

SPECIAL ISSUE

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REPUBLIC OF KENYA

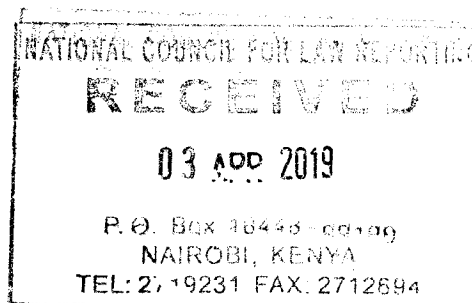
KENYA GAZETTE SUPPLEMENT

ACTS, 2019

NAIROBI, 14th March, 2019

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**THE URBAN AREAS AND CITIES
(AMENDMENT)**

No. 3 of 2019

Date of Assent: 12th March, 2019

Date of Commencement: 28th March, 2019

**AN ACT of Parliament to amend the Urban Areas and
Cities Act, 2011 and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Urban Areas and Cities (Amendment) Act, 2019.

Short title.

2. The Urban Areas and Cities Act in this Act referred to as “the principal Act”, is amended in section 2 (1) —

Amendment of
section 2 of No.
13 of 2011

(a) by deleting definition of “city county” and substituting therefor the following new definition—

“city county” means a county which is also a city under this Act;

(b) in the definition of the word “urban area” —

(i) by deleting the word “or” appearing between the word “municipality” or “a town” and substituting therefor with a comma;

(ii) by inserting the words “or a market centre” immediately after the word “town”;

(c) by inserting in the proper alphabetical sequence the following new definitions —

“neighbourhood association” means a registered cluster of residents groupings actively representing the interests of a recognised constituency of urban citizens within the defined urban jurisdiction; and

“resident population” means the core urban and peri-urban population of an urban area or city according to the final gazetted results of the last population census carried out by an institution authorized under any written law, preceding the application for grant of any status.

3. Section 3 of the principal Act is amended by —

Amendment of section 3 of the principal Act.

- (a) renumbering section 3 as 3(1); and
 - (b) inserting a new subsection immediately after subsection (1)—
- (2) In implementing this Act, county governments shall comply with the National Urban Development Policy.

4. The principal Act is amended by inserting the following new section immediately after section 4 —

Insertion of new sections after section 4 of the principal Act.

Boundaries of urban areas and cities.

4A. (1) Delineation of the boundaries of urban areas or cities may be initiated by the Cabinet Secretary or by the relevant county government making a written request to the Cabinet Secretary to appoint the ad hoc committee in the manner provided under subsection (2).

(2) The Cabinet Secretary shall, on receipt of a request under subsection (1) or on considering it necessary, appoint by notice in the Kenya Gazette an ad hoc committee to delineated the boundaries of an urban area or a city.

(3) The *ad hoc* committee appointed by the Cabinet Secretary under subsection (2) shall comprise —

- (a) a representative of the Independent Electoral and Boundaries Commission, who shall be the chairperson;
- (b) three representatives from the national government drawn from —
 - (i) the Ministry for the time being responsible for urban development;
 - (ii) the Ministry for the time being responsible for environment;

- (iii) the Ministry for the time being responsible for agriculture;
 - (c) three representatives from the county government drawn from —
 - (i) the Department for the time being responsible for urban development;
 - (ii) the Department for the time being responsible for environment;
 - (iii) the Department for the time being responsible for agriculture; and
 - (d) two representatives from the following professional associations —
 - (i) Institute of Surveyors of Kenya; and
 - (ii) Kenya Institute of Planners.
- (4) Where an *ad hoc* committee is to be appointed under sub section (2) —
- (a) the governor shall nominate the three representatives referred to under subsection (3)(c) for appointment by the Cabinet Secretary; and
 - (b) each of the relevant professional associations shall nominate its representative referred to under subsection (3)(d) for appointment by the Cabinet Secretary.
- (5) The representative from the national government drawn from the Ministry for the time being responsible for urban development appointed under subsection (3)(b)(i) shall serve as the secretary to the *ad hoc* committee.

(6) Where the boundaries of an urban area extend to more than one county, membership of the *ad hoc* committee shall include representatives of the relevant counties and the proposal for delineation of the boundaries shall be handled by the Council of Governors.

5. Section 5(1) of the principal Act is amended —

Amendment of section 5 of the principal Act.

(a) in paragraph (b) by inserting immediately after the word “Act” the words “and other existing laws”;

(b) by deleting paragraph (e) and substituting therefor with the following new paragraph—

(e) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule.

6. Section 10 of the principal Act is amended by deleting paragraph (d) appearing in subsection (2) and substituting therefor the following new paragraph—

Amendment of Section 10 of the principal Act.

(d) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule.

7. The principal Act is amended by inserting the following new section immediately after section 10 —

Insertion of new section after section 10 of the principal Act.

Eligibility for grant of the status of market centre.

10A. (1) The county governor may, upon approval of the county assembly, confer the status of a market centre on an area that meets the criteria set out in subsection (2).

(2) An area shall be eligible for the grant of the status of a market centre under this Act if it has —

(a) a resident population of at least two thousand residents; and

(b) an integrated urban area development plan in accordance with this Act and any other existing law.

Delineation of boundaries of a

2019

market.

10B. (1) Delineation of the boundaries of a market may be initiated by a county governor.

(2) The county governor shall, for the purpose of subsection (1), appoint by notice in the county *Gazette* an *ad hoc* committee to delineate the boundaries of a market.

(3) The *ad hoc* committee appointed by the county governor under subsection (2) shall comprise —

- (a) a representative of the Independent Electoral and Boundaries Commission based at the county office, who shall be the chairperson;
- (b) two representatives from the county government drawn from —
 - (i) the county department for the time being responsible for urban development who shall be the secretary;
 - (ii) the county department for the time being responsible for environment;
- (c) a representative of the national government based at the county office;
- (d) two representatives from the following professional associations in the county —
 - (i) Institute of Surveyors of Kenya; and
 - (ii) Kenya Institute of Planners.

Management of a market centre.

(4) Each professional association shall nominate its representative referred to under subsection (3)(d) for appointment by the county governor.

(5) Where the boundaries of a market extend to more than one county, the

membership of the *ad hoc* committee shall include representatives of the relevant counties and the proposal for delineation of the boundaries shall be handled by the Council of Governors.

10C. A market centre shall be governed and managed by the county government.

8. Section 12 of the principal Act is amended by deleting the marginal note and substituting therefor the following –

Amendment of
Section 12 of the
principal Act.

Structures and management of cities, municipalities.

9. Section 13 of the principal Act is amended by –

Amendment of
Section 13 of the
principal Act.

(a) deleting the words county executive committee appearing in subsection (1) and substituting therefor the words “county governor”;

(b) inserting the following new subsection immediately after subsection (1) –

(1A) The members of the Board of a city appointed under subsection (1) shall be constituted as follows –

(a) the county executive member for the time being responsible for cities and urban areas or his representative;

(b) six members who shall be competitively appointed by the county governor, with the approval of the county assembly;

(c) four members who shall be nominated by the organization specified under subsection (2) and appointed by the county governor, with the approval of the county assembly;

(d) the Secretary appointed under section 13A, who shall be an *ex officio* member of the Board.

(c) deleting subsection (2) and substituting therefor the following new subsection –

(2) The four members of the board of a city specified under subsection (1) (c), shall be nominated by –

- (a) an umbrella body representing professional associations in the area;
 - (b) an association representing the private sector in the area;
 - (c) a cluster representing registered associations of the informal sector in the area; and
 - (d) a cluster representing registered neighbourhood associations in the area.
- (d) deleting subsection (4) and substituting therefor the following new subsections —
- (4) The county governor shall, while considering the nominated members identified by the organizations specified under section 13 (2), require the organizations to produce —
 - (a) signed minutes as evidence of an accountable process of nomination;
 - (b) evidence of compliance with statutory obligations;
 - (c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board.
 - (5) A person shall be qualified for appointment as a chairperson of the board if that person —
 - (a) holds a bachelor's degree from an institution recognized in Kenya;
 - (b) has a distinguished career in a medium level management position in either the private or public sector;
 - (c) holds at least ten years' post-qualification professional experience; and
 - (d) satisfies the requirements of Chapter Six of the Constitution.
 - (6) A person shall be qualified for appointment as a member of the board if that person —
 - (a) holds a bachelor's degree from an institution recognized in Kenya;
 - (b) has a distinguished career in a medium level management position in either the private or public sector;

- (c) holds at least seven years' post-qualification professional experience; and
 - (d) satisfies the requirements of Chapter Six of the Constitution.
- (7) A person shall not be appointed a member of the Board if that person —
- (a) is an undischarged bankrupt;
 - (b) has been removed from office for contravening the Constitution or any other law;
 - (c) is not a citizen of Kenya; or
 - (d) has, in the conduct of his or her, affairs not met any statutory obligation.

10. The principal Act is amended by inserting a new section immediately after section 13 —

Insertion of new sections after section 13 of the principal Act.

Appointment of Secretary of the Board of a city

13A. (1) The county public service board shall, through a competitive process appoint a Secretary to the board on such terms and conditions as the county public service board, in consultation with the city or municipal board, shall determine.

(2) A person is qualified to be appointed as the Secretary of the board, if that person —

- (a) has a degree from an institution recognised in Kenya;
- (b) has at least four years' experience in management; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Secretary shall be —

- (a) responsible for the day to day management of the affairs of the board; and
- (b) perform such other duties as may be assigned by the board.

(4) The Secretary shall hold office for a term of five years.

(5) The provisions of section 16 relating to grounds for vacation of office shall, with necessary modifications, apply to the Secretary of the board appointed under this section.

11. Section 14 of the principal Act is repealed and replaced with the following new section —

Repeal and replacement of Section 14 of the principal Act.

Board of municipalities.

14. (1) A board of a municipality shall consist of nine members appointed by the county governor with the approval of the county assembly.

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

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

(3) The four members of the board of a municipality specified under subsection (2) (c), shall be nominated by—

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

(4) The county governor shall, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalised groups.

(5) The county governor shall while considering the nominated members identified by the organizations specified under subsection (2), require the organizations to produce—

- (a) signed minutes as evidence of an accountable process of nomination;
- (b) evidence of compliance with statutory obligations; and
- (c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board.

(6) A person shall be qualified for appointment as a chairperson of the board if that person—

- (a) holds at least a degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;

- (c) holds at least ten years' post-qualification professional experience;
- (d) satisfies the requirements of Chapter Six of the Constitution;
- (e) is ordinarily resident or has a permanent dwelling in the municipality; and
- (f) carries on business in the municipality or has lived in the municipality for at least five years.

(6) A person shall be qualified for appointment as a member of the board if that person—

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

(7) A person shall not be appointed as a member of the Board if that person —

- (a) is an undischarged bankrupt;
- (b) has been removed from office for contravening the Constitution or any other law;

- (c) is not a citizen of Kenya; or
- (d) has in the conduct of his or her affairs not met any statutory obligations.

12. Section 20 of the principal Act is amended by—

Amendment of section 20 of the principal Act.

(a) deleting the marginal note and substituting therefor the words “Governance and management functions of a board”; and

(b) by deleting subsection (2).

13. Section 21(1) of the principal Act is amended in paragraph (g) by inserting the words “as provided in the County Governments Act, 2012 and any other national legislation on public participation” after the words “Schedule to this Act”.

Amendment of section 21 of the principal Act.

14. Section 22 (1) of the principal Act is amended in paragraph (b) by deleting the word “plan” and substituting thereof the word “formulate”.

Amendment of section 22 of the principal Act.

15. Section 27 of the principal Act is amended by inserting the words “in accordance with the County Governments Act, 2012” immediately after the words “as a county government”.

Amendment of section 27 of the principal Act.

16. Section 29 of the principal Act is amended by deleting the words “by an institution responsible for recruiting public servants in the county” and substituting therefor the words “the county public service board established under section 57 of the County Governments Act, 2012.”

Amendment of section 29 of the principal Act.

17. Section 30 of the principal Act is amended in subsection (1) (c) by deleting the word “five” and substituting therefor the word “ten”.

Amendment of section 30 of the principal Act.

18. Section 31 of the principal Act is repealed and replaced with the following new sections—

Repeal and replacement of section 31 of the principal Act.

Governance and management of towns

31. (1) The management of a town shall be vested in a town committee comprised of five members which shall be constituted as follows —

- (a) the county executive committee member responsible for urban areas and cities or his representative;
- (b) two members appointed competitively by the county governor;
- (c) a cluster representing registered associations of the informal sector; and
- (d) a cluster representing the business community.

(2) The members of the town committee specified under subsection (1) shall be appointed by the county governor with the approval of the county assembly.

(3) A person shall be qualified for appointment as chairperson, vice-chairperson or member of a town committee if that person —

- (a) holds at least a Kenya Certificate of Secondary Education or its equivalent and post-secondary education professional diploma;
- (b) has a distinguished career in a management position in either the private or public sector;
- (c) has at least three years' post-qualification professional experience;
- (d) satisfies the requirements of Chapter Six of the Constitution; and
- (e) is ordinarily resident or has a permanent dwelling in the town for at least five years or carries on business in the county.

(4) A person shall not be appointed a member of a town committee if that person—

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

(5) The provisions of section 16 and 18 relating to vacation of office and removal from office of members of the board of a city or a municipality shall apply, with the necessary modification, to a member of a town committee.

Functions of a town committee

31A. The functions performed by the board of a city or a municipality specified under section 20(1) shall be performed by the town committee.

Appointment of an administrator.

No.17 of 2012.

31B. (1) There shall be an administrator for every town established under this Act who shall be appointed by the county public service board established under section 57 of the County Governments Act, 2012.

(2) The administrator of a town shall perform such functions as the town committee, appointed under section 31, may determine.

(3) A person shall be qualified to be appointed as an administrator under subsection (1), if that person —

- (a) holds a degree from a university recognised in Kenya or its equivalent;
- (b) has proven experience of at least three years in administration or management either in public or private sector;

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(c) is a citizen of Kenya; and

(d) satisfies the requirements of
Chapter Six of the Constitution.

19. The First Schedule is repealed and replaced with
the following new Schedule.

Repeal and
replacement of
the First
Schedule.

FIRST SCHEDULE[s. 5(1) (e), 9(1) (e), and 10 (2) (d)]**CLASSIFICATION OF URBAN AREAS
AND CITIES AND BY SERVICES**

In classifying an area as a city, municipality or town, regard shall be had to the ability to provide the following services and also the existence of the services required to be provided by the National Government:

City — (Population: at least 250,000)

Planning and Development Control

City Economic Development Plan

Traffic Control and Parking

Water and Sanitation

Street Lighting

Outdoor Advertising

Cemeteries and Crematoria

Public Transport

Library services

Storm Drainage

Ambulance Services

Health Facilities

Fire Fighting and Disaster Management

Control of Drugs

Sports and Cultural Activities

Electricity and energy provision (gas, kerosene, biomass etc)

Abattoirs

Refuse Collection

Solid waste management

Pollution(Air, water and soil) control

Child Care Facilities

Pre-Primary Education

Local Distributor Roads

Conference Facilities
Community Centres
County Hospital
Constituent University Campuses
Polytechnic
National School
Stadium
Airport
Airstrip
Theatre
Library Service
Administrative Seat
Financial Hub
Museum
Historical Monument
Fire Station
Emergency Preparedness
Postal services
Funeral Parlour
Recreational Parks
Management of Markets
Animal control and welfare
Religious Institution
Organised Public Transport
Information, Communication and Technology services
Telecommunication services
Municipality — (Population at least 50,000)
Planning and Development Control
Traffic Control and Parking
Water and Sanitation

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Street Lighting
Outdoor Advertising
Cemeteries and Crematoria
Public Transport
Libraries
Storm Drainage
Ambulance Services
Heath Facilities
Fire Fighting and Disaster Management
Control of Drugs
Sports and Cultural Activities
Electricity and Energy provision (gas, kerosene etc.)
Abattoirs
Refuse Collection
Solid waste management
Pollution (Air, water, soil) control
Child Care Facilities
Pre-Primary Education
Local Distributor Roads
Community Centres
County Hospital
Constituent University Campuses
Polytechnic
County School
Stadium
Airstrip
Theatre
Library/ICT services
Administrative Seat
Local Economic Development Plan

Museum/cultural centres

Fire Station

Emergency Preparedness

Telecommunication services /postal services/ICT

Funeral Parlour

Cemetery

Recreational Parks

Animal control and welfare

Religious Institution

Town – (Population at least 10,000)

Street Lighting

Cemeteries and Crematoria

Library Services

Health Facilities

Sports and Cultural centers or facilities

Abattoirs

Refuse Collection

Solid waste management

Pollution (Air, water and soil) control

Child Care Facilities

Pre-Primary Education

Community Centres

Vocational Institution

Primary or High school

Bus park

Road network, streets, walkways, sideways and cycle ways

Postal services or telecommunication

Funeral Parlour or mortuary

Cemetery

Recreational parks

Animal control and welfare

Religious Institution

Market Centre — (Population at least 2,000)

Street Lighting

Health Facilities

Sports and Cultural centers/facilities

Abattoirs/Slaughterhouse

Refuse Collection

Solid waste management

Child Care Facilities

Pre-Primary Education

Community Centres

Primary school

Bus park

Road network/streets/walkways/sideways/cycle ways

Recreational parks

Animal control and welfare