

REPUBLIC OF KENYA



GOVERNMENT OF MAKUENI COUNTY



MUNICIPALITY CHARTER

WOTE MUNICIPALITY

2018

TABLE OF CONTENTS

Contents

TABLE OF CONTENTS	i
PREAMBLE	iv
DEFINITION AND INTERPRETATION OF TERMS	vi
1. INCORPORATION, NAME, AND BOUNDARIES	1
1.1. INCORPORATION AND NAME	1
1.2. BOUNDARIES.....	1
2. POWERS, OBJECTS, AND FUNCTIONS OF THE MUNICIPALITY	3
2.1. POWERS OF THE MUNICIPALITY	3
2.2. OBJECTS OF THE MUNICIPALITY	3
2.3. FUNCTIONS OF THE MUNICIPALITY	4
3. THE BOARD OF THE MUNICIPALITY	5
3.1. ESTABLISHMENT OF THE BOARD	5
3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY.....	5
3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY	7
3.4. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD OF THE MUNICIPALITY.....	8
3.5. CHAIRPERSON OF THE BOARD	8
3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON	8
3.7. VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY	9
3.8. REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON	9
3.9. SECRETARY OF THE BOARD OF THE MUNICIPALITY.....	9
3.10. COMMITTEES OF THE BOARD OF THE MUNICIPALITY.....	10

3.11. REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY.....	10
3.12. REMOVAL OF MEMBERS OF THE BOARD OF THE MUNICIPALITY	10
3.13. MEETINGS OF THE BOARD OF THE MUNICIPALITY.....	11
3.14. QUORUM	12
3.15. RULES OF THE BOARD.....	12
3.16. RECORD OF INFORMATION OF THE BOARD	12
3.17. CITIZEN FORA	12
4. LEGISLATIVE AUTHORITY.....	13
4.1. BY-LAWS.....	13
4.2. PASSING OF BY-LAWS	13
4.3. EFFECTIVE DATE OF BY-LAWS	13
5. ADMINISTRATIVE AUTHORITY	14
5.1. RESOLUTIONS.....	14
5.2. APPROVAL OF RESOLUTIONS.....	14
5.3. EFFECTIVE DATE OF RESOLUTIONS.....	14
6. THE MUNICIPAL MANAGER.....	15
6.1. OFFICE OF THE MUNICIPAL MANAGER.....	15
6.2. APPOINTMENT AND TERM	15
6.3. QUALIFICATIONS.....	15
6.4. FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER.....	15
6.5. REMUNERATION	17
6.6. REMOVAL OF THE MUNICIPAL MANAGER.....	17
6.7. ACTING MUNICIPAL MANAGER	18
7. MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT.....	19
7.1. SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE.....	19

7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER	19
7.3. FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING.....	19
7.4. FINANCIAL YEAR.....	19
7.5. BUDGET.....	20
7.6. MANAGEMENT OF MUNICIPALITY FINANCES	20
7.7. BORROWING BY THE MUNICIPALITY	20
7.8. AUDIT	20
8. MUNICIPALITY PERSONNEL	21
8.1. MUNICIPALITY PERSONNEL	21
8.2. MANAGEMENT OF MUNICIPAL PERSONNEL	21
8.3. RETIREMENT SYSTEM.....	21
8.4. COMPENSATION OF MUNICIPAL PERSONNEL.....	21
9. MUNICIPALITY PROPERTY.....	22
9.1. ACQUISITION, POSSESSION AND DISPOSAL.....	22
9.2. COMPULSORY ACQUISITION.....	22
9.3. MUNICIPAL BUILDINGS.....	22
9.4. PROTECTION OF MUNICIPALITY PROPERTY.....	22
10. GENERAL PROVISIONS.....	23
10.1. OATH OF OFFICE	23
10.2. AMENDMENTS TO THE CHARTER.....	23
10.3. SEPARABILITY	23
11. TRANSITIONAL PROVISIONS	24
11.1. EFFECTIVE DATE OF CHARTER.....	24
11.2. RIGHTS AND PRIVILEGES PRESERVED	24
11.3. DEPARTMENTS.....	24

PREAMBLE

WHEREAS

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

WHEREAS

Article 184 of the Constitution of Kenya provides for the enactment of a national legislation for the governance and management of urban areas 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, no. 13 of 2011 in fulfilment of Article 184 of the Constitution of Kenya.

WHEREAS

Section 9 of the Urban Areas and Cities Act empowers the 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, 2011 provides that the prescribed form of a Municipality Charter shall be provided in Regulations to the Act.

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.

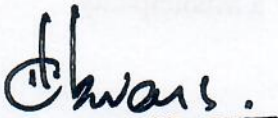
WHEREAS

Section 9(4) of the Urban Areas and Cities Amendment Act provides that every headquarter of a county government shall be conferred the status of a municipality, whether or not it meets the criteria for a classification as a municipality.

WHEREAS

Schedule 3 of the County Government Amendment Act provides Makueni Urban Area (Wote) to be the headquarters of Makueni County.

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (4) of the Urban Areas and Cities Act, (No. 13 of 2011) and all other enabling provisions of law, the Governor of Makueni County **HEREBY GRANTS** the Municipality of Wote this Municipality Charter on 29..... Day of JUNE..... 2018.



.....
KIVUTHA KIBWANA
GOVERNOR, MAKUENI COUNTY
GOVERNMENT OF MAKUENI COUNTY SEAL

DEFINITION AND INTERPRETATION OF TERMS

In this Charter, unless otherwise defined;

Board – means the Wote Municipality Board established in this Charter

Charter - means the Wote Municipality Charter

County Assembly – means the Makueni County Assembly

County Executive Committee - means the Makueni County Government County Executive Committee

County Public Service Board – means the Makueni County Public Service Board

Governor – means the Governor of Makueni County

Manager – means the Wote Municipality Manager appointed under this Charter

1. INCORPORATION, NAME, AND BOUNDARIES

1.1. INCORPORATION AND NAME

1.1.1. This Charter shall be referred to as the Wote Municipality Charter.

1.2. BOUNDARIES

1.2.1 The boundaries of the Municipality of Wote as now existing or as may subsequently be altered shall be the boundaries of the Municipality of Wote. The Wote Municipality will include the entire Wote/Nziu and Kikumini/Muvau wards, and parts of Ukia, Kathonzweni, Kilili/Kalamba, Mavindiniand, Waia/Kako Wards; and shall be defined to include the sub-locations therein.

1.2.2 The Municipality will include the entire Wote/Nziu Ward, which has market centres such as; Wote, Nziu, Bosnia, Nthangu, Watuka, and any other market within the ward.

1.2.3 The Municipality will include the entire Kikumini/Muvau ward, which has market centres such as Kikumini, NgosiniEast, Ngosini West, Makutano, Kaseve, Mulaani, Kasarani, Senda, Mandoi, Kilisa, Kangondi, Kitonyoni, Itaa, Mutulani, Kithiani, Beach, Ngutwa, Nyunzuand any other market within the ward.

1.2.4 The Municipality will include parts of Kathonzweni Ward: which include towns such as Kangondi, Kavingoni, Kathonzweni, Mbuvo, and Kateiko.

1.2.5 The Municipality will include parts of Ukia Ward: which include towns such as Kyau, Ivumbuni, Kilala, Itangini, Kaumoni, Mukuyuni, and Ukia Junction.

1.2.6 The Municipality will include parts of Waia/Kako Ward: which include towns such as Kako, Uviluni, Watuka, Mituvi, Kandulyu, Ngovu, and Kyaluma.

1.2.7 The Municipality will include parts of Nzau/Kilili/Kalamba Ward: which include towns such as Kalamba, Ikangavya, Ngoi, Kwa Kalui, Kathatu, and Kilili.

1.2.8 The Municipality will include part of Mavindini Ward which includes town such as Muusini.

1.2.9 The Municipality will include Ikangavya, Kwa Kalui, Kilili, Kathaatu, Ngoi, Kalemwani and Kalamba sub-locations in Nzau/Kilili/Kalamba ward.

1.2.10 The Municipality will include Thavu, Kavingoni, Ituka, Kituluni, and KwaKavisi sub-locations in Kathonzweni Ward.

- 1.2.11 The Municipality will include Nthangu, Iuani, Kaumoni, Kilala, Mukuyuni, Utaati, Nzuuni, and Kyuasini sub-locations in Ukia Ward.
- 1.2.12 The Municipality will include all the sub-locations within Wote/Nziu Ward.
- 1.2.13 The Municipality will include all the sub-locations within Muvau/Kikumini Ward.
- 1.2.14 The Municipality will include Usalala, Sakai, and Kako sub-locations in Kako/Waia Ward.
- 1.2.15 The Municipality will include Muusini sub-location in Mavindini Ward.

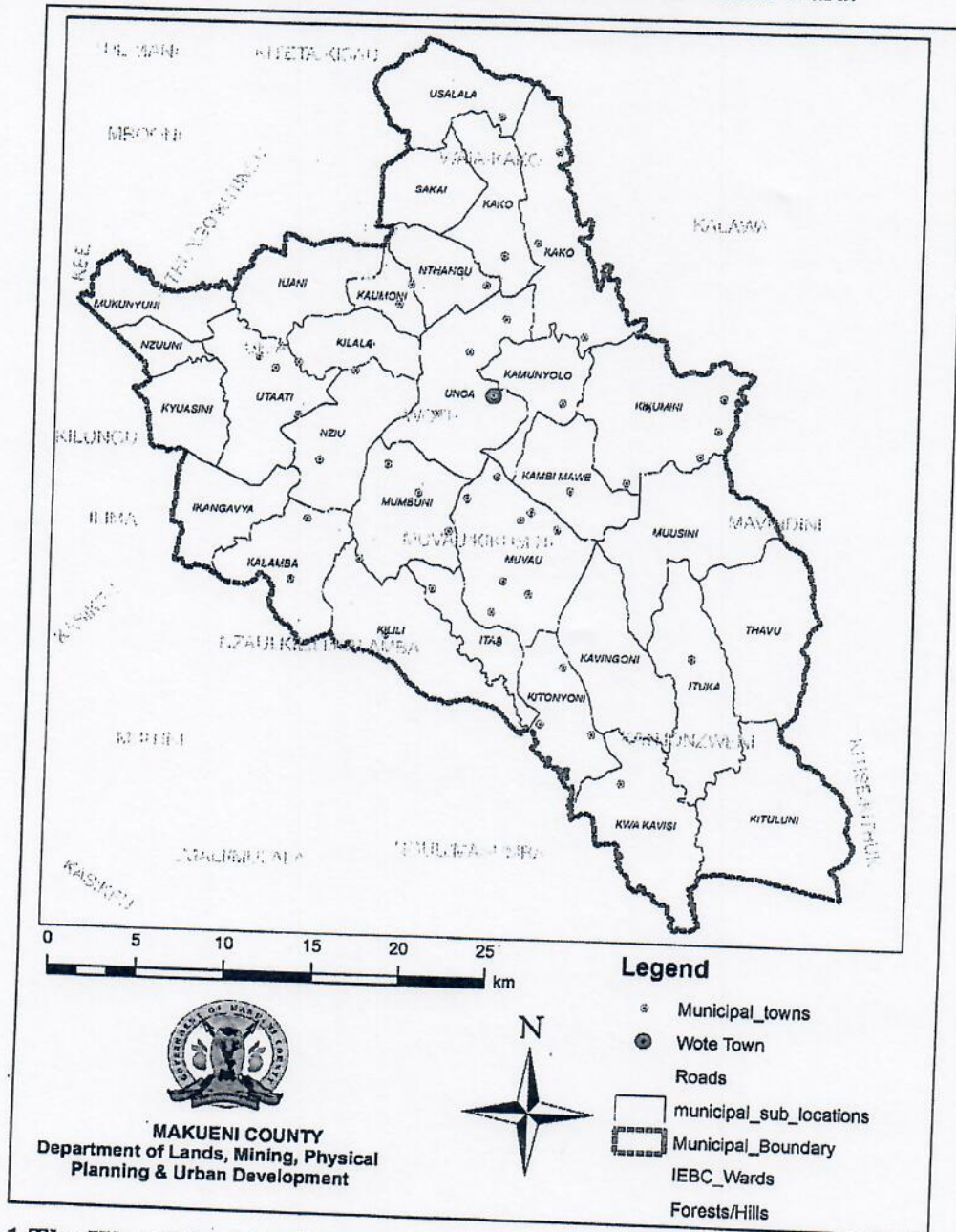


Figure 1 The Wote Municipal Boundary overlaid with the sub-locations and wards

2. POWERS, OBJECTS, AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

2.1.1. The Municipality of Wote 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 Government Act and any other relevant 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 Resolutions of the Board of the Municipality, in such manner as may be provided by the County Laws and Regulations.

2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality of Wote 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 frame work 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.
- (i) 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.
- (ii) Provide a high standard of social services in a cost-effective manner to the inhabitants of the Municipality.

- (iii) 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.
- (iv) Providing for services on all matters for Municipality's benefit.
- (v) Fostering the economic, social and environmental well-being of its community.

2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. The Municipality of Wote 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) Construction and maintenance of urban roads and associated infrastructure;
- (d) Construction and maintenance of storm drainage and flood controls;
- (e) Construction and maintenance of walkways and other non-motorized transport infrastructure;
- (f) Construction and maintenance of recreational parks and green spaces;
- (g) Construction and maintenance of street lighting;
- (h) Construction, maintenance, and regulation of traffic controls and parking facilities;
- (i) Construction and maintenance of bus stands, bodaboda stands, and taxi stands;
- (j) Regulation of outdoor advertising;
- (k) Construction and regulation of municipal markets and abattoirs;
- (l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promotion, regulation, and provision of municipal sports and cultural activities;
- (n) Promotion, regulation, and provision of animal control and welfare;
- (o) Development and enforcement of municipal plans and development controls;
- (p) Municipal administration services (including construction and maintenance of administrative offices);
- (q) Promoting and undertaking infrastructural development and services within the Municipality;

(r) Any other functions as may be delegated by the County Executive Committee.

3. THE BOARD OF THE MUNICIPALITY

3.1. ESTABLISHMENT OF THE BOARD

3.1.1. There shall be a Board of the Municipality of Wote.

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:

- 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 within the limits imposed by law;
- d. Entering into contracts; and
- e. Doing or performing all other activities 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 of Makueni.

3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

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.

3.2.3. The Board of the Municipality shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the Board of the Municipality.

3.2.4. Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Wote:

- i. Exercise executive authority as delegated by the County Executive Committee of the County of Makueni;
- ii. Ensure provision of services to its residents;

- iii. Impose such fees, levies, and charges as may be authorised by the County Government for delivery of services by the Municipality;
- iv. Promote constitutional values and principles;
- v. Ensure the implementation and compliance with policies affecting the Municipality formulated by both the National and County Government;
- vi. Make By-laws or make recommendations for issues to be included in By-laws;
- vii. Ensure participation of the residents in decision-making, its activities, and programmes.
- viii. Exercise such other powers as may be delegated by the County Executive Committee.

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 Executive Committee for the necessary performance of its functions.

3.2.6. The Board of the Municipality shall perform the following functions:

- i. Oversee the affairs of the Municipality;
- ii. Develop or adopt policies, plans, strategies and programmes and set targets for service delivery;
- iii. Formulate and implement an integrated development plan;
- iv. Control land, land sub-division, land development, and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Makueni;
- v. Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Makueni;
- vi. Developing and managing schemes, including site development in collaboration with the relevant national and county agencies;
- vii. Maintaining a comprehensive database and information system of the administration;
- viii. Administering and regulating its internal affairs;
- ix. Implementing applicable national and county legislation;

- x. Entering into contracts, partnerships or joint ventures as it may consider necessary or the discharge of its functions;
- xi. Monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the Board of the Municipality;
- xii. Preparing and submitting its annual budget estimates to the County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- xiii. Collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Makueni;
- xiv. Settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Makueni;
- xv. Monitoring the impact and effectiveness of any services, policies, programs or plans;
- xvi. Establishing, implementing and monitoring performance management systems;
- xvii. Promoting a safe and healthy environment;
- xviii. Facilitating and regulating public transport; and
- xix. Performing such other functions as delegated by the County Government of Makueni.

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.
- 3.3.2. Four (4) members of the Board of the Municipality shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.
- 3.3.3. Five (5) members of the Board shall be nominated by the following umbrella bodies appointed by the County Executive Committee with the approval of the County Assembly:
 - (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;
 - (d) A cluster representing registered neighbourhood associations in the area; and
 - (e) An association of the Municipality.

3.3.4. The representative bodies shall each nominate three (3) members to the Board and the County Executive Committee shall appoint one person to represent each body with the approval of the County Assembly.

3.3.5. In appointing members of the Board of the Municipality, the County Executive Committee shall ensure gender equity, representation of persons with disability, youth and marginalised groups.

3.3.6. The term of the members of the Board of the Municipality shall be five (5) years on a part-time basis and shall be eligible for renewal for a further one term.

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

3.4.1. Each member of the Board of the Municipality shall have the following qualifications:

- (a) Be a Kenyan citizen, and ;
- (b) Have a permanent dwelling in the Municipality, or;
- (c) Carry on business in the municipality, or;
- (d) Be ordinary resident in the municipality for at least five years.

3.5. CHAIRPERSON OF THE BOARD

3.5.1. The Chairperson shall be appointed by the Governor from amongst the members of the Board of the Municipality.

3.5.2. The Chairperson of the Board shall hold office for five (5) years on a part-time basis and shall be eligible for re-appointment for a further one term.

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.

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.
- 3.7.2. The Chairperson and the Vice-Chairperson of the Board of the Municipality shall at all times be of different 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) A majority decision of the members of Board of the Municipality at a duly convened meeting where all members present; or
 - (b) Upon petition to the County Assembly by at least 5% of residents of the Municipality.
- 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 Kenyan law having regard to fair labour 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.

3.9. SECRETARY OF THE BOARD OF THE MUNICIPALITY

- 3.9.1. There shall be a Board Secretary appointed as a staff member who shall be qualified as per the Certified Public Secretaries of Kenya Act who shall be answerable to the Municipal Manager.

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;
 - 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; and
 - c) Include persons who are not members of the Board in any Committee.
- 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 provisions 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 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 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 is conduct, or
- (j) Dies.

3.12.2. A member of the Board of the Municipality may be removed from office by;

- (a) The Governor;
- (b) A resolution of the Board of the Municipality supported by at least two-thirds of themembers of the Board of the Municipality; or
- (c) Petition to the County Assembly by at least 5% of 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 Areasand Cities Act.

3.12.4. Any vacancy arising out of the removal of a member of the Board of the Municipality maybe 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 Boardonce 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 Municipalityshall convene a special meeting to transaction any urgent business of the Board of theMunicipality.

3.13.3. All regular meetings of the Board of the Municipality called for the purpose of transacting public business, where a majority of the members elected are present, shall be open tothe 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 atsuch 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, but a smaller number may meet and compel attendance of absent members as prescribed by Board of the Municipality Rules.
- 3.14.2. A member of the Board of the Municipality who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Board of the Municipality, shall not to be counted as participating in the discussions or decisionmaking, and is not entitled to vote on or agree to the subject or transaction relating to it.

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.
- 3.16.2. Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Urban Areas and Cities Act.

3.17. CITIZEN FORA

- 3.17.1. The Board of the Municipality shall ensure for the participation of the residents of the Municipality of Wote in the management and administration of the Municipality.
- 3.17.2. All recommendations from the Citizen Fora of the Municipality of Wote shall be forwarded to the Board of the Municipality for resolution.
- 3.17.3. 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.
- 3.17.3 The Citizen Fora shall be convened in accordance with the County Government laws on public participation.

4. LEGISLATIVE AUTHORITY

4.1. BY-LAWS

4.1.1. The Board of the Municipality shall exercise its legislative authority by passing Municipality By-laws.

4.2. PASSING OF BY-LAWS

4.2.1. Except as authorized by Article 3.2.2, passing of By-laws shall require approval by a majority of the Board of the Municipality at two meetings.

4.2.2. The Board of the Municipality may adopt a By-law at a single meeting by the unanimous approval of at least a quorum of Board, provided the proposed By-law is available in writing to the public at least one week before the meeting.

4.2.3. Any substantive amendment to a proposed By-law must be read aloud or made available in writing to the public before the Board of the Municipality adopts the By-law at that meeting.

4.2.4. After the adoption of a By-law, the vote of each member must be entered into the Board minutes.

4.2.5. After adoption of a By-law, the Chairperson of the Board must endorse it with the date of adoption and his title.

4.3. EFFECTIVE DATE OF BY-LAWS

4.3.1. By-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.

4.3.2. A By-law may take effect as soon as adopted or another date less than 30 days after adoption if it contains an emergency clause.

5. ADMINISTRATIVE AUTHORITY

5.1. RESOLUTIONS

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

5.2. APPROVAL OF RESOLUTIONS

5.2.1. Approval of a resolution or any other Board administrative decision requires approval by the Board of the Municipality at one meeting.

5.2.2. Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the Board adopts the resolution at that meeting.

5.2.3. After approval of a resolution or other administrative decision, the vote of each member must be entered into the Board minutes.

5.3. EFFECTIVE DATE OF RESOLUTIONS

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

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 Wote.

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 may be appointed for a definite or an indefinite term.

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
- (c) Have served and had proven experience in administration or management either in public or private sector for a term of at least five years.

6.3.2. In appointing the Municipal Manager, the County Public Service Board shall ensure:

- (a) Gender equity.
- (b) The inclusion of minorities and marginalised communities; and
- (c) The person satisfies the requirements of Chapter six of the Constitution.

6.3.3. The Municipal Manager need not be resident within the Municipality.

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;
- (a) 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;

- (b) Be principally responsible for building and maintaining a strong alliance and effectiveworking relationships between the Board of the Municipality and the civil society,private sector and community based organizations;
- (c) Cause to be prepared, transmitted to the Board of the Municipality, and distributed tothe public at least an annual report on the activities and accomplishments of thedepartments and agencies comprising the executive branch of the Municipality.
- (d) Act as an ex-officio member of all committees of the Board of the Municipality; and
- (e) 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 executiveand administrative work and affairs of the Municipality. The Municipal Manager shall havethe power and shall be required to:

- (a) Exercise supervision over all departments and agencies of the Municipality andprovide for the coordination of their activities;
- (b) Enforce the provisions of this Charter, Municipal By-laws, and all applicable laws;
- (c) Exercise powers granted to the Municipal Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers,employees, and members of committees of the Board of the Municipality;
- (d) Exercise such other powers as may be prescribed by this Charter, by-laws andapplicable laws.

6.4.4. The Municipal Manager must:

- a) Attend all Board of the Municipality meetings unless excused by the Chairpersonof the Board or the Board of the Municipality;
- b) Make reports and recommendations to the Board of the Municipality about theneeds of the Municipality;
- c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases,contracts, permits, and other Municipality decisions;
- d) On approval by the Board of the Municipality, liaise with the County Public Service Board for the staffing needs, appointment, and removal of Municipality employees in accordance with the County Governments Act;
- e) With the approval of the Board of the Municipality, organise Municipality departments and administrative structure;

- f) In consultation with the Board prepare and administer the annual Municipality budget;
 - g) Administer Municipality utilities and property;
 - 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;
 - j) Delegate duties, but remain responsible for acts of all subordinates.
- 6.4.5. The Municipal Manager shall have no authority over the Board of the Municipality.

6.4.6. The Municipal Manager shall be entitled to attend meetings of the Board of the Municipality but shall not be entitled to vote.

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 and other staff of the Municipality in line with the guidelines 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;

- i. The Governor;
- ii. A resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- iii. Petition to the County Assembly by at least 5% of the residents 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 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 Regulations made under the County Government Act (No. 17 of 2012) and in the absence thereof in accordance with Kenyan law having regard to fair labour 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 Governor shall appoint a qualified person to be an Acting Municipal Manager on the recommendation of the Board.

6.7.2. The Governor shall appoint an interim Municipal Manager to act in the interim before the recruitment of the first Manager as per this Charter.

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

6.7.4. The Acting Municipal Manager shall have the authority and duties of the Municipal Manager, except that the Acting Municipal Manager may appoint or remove employees only with the approval of the Board of the Municipality.

6.7.5. An Acting Municipal Manager shall hold office until such a time as a new Municipal Manager shall be appointed by the County Public Service Board.

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;
 - (d) Revenue arising from rates, fees, levies, charges and other revenue-raising measures which are retained by Municipality for the purpose of defraying its costs for providing services;
 - (e) Investment income; and
 - (f) Borrowing in line with the Public Finance Management Act.

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.

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.

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:-

- (a) From the County Government;
- (b) Through the 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 Public Service Board, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or 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 SYSTEM

8.3.1. The Board of the Municipality may with the approval of the County Public Service Board, do all things necessary to include its officers and employees, or any of them within any retirement system or pension system under the terms applicable, 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 Service 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.

9.1.2. The County Executive Committee shall determine the assets and staff to be transferred to the Municipality with the approval of the County Assembly

9.2. COMPULSORY ACQUISITION

9.2.1. Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee Member in charge of Lands to request the National Land Commission to acquire the land on its behalf.

9.2.2. 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 may do whatever may be necessary 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 elected or 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:

"I, [...], being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of the Municipality of Wote, 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 this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Wote, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [Municipal Manager/Chairperson, etc.] of the Municipality of Wote or otherwise under the law. (In the case of an oath— So help me God."

10.1.2. The Municipal Manager shall take and subscribe to this oath or affirmation before the Governor or before one of the sworn deputies. All other persons taking and subscribing to the oath shall do so before the Municipal Manager.

10.2. AMENDMENTS TO THE CHARTER

10.2.1. The Governor may at any time, after consultation with the Board of the Municipality, propose amendments to any provision of this Charter.

10.2.2. The Governor shall cause the proposed amendments of the Charter to be laid before the County Assembly 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 these remaining provisions nor the legality, validity or enforceability of such provision will in anyway 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 27 Day of JUNE Month of 2018.

11.2. RIGHTS AND PRIVILEGES PRESERVED

11.2.1. Nothing in the Charter except as otherwise specifically provided shall affect 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.

INTERNATIONAL BROTHERHOOD

ARTICLE TWENTY-THREE

23.1 The provision of this Chapter shall be in effect from and after the 21st day of June

1951.

ARTICLE TWENTY-FOUR

24.1 Nothing in this Chapter shall be construed to deprive any individual of any right or benefit

the right or benefit of any person who was lawfully entitled to receive or to be entitled to at the

time of his death.

ARTICLE TWENTY-FIVE

25.1 All laws, regulations, and contracts in force at the time of the signing of this

Charter shall remain in effect and shall not be null and void or subject to termination or

modification.