to study the programmes and policy objectives of departments and the effectiveness of the implementation, make reports and recommendations to the County Assembly as often as possible and including recommendation of proposed legislation.

### **1.1 Committee Membership**

**Mr. Speaker Sir,**

The Committee on Urban Planning, Land and Housing, as currently constituted, comprises of the following members:-

1. Hon. Zaddock Kilel	Chairperson
2. Hon. Ridha Chepkirui	Vice Chair
3. Hon. Richard Chirchir	Member
4. Hon. Vincent Mutai	Member
5. Hon. Joseah Chepkwony	Member
6. Hon. Davis Kipkirui	Member
7. Hon. Josphat Kirui	Member

### **1.2 Committee's Mandate**

**Mr. Speaker,**

The Sectoral Committee on Urban Planning, Land and Housing derives its mandate from provisions of Standing order 193(5).The functions of the Committee are as follows;

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) To study the programmes and policy objectives of departments and the Effectiveness of their implementation;

- c) To study and review all legislation referred to it;
- d) To study, assess and analyse the relative success of the departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned departments as may be deemed necessary, and as may be referred to it by the County Assembly;
- f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 188 (Committee on appointments);  
and
- g) To make reports and recommendations to the Assembly as often as possible, including recommendations of proposed legislation.

### **1.3 Committee Meetings**

**Mr. Speaker Sir,**

The committee held a total of three meetings and in one of the meetings the committee made a resolution to conduct public participation on the Bomet Municipal Charter on 23<sup>rd</sup> December, 2017 at 10.00 a. m at the County Assembly's ground.

The members of the public were notified of the public participation forum through the public address system inviting the general and letters were dispatched to various stakeholders which included banks, business community, churches.

**2.0 Acknowledgment**

**Mr. Speaker,**

The Committee is grateful to the County Assembly through the Hon. Speaker for the support granted in executing its mandate.

The Committee is also grateful to the office of the Clerk for facilitating and providing technical support to the Committee in the execution of its mandate. Further the Committee acknowledges the exemplary services rendered by staff of the County Assembly.

I wish to express my appreciation to the Honourable Members of the Committee who sacrificed time away from their families and residents to participate in the activities of the Committee including the extended committee sittings, public participation forum and report writing exercises.

**Mr. Speaker Sir,**

I wish to confirm that the recommendations of the Committee in this report were unanimously adopted.

It is therefore my pleasant duty and privilege, on behalf of the County Assembly’s Committee on Lands, Urban Planning and Housing to present the committee’s report on the Bomet County Municipal Charter for approval by the Assembly.

**SIGNED: .....DATE.....**

**HON. ZADOCK KILEL  
CHAIRPERSON**

### 3.0 OWNERSHIP OF THE REPORT

We, the members of Lands, Urban Planning and Housing Committee, do append our signatures against our names to this report to affirm the correctness of the contents and support for the report.

No.	Name	Designation	Signature
1.	Hon. Zadock Kilel	Chair	
2.	Hon. Ridha Chepkirui	V/Chair	
3.	Hon. Richard Chirchir	Member	
4.	Hon. Davis Kipkirui	Member	
5.	Hon. Vincent Mutai	Member	
6.	Hon. Joseah Chepkwony	Member	
7.	Hon. Josphat Kirui	Member	

**Dated this .....Day of December, 2017**

## 4.0 BACKGROUND AND LEGAL FRAMEWORK

### 4.1 Background

The Committee on Land, Urban Planning and Housing is one of the Sectoral committee established under standing order No. 193(1) and deals with all matters related to lands, urban planning, housing as set out under the fourth schedule part two of the Constitution of Kenya 2010.

On 22<sup>nd</sup> December, 2017 the Bomet County Municipal Charter was tabled in the County Assembly and was committed to this Committee. The Committee was therefore required to conduct public participation pursuant to Article 196 of the Constitution of Kenya 2010 and table a report on the same.

The Bomet Municipal Charter seeks the conferment of the status of the Bomet town to that of a municipality by H. E the Governor with the approval of the County Assembly.

The **objectives** of the municipality of Bomet are to;

- i. Provide for efficient and accountable management of the affairs of the Municipality;
- ii. Provide for a governance mechanisms that will enable the inhabitants to participate in determining the social services and regulatory framework that will satisfy their needs and enjoy efficiency in service delivery;
- iii. Provide social services in a cost effective manner

The conferment of the status of Bomet to that of a municipality will enable the county to plan properly for effective and efficient delivery of services which can only be done by the governor with the approval of the county assembly. Upon the conferment of the municipal status, a city or a municipality shall be able to make plans such as;

- i. City or municipal land use plans;
- ii. City or municipal building and zoning plans;
- iii. City or urban area building and zoning plans;
- iv. Location of recreational areas and public facilities; which shall be the instruments for development facilitation and development control and shall be binding on all public entities and private citizens.

The proposed municipality of Bomet shall be run by a board which shall be a body corporate with perpetual succession. The relationship between the County Government and the board of municipality shall be that of a principal and agency relationship.

## 4.2 LEGAL FRAMEWORK

### The constitution

Land, Urban Planning and Housing has been devolved pursuant to the provisions of the Constitution of Kenya 2010. Schedule four part of the Constitution of Kenya, 2010 provides that county health services, including refuse removal, refuse dumps and solid waste, control of air pollution, noise pollution, other public nuisance and outdoor advertising are among the functions that are devolved.

Further, county transport including county roads, street lighting, traffic and parking, public road transport and county planning and development are also functions which have been devolved. All the above mentioned functions falls under the purview of the Committee on Lands, Urban Planning and Housing.

### The Urban Areas and Cities Act

**Section 9 (1)** of the Urban Areas and Cities Act provides that the County governor may, on the resolution of the County Assembly, confer the status of a municipality on a town, that meets the criteria set out in subsection (3), by grant of a charter in the prescribed form.

(2) The procedure set out under section (8) (1) to (4) shall apply with necessary modifications to the conferment of municipal status to a town, except that the conferment shall be done by the county governor.

**Sub section 3** stipulates that a town can only be eligible for conferment of a municipal status if it satisfies the following;

- i. has a population of at least two hundred and fifty thousand residents according to the final *gazetted* results of the last population census carried out by an institution authorized under any written law, preceding the grant;
- ii. has an integrated development plan;
- iii. has demonstrable revenue collection or revenue collection potential;
- iv. has demonstrable capacity to generate sufficient revenue to sustain its operations;
- v. has the capacity to effectively and efficiently deliver essential services to its residents;
- vi. has institutionalized active participation by its residents in the management of its affairs
- vii. has sufficient space for expansion;

- viii. has infrastructural facilities, including but not limited to street lighting, markets and fire stations; and
- ix. has capacity for functional and effective waste disposal

### **The County Governments Act, 2012**

Pursuant to **section 104** of the County Governments Act, 2012, a county government has an obligation to plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the county assembly.

Such county planning should integrate economic, physical, social, environmental and spatial planning. Further the Act provides that the county government shall designate county department, cities and urban areas, sub counties and wards as planning authorities of the county.

Section 111 of the County Governments Act requires that each city or municipality should have the following plans- City or municipal land use plan, City or municipal building and zoning plans, City or urban area building and zoning plans and Location of recreational areas and public facilities which the county cannot achieve without the conferment of the status of Bomet town to that of a municipality.

## **5.0 Submissions from Members of the Public and Stakeholders**

The County Assembly's Committee on Lands, Housing and Urban Planning invited the stakeholders of the proposed Bomet Municipality and the general members of the Public to present their views on the charter. Among the participants were the members of the chamber of commerce, Bomet chapter, the business community, and the former councilors of Bomet Municipal Council. The members of the public were taken through the charter by the Chair of the committee. The members of the public felt the following issues should be thoroughly addressed when the municipality is established;

### **➤ Security**

The public emphasized that security across the municipality is paramount. The envisaged Board should ensure that its residents live in a secure environment to enable business activities to thrive.

### **➤ Electricity**

It was noted that most parts of the proposed municipality do not have electricity in place. It was therefore suggested that the Board in collaboration with the relevant agency should strive to ensure that electricity is connected to all parts of the municipality especially in the satellite centers and street lights be installed.

### **➤ Planning of Urban Centers**

It also came to the attention of the committee that the members of the public were not impressed with the current state of affairs in urban planning in Bomet County. It was recommended that the Board should establish an infrastructure to aid in the planning of the municipality. Modern sheds should be constructed to decongest the urban centres. Motor bikes (*Boda Boda*) operators and the vegetable vendors (*mama mboga*) should have their sheds in place.

### **➤ Waste Management**

The participants aired their concerns on waste management. It was in their view that the current status of waste management is wanting and that the envisaged Board address this as a matter of urgency. It was suggested that proper infrastructure be put in place to manage all the waste generated within the proposed municipality. The existing sewerage infrastructure should be upgraded to accommodate the rising population in the proposed municipality.

➤ **Public Lands**

The participants observed that public lands have currently been encroached. It was therefore suggested that the proposed municipality should demarcate and fence all the existing public lands. The board should repossess all these lands and utilize them as earlier intended.

➤ **Infrastructure**

The participants noted the need to put in place modern infrastructure. These include, waste disposal sites, crematoriums and cemetery, urban roads and modern markets. Bomet airstrip should be upgraded from its current status and be put into commercial use to generate revenue for the county. The proposed municipality should explore how to tap Public - Private Partnership in upgrading the necessary infrastructure.

**Overall View of the Public**

The public were generally receptive and in full support of the Bomet Municipal Charter. It was in their general view that the creation of the municipality would be beneficial to the residents of the county at large in terms of service delivery and the overall management of urban centers within the municipality.

## **6.0 COMMITTEE’S OBSERVATIONS AND FINDINGS**

### **6.1 Criteria of conferment of Municipal Status**

- i. The committee noted that the County is in the process of putting in place The Bomet County Integrated Development Plan.
- ii. That Bomet town has sufficient space for expansion as required by law
- iii. That Bomet has a capacity to effectively and efficiently deliver essential services to its citizens as provided for in the fourth schedule of the Constitution of Kenya 2010.
- iv. That Bomet has infrastructural facilities, including but not limited to street lighting, and markets.
- v. That it has capacity for functional and effective waste disposal.
- vi. That it has demonstrable revenue collection or revenue collection potential.
- vii. That it has demonstrable capacity to generate sufficient revenue to sustain its operations.
- viii. The proposed Bomet Municipality has a fast growing population.

### **6.2 Proposed Amendments**

The committee noted that the charter as drafted meets all the criteria for conferment of Municipal Status. It was however noted that the Board has no legislative authority, as captured in Section 4 of the Charter on legislative Authority. The board should submit all the by-laws to the County Assembly for approval as provided under **Article 185** of the Constitution, 2010.

## 7.0 RECOMMENDATION OF THE COMMITTEE

Upon reviewing the proposed Bomet Municipal Charter and having taken into consideration the view of the public and the stakeholders, the Committee makes the following recommendations;

- a. That section 4 of the Charter on **legislative Authority** be amended to require the Municipal Board submit all the by-laws to the County Assembly for approval as provided under article 185 of the Constitution, 2010.
- b. That the County Assembly pursuant to section 9(1) of Urban Areas and Cities Act **approves** the conferment of the status of municipality to the proposed Bomet Municipality.
- c. That the County Assembly **approves** the granting of the Charter as amended.