



REPUBLIC OF KENYA

eff
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COUNTY GOVERNMENT OF HOMABAY
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**COUNTY EXECUTIVE COMMITTEE
MEMBER
FINANCE AND ECONOMIC PLANNING**
16 FEB 2026
HOMA-BAY COUNTY GOVERNMENT
P.O BOX 469-40300, HOMA-BAY

**COUNTY GOVERNMENT OF HOMA BAY POLICY ON COUNTY FINANCING OF
URBAN AREAS**

**POLICY ON COUNTY FINANCING OF URBAN AREAS THROUGH
OPERATIONALIZATION OF SECTIONS 172 AND 173 OF THE PUBLIC FINANCE
MANAGEMENT ACT**

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1. Introduction

Recognizing the critical role urbanization plays in the economic growth, productivity, creation of economic wealth, and development of a country, this policy is designed to serve as a key framework that outlines strategic interventions essential for the county government to effectively establish cities and urban areas; and delegate and transfer functions as well as revenue raising powers to the cities and urban areas. It is also designed to enable the county government of Homa Bay improve its financing of the cities and urban areas through operationalization of sections 172 and 173 of the Public Finance Management Act which require the county government to allow the cities and/or urban areas to retain money raised from certain sources and also establish criteria for allocation of additional funds to the cities and urban areas by the county government through its annual budget processes.

1.2 Historical Background

Before the adoption of the 2010 Constitution and the devolved system of government, cities and urban areas were governed and managed as part of the then system of local government which comprised both rural local authorities known as County Councils, and urban local authorities that included City Councils, Municipal Councils and Town Councils.

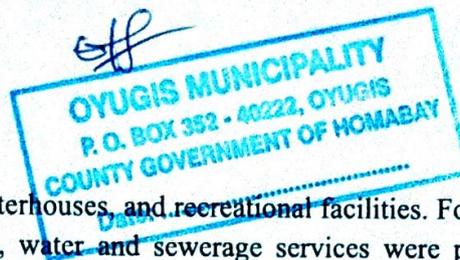
1.2.1 The functions of the urban local authorities

The City Councils, Municipal Councils and Town Councils were vested with and performed all the functions of local government which included:

Development control functions: These encompassed physical planning powers to prohibit and control the development and use of land and buildings in the interest of proper and orderly development; control or prohibit the subdivision of land or existing plots into smaller areas; consider and approve all development applications and grant all development permissions; ensure the proper execution and implementation of approved physical development plans; and formulate by-laws to regulate zoning in respect of the use and density of development.

Trade licensing functions: These encompassed powers to prohibit or control all manner of trade and businesses such as peddling, hawking and street trading, barbers and hairdressers, dealers in second-hand clothes; prohibit, control and regulate such other trades, occupations and premises as the minister from time to time prescribed; control or prohibit all businesses, factories and workshops which could be or were a source of danger, discomfort or annoyance to the neighbourhood due to smoke, fumes, chemical gases, dust, smell, noise, vibration, or other cause.

Social and service delivery functions: These encompassed provision of social services such as housing, roads, water supply, health and education with these urban local authorities owning some of the public schools and health facilities. Under this rubric, the urban local authorities were also responsible for provision of services such as street lighting, refuse removal/solid waste management, sewerage services, fire stations and fire-fighting, the management and



maintenance of local marketplaces, slaughterhouses, and recreational facilities. Following the water sector reforms introduced in 2002, water and sewerage services were provided by privately formed companies, which were, in most cases, incorporated as subsidiaries of the respective local authorities.

1.2.2 Financing of the urban local authorities

To finance these functions, the City Councils, Municipal Councils and Town Councils relied on two major sources of revenue—local sources or own revenues and central government transfers. Own source revenues included property taxes in the form of land rates, plot rents, single business licenses or permits; service charges and fees for services rendered such as water supply, refuse removal, market dues, quarry dues, change of user fees, parking fees, bus park charges, fines and penalties. Central government grants included Local Authority Transfer Fund (LATF), Road Maintenance Levy Fund (RMLF) and Contribution in lieu of Rates (CILOR). Central government transfers to local authorities were a later introduction that formed part of a local government reform program which aimed at enhancing inter-governmental fiscal transfers, improving financial management, debt resolution, streamlining budgeting system and service provision capacity building for local authorities. The overall objective was to address the challenges local authorities were facing due to the insufficiency of own source revenues. The central government transfers were conditional grants in nature, for example, the enactment of the LATF Act in 1998 provided for transfer of five percent of national income tax to local authorities in line with population, resource base and financial performance. Further, access to LATF was conditional upon development of a Local Authority Service Delivery Action Plan (LASDAP) using a participatory approach in identifying of projects by council managements and the locals and incorporating the projects in the budgets.

1.2.3 Adoption of the devolved system

With the adoption of the devolved system of government based on only two levels of government, all these changed with establishment of the cities and urban areas, their functions and revenue raising powers becoming a competency of individual county governments. After the first elections under the devolved system which were held in March 2013, the county government did not move first enough to establish cities and urban areas; and even after it did, the charters establishing the cities and urban areas did not effectively delegate and transfer functions and revenue raising powers to the cities and urban areas. This has necessitated the development of this policy.

1.3 Policy Objectives

The overall objective of this policy is to provide a basis for county financing of cities and urban areas by operationalizing sections 172 and 173 of the Public Finance Management Act.

The specific objectives of the policy are to provide for:

- a) Establishment of cities and urban areas of various categories within the area of the county's jurisdiction, in accordance with the criteria provided by the Urban Areas and Cities Act.

- b) Effective delegation and transfer by the county government to the established cities or urban areas, some of the functions and powers assigned by the constitution to the county government.
- c) Effective delegation and transfer by the county government to the cities or urban areas, some of the county government revenue raising powers associated with the functions performed by the cities or urban areas.
- d) Allowing of the established cities or urban areas to retain and use such retained revenues as Appropriation-In-Aid.
- e) Establishment of criteria for allocation of additional funds by the county government to the cities or urban areas through the county annual budget processes.
- f) Allocation of additional funds from the county revenues to the cities or urban areas to enable them to effectively perform the functions delegated and transferred to them, and deliver services to the residents.
- g) A well-managed implementation of charters establishing, delegating and transferring functions and revenue raising powers to cities and urban areas to avoid duplication of functions and expenditures.
- h) A well-managed transition from the county departments to the cities and urban areas to avoid duplication of functions and expenditures.
- i) Coordination between the established cities and/or urban areas, and county departments and administrative officers such as sub-county and ward administrators.

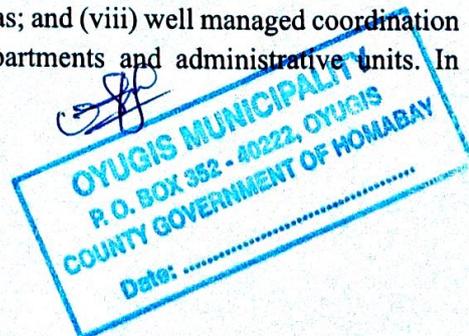
1.4 Scope of Application

This policy shall apply to the County Government of Homa Bay when establishing, delegating and transferring functions and revenue raising powers, and allocating funds to cities, municipalities, towns and markets within the county as required by sections 172 and 173 of the Public Finance Management Act.

1.5 Rationale of the Policy

This Policy is guided by one, section 172 of the Public Finance Management Act which requires county governments to allow cities and urban areas to retain revenue arising from rates, fees, levies, charges and other revenue raising measures and use it for the purpose of defraying their costs for providing services. Two, section 173 of the Public Finance Management Act which requires the county government, through county legislation, to establish criteria for allocation to cities and/or urban areas, of monies to enable the cities and urban areas manage and deliver services.

The development of this policy that operationalizes sections 172 and 173 of the PFMA will result in effective (i) establishment of cities and urban areas; (ii) delegation and transfer of functions to the cities and urban areas; (iii) delegation and transfer of revenue raising powers to cities and urban areas; (iv) retention and use of own source revenue as Appropriation-in-Aid by the cities and urban areas; (v) allocation of funds to cities and urban areas by the county informed by objective criteria established by the county government; (vi) effective implementation of the charters establishing cities and urban areas; (vii) well managed transition from the county departments to the cities and urban areas; and (viii) well managed coordination between the cities and urban areas, and county departments and administrative units. In



addition, the policy will result in a proper and sustainable system of county financing of cities and urban areas within the county.

1.6 Vision and Mission

Vision statement: A well-managed county with cities and urban areas that are properly empowered by the county government both in terms of functions and revenue raising powers, and are properly financed by the county government.

Mission statement: To ensure cities and urban areas that are properly financed by the county government through effective delegation and transfer of revenue raising powers, and established criteria for allocation of funds by the county government.

1.2 Policy constitutional and legal Framework

The development of this policy was informed by the following policy, constitutional and legal framework:

1.2.1 National Urban Development Policy March 2016

The National Urban Development Policy of 2016 provides for the promotion of effective governance and management of urban areas; building of efficient financial management systems in urban areas; and creation of systems for vibrant growth and development in urban areas among other matters.

1.2.2 Constitution of Kenya, 2010

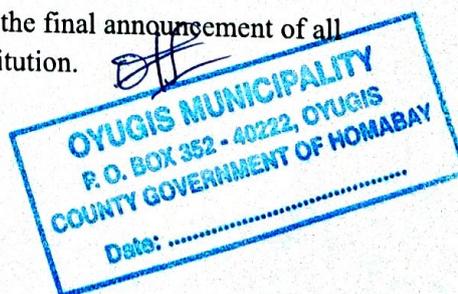
Articles 6(1), 186, and 209 of the Constitution establish only two levels of government—the national and county, and assign both functions and revenue raising powers to only two levels of government. However, Articles 176 and 184 empower each county government to decentralize its functions and provision of its services to other entities including cities and urban areas within the county. Section 18 of the Sixth Schedule to the constitution provided for the continuation of the existing local authorities in the following terms: “all local authorities established under the Local Government Act (Cap. 265) existing immediately before the effective date shall continue to exist subject to any law that might be enacted”.

1.2.3 County Governments Act

Section 48(1) of the County Governments Act provides for decentralization of the functions and provision of services of each county government to various entities including “(a) the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act (No. 13 of 2011)”.

Section 134 of the Act provided for the repeal of the Local Government Act, effectively abolishing the existing local authorities in the following manner:

134(1) The Local Government Act is repealed upon the final announcement of all the results of the first elections held under the Constitution.



(2) All issues that may arise as a consequence of the repeal under subsection (1) shall be dealt with and discharged by the body responsible for matters relating to transition.

1.2.4 Transition to Devolved Government Act, 2012

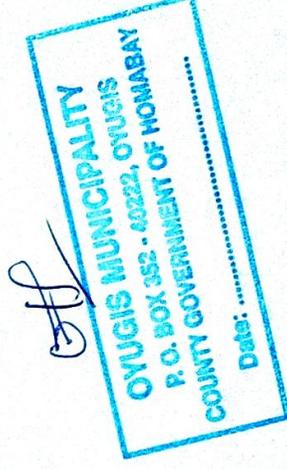
The Transition to Devolved Government Act of 2012 established a Transition Authority with responsibility to facilitate, coordinate and deal with matters relating to transition from the hitherto centralized government to the devolved system of governance, including transfer of the functions of the abolished local authorities including those of the urban local authorities to the 47 county governments.

1.2.5 Urban Areas and Cities Act, 2011

The Urban Areas and Cities Act as amended in 2019 makes provision for the criteria for the classification of different categories of urban areas; establishment of the urban areas; the principles of governance and management of urban areas; the governance and management of urban areas by boards and committees; the functions and powers which the boards and or committees of urban areas may perform and exercise; the participation of the residents in the governance and management of urban areas; and the financing of urban areas. The management of a city and municipality is vested in the county government and administered on its behalf by a board, a manager, and such other staff or officers as the county public service may determine. Section 43 identifies sources of funds for Boards of cities and municipalities.

1.2.6 Public Finance Management Act, 2012

Section 172 of the PFMA requires county governments to allow cities and urban areas to retain revenue arising from rates, fees, levies, charges and other revenue raising measures and use it for the purpose of defraying their costs for providing services. Section 173 of the PFMA requires the county, through county legislation, to establish criteria for allocation to cities and/or urban areas, of monies to enable the cities and urban areas manage and deliver services.



CHAPTER TWO
SITUATION ANALYSIS OF ESTABLISHMENT AND FINANCING OF URBAN
AREAS BY THE COUNTY GOVERNMENT

2. Introduction

This chapter provides a situational analysis of the establishment and financing of cities and/or urban areas by the county government of Homa Bay and offers insights into the existing management and governance of cities and/or urban within the jurisdiction of the county. It examines the constitutional and legal framework that provides for establishment of cities and/or urban areas by the county government; the financing of the cities and/or urban areas by the county government; and the current challenges, revealing gaps between the constitutional and legal framework on the one hand, and the reality of practice, on the other. The chapter also highlights the critical areas that require attention to ensure effective establishment of cities and urban areas; and the delegation and transfer of functions and revenue raising powers by the county government to the cities and/or urban areas. The chapter also highlights the key areas that require policy and legislative intervention in order to improve financing of cities and urban areas by the county government.

2.1 Constitutional and legal background

Kenya adopted the current Constitution in August 2010 which introduced the devolved system of government as one of its fundamental changes.

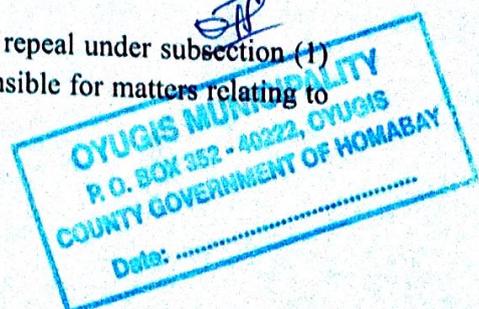
2.1.1 Constitutional establishment of only two levels of government

Through Article 6(1), the constitution established two levels of government—the national and the county which are distinct and interdependent. At the county level this Article has been interpreted as having divided the entire geographic space or territory of Kenya, including the urban areas into the 47 counties. The implication of this was that the pre-existing local authorities were abolished unless re-established as part of further decentralization by the county government.

From a transition perspective, section 18 of the Sixth Schedule to the constitution provided in respect of local authorities that “all local authorities established under the Local Government Act (Cap. 265) existing immediately before the effective date shall continue to exist subject to any law that might be enacted”. The County Governments Act number 17 of 2012 which was enacted to operationalize the county governments continued the existence of the local authorities until the announcement of the results of the first elections held under the constitution. Section 134 of the Act provided for the repeal of the Local Government Act, effectively abolishing the existing local authorities in the following manner:

134(1) The Local Government Act is repealed upon the final announcement of all the results of the first elections held under the Constitution.

(2) All issues that may arise as a consequence of the repeal under subsection (1) shall be dealt with and discharged by the body responsible for matters relating to transition.



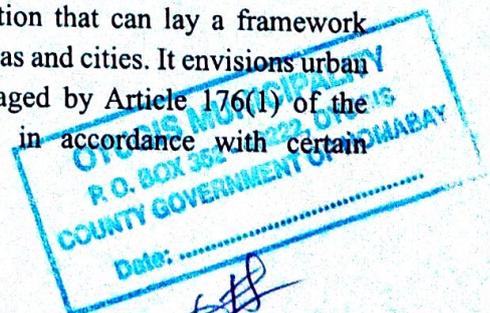
Through Article 186 read together with the Fourth Schedule, the constitution also assigns functions to only two levels of government—the national and county. The functions assigned to the county governments include the functions previously performed by local authorities, including urban local authorities. The Transition to Devolved Government Act of 2012 established a Transition Authority with responsibility to facilitate, coordinate and deal with matters relating to transition from the hitherto centralized government to the devolved system of governance. Among the important matters that arose as a consequence of the repeal of the Local Government Act which the Transition Authority was required to deal with were transfer of the functions of the abolished local authorities including those of the urban local authorities to the 47 county governments; transfer of some of the human resources of the defunct local authorities together with their pensions and other staff benefits to the county governments; and verification and transfer of the assets and liabilities of the defunct local authorities to the county governments.

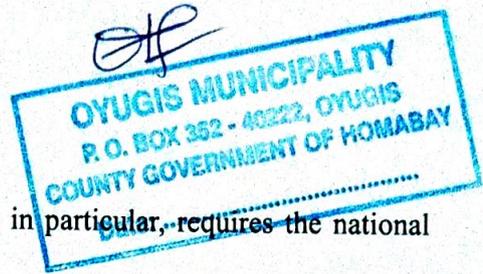
The first functions to be transferred to the county governments included the functions of the former local authorities. Section 23(1) of the Transition to Devolved Government Act of 2012 required the Transition Authority to identify and gazette at least thirty days before the first elections under the Constitution, functions which may be transferred to the county governments immediately after the announcement of the results of the first elections under the Constitution, which were held on 4th March 2013. The Transition Authority in its End-Term Report reported that the functions which it identified for initial transfer to the County Governments “were largely those that were formerly being performed by the defunct Local Authorities”. The Transition Authority explained that “these functions did not require a lot of new infrastructure, structures and mechanisms to deliver services to the public” and their “transfer was effected through Legal Notice 16 dated 1st February, 2013”.

Likewise, Article 209 assigns revenue raising powers to the two levels of government with the revenue raising powers formerly used by local authorities being assigned to county governments.

2.1.2 Envisagement of urban areas as creatures of county governments

Despite the constitutional establishment of only two levels of government and assignment of functions and revenue raising powers to only two levels of government; the constitution envisages the creation of urban areas as creatures of individual county governments. Article 176 of the Constitution requires county governments to decentralize their functions and provision of their services to the extent that it is efficient and practical to do so. While under this Article, county governments may be said to have absolute discretion regarding further decentralization in respect of rural areas; such discretion in respect of urban areas is not absolute. Decentralization in respect of Urban Areas and Cities is subject to Article 184 of the constitution which limits the discretion of county governments by requiring the enactment of national legislation to provide for the governance and management of urban areas and cities. Properly interpreted, Article 184 requires a national legislation that can lay a framework within which a county government can decentralize to urban areas and cities. It envisions urban areas and cities that form part of the decentralization envisaged by Article 176(1) of the constitution but which must be established and managed in accordance with certain





requirements set out by national legislation. This Article in particular, requires the national legislation to—

- a) establish criteria for classifying areas as urban areas and cities;
- b) establish the principles of governance and management of urban areas and cities; and
- c) provide for participation by residents in the governance of urban areas and cities.

To realize the provisions of Article 184 of the constitution, Parliament enacted both the County Governments Act of 2012 and the Urban Areas and Cities Act of 2011. In addition, the Public Finance Management Act also makes provision for certain matters regarding financing of urban areas. Section 48(1) of the County Governments Act on the one hand, provides for decentralization of the functions and provision of services of each county government to, among other entities, “(a) the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act (No. 13 of 2011)”. On the other hand, the Urban Areas and Cities Act as amended in 2019 makes provision for the criteria for the classification of different categories of urban areas; establishment of the urban areas; the principles of governance and management of urban areas; the governance and management of urban areas by boards and committees; the functions and powers which the boards and or committees of urban areas may perform and exercise; the participation of the residents in the governance and management of urban areas; and the financing of urban areas.

Properly interpreted, these provisions empower a county government to:

- a) Establish urban areas of various categories within its area of jurisdiction, in accordance with the criteria provided by the Urban Areas and Cities Act.
- b) Delegate and transfer to the established city or urban area, some of the functions and powers assigned by the constitution to the county government.
- c) Delegate and transfer to the city or urban area, some of the county government revenue raising powers associated with the functions performed by the city or urban area.
- d) Allow the city or urban area to retain and use such retained revenues as Appropriation-In-Aid.
- e) By its individual county legislation, establish criteria for allocation of additional funds from the county revenues through the county normal budget processes.
- f) Allocate additional funds from the county revenues to the city or urban area to enable it to effectively perform the functions delegated and transferred to it, and deliver services to the residents.

2.1.3 Principles of governance and management of urban areas

The Urban Areas and Cities Act establish principles of governance and management of cities and Urban areas within the context of the Kenyan devolution, which conceptualize cities and urban areas within a county as creatures of the county government. The cities and urban areas perform functions and exercise powers delegated to them by the county government as its agents; and are financially accountable to the county government. The principles recognize that



urban areas and cities should be governed and managed as part of the county government of the county they belong to geographically. Section 11 of the Act provides in this regard, the following:

The governance and management of urban areas and cities shall be based on the following principles—

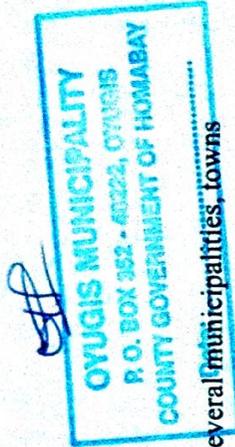
- a) recognition and respect for the constitutional status of county governments;
- b) recognition of the principal and agency relationship between the boards of urban areas and cities and their respective county governments including—
 - i. the carrying out by a board of such functions as may be delegated by the county government;
 - ii. financial accountability to the county government; and
 - iii. the governance by each board for and on behalf of the county government;
- c) promotion of accountability to the county government and residents of the urban area or city;
- d) institutionalized active participation by its residents in the management of the urban area and city affairs;
- e) efficient and effective service delivery; and
- f) clear assignment of functions.

This interpretation is underscored by section 27 of the Urban Areas and Cities Act which provides that “a city county shall be governed and managed in the same manner as a county government in accordance with the County Governments Act”. Consequently, Nairobi and Mombasa counties which are wholly cities are governed in the same manner as other counties.

2.1.4 Establishment of Urban Areas

As required by Article 184 of the constitution, the Urban Areas and Cities Act of 2011 as amended in 2019 provides for criteria for the establishment of four categories of urban areas—cities, municipalities, towns, and markets. The Act also confers upon individual County governments the power to establish each of these four categories of urban areas. Although in the case of establishment of a city, section 7 of the Act empowers the President to confer the status of a city on a municipality that meets the criteria set out in section 5, by grant of a charter in the prescribed form; the process is initiated by the county government.

Despite the fact that the constitutional and legal framework including the Urban Areas and Cities Act required county governments to establish urban areas of various categories including cities, municipalities, towns and markets; the county of Homa Bay unduly delayed the establishment of the urban areas; delegation and transfer of some of its functions to the urban areas; and operationalization of sections 172 and 173 of the PFMA, to enable appropriate and adequate financing of the urban areas. Following the election of the first County Governments in March 2013 and the abolition by operation of law of the former local authorities, the county government did not move first enough to re-establish the urban areas as envisaged by the constitution and the Urban Areas and Cities Act. It was not until 2023 that the county



government of Homa Bay issued charters for the establishment of several municipalities, towns and markets.

The delay in establishment of the city and urban areas was due to the fact that the county government had just been elected for the first time and was still struggling with understanding the new system; and organizing and operationalizing its administration in accordance with the County Governments Act, including operationalization of some of the structures of further decentralization such as sub-county and ward administrative units prescribed by the Act. Operationalization of cities and/or urban areas as required by section 48(1) of the County Governments Act was therefore, not a priority for the county government of Homa Bay. As a result of this delay and or failure, services in the urban areas and/or cities suffered to the detriment of the residents of these urban areas.

Following financial incentives provided by the World Bank through the KUSP program, the county issued charters to the following municipalities; Hom Bay, Oyugis, Mbita, Kendu Bay and Ndhiwa and has successfully established them as urban areas including appointment of the Boards and Committees as well as the Managers and Administrators. This has however, not fundamentally changed the reality that the urban functions have continued to be performed by county departments and the established urban areas have not been adequately financed either through empowerment to raise and retain their own revenue or the allocation of finances through the county Appropriation Acts as contemplated by section 172 of the PFMA.

2.1.5 Delegation and transfer of functions to urban areas

As noted, the constitution envisages cities and urban areas that are not only established by the individual county governments but also perform functions and exercise powers delegated and transferred to them by their respective county governments. This assertion is evidenced by several provisions of the law. Section 20 of the Urban Areas and Cities Act which identifies the functions to be performed by a board of a city or a municipality discloses two sets of functions—(i) substantive functions which are phrased in a manner that indicates that they can only be performed by the boards if they are delegated and transferred to them by the respective county government; and (ii) facilitative functions that are administrative in nature, consequential upon the substantive functions, and are required in order to discharge the substantive functions. These facilitative functions are not phrased in a manner that requires delegation and transfer by the county government. Similarly, section 21 of the Urban Areas and Cities Act which identifies the powers that can be exercised by the boards of cities and municipalities draws a distinction between (i) substantive powers that can only be exercised by the boards upon delegation and transfer or authorization by their respective county government, and (ii) facilitative powers that are consequential upon and facilitate the performance of the delegated and transferred substantive functions.

Section 20 identifies the substantive functions of the boards as being to: One, “control land use, 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 city or municipality

as may be delegated by the county government". Two, **"as may be delegated by the county government**, promote and undertake infrastructural development and services within the city or municipality". Three, **"perform such other functions as may be delegated to it by the county government** or as may be provided for by any written law".

In addition, section 21 of the Act phrases the substantive powers of the boards in a manner that requires delegation or authorization as follows: "The board of a city or municipality shall, within its area of jurisdiction— exercise executive authority **as delegated by the county executive**; and exercise such other powers **as may be delegated by the county executive committee**". Section 21(2) underscores the importance of delegation and authorization by adding that "notwithstanding any other provision in this Act, the board of a city or municipality shall exercise such executive authority **as may be delegated by the county executive committee** for the necessary performance of its functions under this Act".

The facilitative functions of the boards which section 20 identifies include functions to: oversee the affairs of the city or municipality; develop and adopt policies, plans, strategies and programmes, and set targets for delivery of services; formulate and implement an integrated development plan; develop and manage schemes, including site development in collaboration with the relevant national and county agencies; maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the board; administer and regulate its internal affairs; implement applicable national and county legislation; enter into such contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions under this Act or other written law; monitor and, where appropriate, regulate city and municipal services where those services are provided by service providers other than the board of the city or municipality; prepare and submit its annual budget estimates to the relevant County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill; monitor the impact and effectiveness of any services, policies, programmes or plans; establish, implement and monitor performance management systems; promote a safe and healthy environment; and facilitate and regulate public transport.

Section 21 of the Act phrases the facilitative powers of the boards in a manner that does not require delegation or authorization as follows: "The board of a city or municipality shall, within its area of jurisdiction—ensure provision of services to its residents; promote constitutional values and principles; ensure the implementation and compliance with policies formulated by both the national and county government; make bye-laws or make recommendations for issues to be included in bye-laws; and ensure participation of the residents in decision making, its activities and programmes in accordance with the Schedule to this Act".

Although the charters issued by the county government have provisions that purport to identify the functions of the established urban areas, these provisions do not effectively delegate and transfer functions from the county government to the urban areas. The provisions of the charters do not delegate and transfer functions but simply empower the County Executive Committee to delegate and transfer any of the functions listed. Furthermore, the provisions do not obligate the County Executive Committee to delegate and transfer the listed functions but, by the use of the phrase "may delegate", simply grant him/or her discretion to delegate and transfer the

functions. The provisions of the charters which confer powers and functions on the Boards of the urban areas do not also effectively delegate and transfer the powers to the cities and urban areas. These provisions confer two sets of powers and functions—(i) substantive powers and functions most of which are qualified by the phrases “as may be delegated by the County Executive Committee” and “as may be delegated by the County Government of Homa Bay”; and (ii) facilitative functions that are administrative in nature, consequential upon the substantive functions, and are required in order to discharge the substantive functions. Although the facilitative powers and functions are not qualified by these phrases, they do not in themselves confer any substantive functions—they are mere tools of performing the substantive functions which must in the first place be delegated and transferred to the boards.

The subjection of these substantive functions and powers to the qualification of “as delegated by the County Government” is a serious setback in the attempt to delegate and transfer functions to the urban areas. The qualifications literally take a way with one hand substantive functions purportedly given by the other hand. The provision leaves the urban areas at the mercy and political will of the county government.

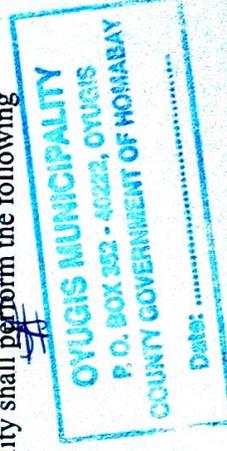
2.1.6 Delegation and transfer of revenue raising powers to urban areas

The constitution also envisages cities and urban areas that exercise revenue raising powers delegated and transferred to them by their respective county governments. Section 20 of the Urban Areas and Cities Act identifies some of the revenue raising powers in a manner that qualifies them requiring delegation by the county government. For instance, the section provides in this respect the following: One, “as may be delegated by the county government, collect rates, taxes levies, duties, fees and surcharges on fees”, and two, “settle and implement tariff, rates and tax and debt collection policies as delegated by the county government”.

Likewise, section 21 of the Act phrases the substantive powers of the boards in a manner that requires delegation or authorization as follows: “The board of a city or municipality shall, within its area of jurisdiction—impose such fees, levies and charges as may be authorised by the county government for delivery of services by the municipality or the city; and exercise such other powers as may be delegated by the county executive committee”.

Despite the fact that all the charters issued by the county government have provisions that purport to identify the revenue raising powers of the established urban areas, these provisions do not effectively delegate and transfer the powers to the cities and/or urban areas. Although one of the identified sources is “revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by the Municipality for the purpose of defraying its costs for providing services”, this is a mere reproduction of section 172 of the PFMA which does not specify the revenue raising functions for which urban areas may charge fees, levies or charges. The provision does not therefore effectively delegate and transfer any specific revenue raising powers to the urban areas.

In addition, the charter provisions which identify the powers and functions of the boards of the urban areas include among them revenue raisings powers in a manner that does not effectively identify, delegate and transfer any specific revenue raising powers to the urban areas. These provisions for example, provide that the Board of the Municipality shall perform the following



functions—(i) “impose such fees, levies and charges **as may be authorized by the County Government** for delivery of services by the Municipality”; (ii) “collect rates, taxes levies, duties, fees and surcharges on fees **as may be delegated by the County Government**”; and “settle and implement tariff, rates and tax and debt collection policies **as delegated by the County Government**”. These provisions suffer from three limitations: First, they do not identify the specific functions from which the urban areas can raise revenue. Secondly, due to the use of the qualifications “**as may be authorized by the County Government**” and “**as may be delegated by the County Government**”, the provisions do not effectively delegate and transfer any revenue raising powers to the urban areas. Thirdly, the provisions do not allow the urban areas to retain and use as Appropriation-In-Aid any revenue arising from the functions they perform. It follows therefore, that the county government is yet to operationalize section 172(a) of the PFMA.

2.1.7 Financing of Cities and urban areas

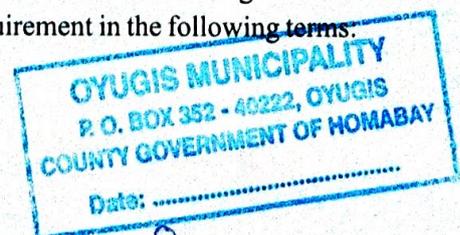
Informed by the devolution principle of finances must match and follow functions, the constitution by empowering county governments to establish cities and urban areas and delegate and transfer functions to them; also envisaged that county governments would bear the greater responsibility of financing cities and urban areas. This responsibility stems from the fact that one, cities and urban areas are entities created by county governments as part of decentralization of functions and provision of services by county governments; two, the cities and urban areas exercise powers and perform functions delegated and transferred to them by county governments; three, the principles of governance and management of cities and urban areas recognize the principal and agency relationship between the boards of urban areas and cities and their respective county governments; and four, this principal and agency relationship includes the fact that the boards of the cities and urban areas carry out such functions as may be delegated by the county government, are financially accountable to the county government, and govern on behalf of their respective county governments.

Both section 43 of the Urban Areas and Cities Act and section 172 of the Public Finance Management Act which identify the sources of funds for the Boards of cities and urban areas include among them two important sources that place responsibility upon the respective county governments.

2.1.7.1 Allocations to cities and urban areas by county governments

Both sections identify allocations to cities and urban areas by county governments through their budget processes as a major source of funds for cities and urban areas. While section 43(1)(a) of the Urban Areas and Cities Act identifies “monies allocated by a county assembly for the purposes of the management and service delivery of the board”; section 172(b) of the Public Finance Management Act identifies “revenue allocated by the county government to the urban area or city” as a major source of funds.

The full realization of this source of funds for cities and urban areas requires the county government to, through county legislation, establish objective criteria for allocating funds to urban areas or cities. Section 173 of the PFMA codifies this requirement in the following terms:



173(1) In allocating funds to the urban areas or cities under section 172(b), the county government shall use objective criteria reflecting the service demand and responsibilities of the urban area or city.

(2) The objective criteria to be prescribed in county legislation, may include, among others, adjustments for—

- a) the proportional population, calculated as the population of the urban area or city divided by the total population of the county;
- b) the relative area, calculated as the area of the urban area or city divided by the total county area;
- c) the relative poverty levels based on objective measures of relative poverty;
- d) the relative per capita revenue collection estimated as urban area or city per capita revenue collection divided by the County per capita revenue collection;
- e) an objective measure to account for price differentials in providing similar services in the urban area and city relative to the rural areas of the county;
- f) a minimum amount to ensure effective delivery of essential services and responsibilities assigned to the urban area or city; and
- g) incentives to encourage urban areas and cities to exercise prudent financial management as well as transparency and accountability in public financial management.

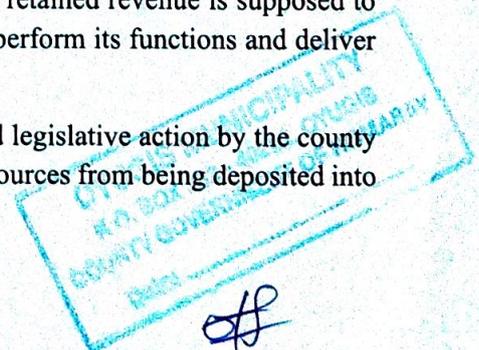
(3) In approving the criteria in subsection (2), the County Assembly will seek the recommendations of the Commission on Revenue Allocation.

The county government is yet to enact legislation establishing these required criteria, as a result of which, allocations to the city and urban areas by the county government have lacked objective criteria and have been crossly inadequate to enable the cities and urban areas to effectively deliver services.

2.1.7.2 Retention of revenue raised by cities and urban areas

Both section 43 of the Urban Areas and Cities Act and section 172 of the Public Finance Management Act also identify retention of revenue arising from some of the functions performed by cities and urban areas as a major source of funds for the Boards and Committees of cities and urban areas. Section 43(1)(b) of the Urban Areas and Cities Act identifies “monies or assets that may accrue to the board in the course of the exercise of its powers or the performance of its functions under this Act”; while section 172(a) of the Public Finance Management Act identifies “revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by the urban area or city for the purpose of defraying its costs for providing services” as a major source of funds. The retained revenue is supposed to be used by the city or urban area as Appropriation-In-Aid to perform its functions and deliver services.

The full realization of this source of funds requires policy and legislative action by the county government to exclude revenue arising out of the mentioned sources from being deposited into

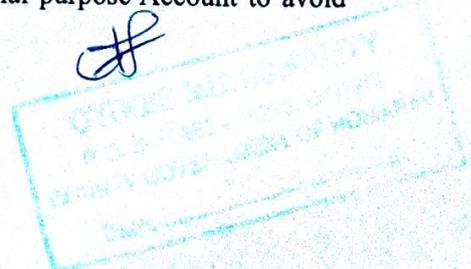


the County Revenue Fund. First, the county government must take decisions to—(i) identify, delegate and transfer to the urban areas, specific functions associated with certain revenue raising powers, (ii) identify, delegate and transfer to the urban area, specific revenue raising powers; (iii) allow the urban area or city to receive, retain and use the retained revenue as Appropriation-In-Aid to defray the costs of providing services in the urban area or city.

These steps and actions are necessary because Article 207 of the constitution establishes a form of consolidated fund for each county known as a County Revenue Fund, into which all money raised or received by or on behalf of the county government must be paid, except money reasonably excluded by an Act of Parliament. Section 109(2) of the PFMA provides for three options through which a county government can exclude money from the County Revenue Fund. The section requires the County Treasury for each county government to ensure that all money raised or received by or on behalf of the county government is paid into the County Revenue Fund, except money that is excluded in accordance with any one of the three options the section sets out.

Option one: The first option identified by section 109(2)(a) is that of “money that is excluded from payment into that Fund because of a provision of this Act or another Act of Parliament, and is payable into another county public fund established for a specific purpose”. This option envisages that the excluded funds would be paid into a special purpose account established under either another provision of the PFMA or another Act of Parliament. This option could be read together with section 116(1) of the PFMA which provides that “a County Executive Committee member for finance may establish other public funds with the approval of the County Executive Committee and the County Assembly”. Under this option the County Executive Committee member for finance who has powers under section 116(2) to designate a person responsible for administering that fund may constitute a fund board and appoint a fund manager to administer the Fund.

The problem with this option is that the Special Purpose Account may easily become a centralized mechanism for collections from all urban areas in the county before a Fund Manager prepares spending plans for approval by the fund board for funds to be disbursed to the individual urban areas. The experience with facility improvement financing in the health sector through this option indicates that the health facilities were not able to solve the problems of delayed transfer of funds from the centralized account to the facilities. The option was viewed as not commending itself for adoption as an appropriate mechanism for excluding money from the CRF since it created a complex bureaucratic structure and process of funds flow that did not address the problem that necessitated the introduction of FIF in the health sector. A further problem with this option is that regulation 197(i) of the Public Finance Management Act (County Government) Regulations limits the lifespan of a Special Purpose Fund to a maximum of ten years unless approval for extension is sought and obtained from the County Executive Committee and County Assembly. The option is not commendable for financing urban areas since they are chartered to operate in perpetuity and not just for ten years. While this option would be good for development partner funds and specific project funds that have donor conditions that may require the opening of a special purpose Account to avoid



commingling the money with other county money; it is not advisable to use it for purpose of excluding from the CRF, own source revenue generated by the city or urban area.

Option two: The second option identified by section 109(2)(b) is that of “money that may, in accordance with other legislation, this Act or County legislation, be retained by the county government entity which received it for the purposes of defraying its expenses”. This option envisages that the excluded funds are retained by the county government entity which received them for the purposes of defraying its expenses. Such retention must be done in accordance with the provisions of (i) other legislation, (ii) the Public Finance Management Act or (iii) County Legislation. This option could be read together with section 5 of the PFMA which empowers the County Executive Committee Member for finance to declare and designate county government entities that have authority under PFMA to receive, retain and use money generated by them as Appropriation-In-Aid. Section 5(1) provides that:

A County Executive Committee member for finance may, with the approval of the county executive committee and county assembly, by order in the Gazette, declare a county corporation, an authority or any other body whose functions fall under that county government to be a county government entity for the purposes of this Act.

The essence of this provision is that entities so declared are allowed to retain money they receive and use it as Appropriation in Aid in accordance with regulation 59 of the Public Finance Management Act (County PFM Regulation) of 2015. Under this option and provisions, individual cities or urban areas within the county can be declared county government entities that have authority to receive, retain and spend money raised by them as Appropriations-in-Aid.

Option three: The third option identified by section 109(2)(c) is that of “money that is reasonably excluded by an Act of Parliament as provided in Article 207 of the Constitution”. This option envisages that another Act of Parliament other than the PFMA may reasonably exclude money from the CRF as provided by Article 207 of the Constitution. This is really not an option for county governments since they have no control over parliament. County Governments should go for options they have control over. This leaves them with having to make a choice from options one and two.

Section 172(a) of the PFMA which identifies “revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by the urban area or city for the purpose of defraying its costs for providing services” as one of the sources of funds for cities and urban areas appears to have made a choice for the county government to settle for option two that is set out by section 109(2)(b) of the PFMA. The section envisaged that the county government should exclude from the County Revenue Fund “revenue arising from rates, fees, levies, charges and other revenue raising measures” and allow each urban area or city to retain and use such revenue as Appropriation-In-Aid for the purpose of defraying its costs for providing services. Section 179 of the PFMA which allows an urban area or city, with the approval of the County Executive Committee member for finance, to open and maintain a bank account in its own name and to have all money received by the urban area or city promptly paid into its bank

account or accounts "in accordance with this Act and any requirements that may be prescribed" underscores this fact. The requirements envisaged by section 179(2) should be prescribed by a county law on county government financing of urban areas that seeks to operationalize sections 172 and 173 of the PFMA. Section 180 of the PFMA requires the Board of a city or urban area to account for and report on its funds in the manner prescribed by the section.

Despite the fact that section 172(a) has made a choice for the county government, the county still needs to take the steps and actions discussed above to identify, delegate and transfer to the cities and or urban areas specific revenue raising powers; and allow them to receive and retain the revenues arising from those powers for use as Appropriation-In-Aid. Even though the county government has issued charters establishing several municipalities, towns and/or markets, it has so far not yet undertaken those steps and actions to effectively transfer revenue raising powers to the cities and/or urban areas.

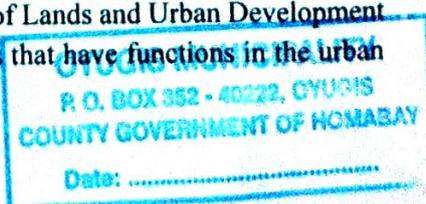
It is against this backdrop of the constitutional and legal requirements that the County Government of Homa Bay has developed this Policy on county financing of cities and urban areas seeking to operationalize sections 172 and 173 of the Public Finance Management Act.

2.2 Policy Development Process

The development of this policy was initiated by the County Department of Lands and Urban Development whose County Executive Committee Member has played a critical role in leading and guiding the development of the policy with input coming from all other departments of the county affected by Urban governance issues.

The following steps and stages were followed in the development of this Policy:

- i. **Situational Analysis-** this stage entailed county government undertaking an assessment of the existing city, municipalities, towns and markets including the charters that establish them. The aim was to establish whether the charters effectively delegate and transfer the functions and revenue raising powers to the Cities and urban areas; the county has enacted a legislation establishing criteria for allocation of funds to the cities and urban areas; and whether the cities and urban areas have fully assumed their functions or they are still being discharged by the mother departments of the county.
- ii. **A joint workshop-** The County Department of Lands and Urban Development convened a joint workshop of the department with other departments some of whose functions are to be delegated and transferred to the cities and urban areas, the Boards and Managers and administrators of cities and urban areas, and county assembly Committee members of the Lands and Urban Development and the Planning and Budget committees. The workshop was facilitated by the Council of Governors and aimed to building a common understanding of the challenges, consensus, and buy-in of the various stakeholders in urban development.
- iii. **Request for Submissions-** The County Department of Lands and Urban Development requested input from the various county departments that have functions in the urban



areas on how best to delegate and transfer functions and revenue raising powers to urban areas. The department also held consultations with the Commission on Revenue Allocation on the criteria for allocation of funds to cities and urban areas as required by section 173 of the PFMA. In addition, the County Department of Lands and Urban Development requested for input from stakeholders in the urban development sphere and eventually developed a report of the submissions received.

- iv. **Formulation of a Draft Policy on county financing of urban areas-** The Department of Lands and Urban Development formulated the draft Policy on county financing of cities and urban areas taking into consideration the consensus emerging from the joint workshop, the submissions received, the input of the CRA, and in line with the county priorities.
- v. **Public Participation on the Draft Policy on county financing of urban areas-** The County conducted public participation to inform and consult stakeholders on the draft Policy. The views were subsequently considered, validated, and incorporated into the draft Policy by the County Department of Lands and Urban Development.
- vi. **Adoption and Approval of the Policy by the County Executive Committee –** The County Executive Committee considered and approved the draft Policy on county financing of urban areas.
- vii. Submission of the Policy on county financing of urban areas by the County Executive Committee Member for Lands and Urban Development. This was followed by the submission of the Policy to the County Assembly for information.



CHAPTER THREE
POLICY OBJECTIVES, STATEMENTS AND INTERVENTIONS

3. Introduction

This chapter presents the policy objectives, strategies, interventions and measures that the county government of Homa Bay will undertake to ensure effective county financing of cities and urban areas through operationalization of sections 172 and 173 of the Public Finance Management Act. The objectives, strategies, interventions and measures will include (i) effective establishment of cities and urban areas; (ii) effective delegation and transfer of functions to cities and urban areas; (iii) effective delegation and transfer of revenue raising powers to cities and urban areas; (iv) reorganization of the county government; (v) effective retention and use of revenue raised by cities and urban areas as Appropriation-in-Aid; (vi) well-managed implementation of the charters establishing cities and urban areas; (vii) well-managed transition from the county departments to the cities and urban areas; (viii) designation of City and Municipal Managers as the Accounting Officers and Revenue collectors and/or receivers of city and municipal revenues; (ix) opening and operation of Bank Accounts of the cities and urban areas; and (x) accountable management of revenue by the city and urban areas.

3.1 Establishment of cities and urban areas

Policy Objective: To ensure the establishment of cities and urban areas within the county of Homa Bay in accordance with the criteria prescribed by the Urban Areas and Cities Act.

Policy Strategies

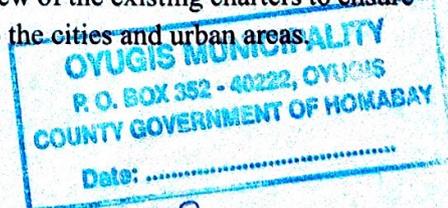
The County government of Homa Bay will facilitate establishment of cities and urban areas of various categories through the issuance of Charters that are clear and conclusive on various matters such as the boundaries of the urban area; the delegation and transfer of functions to the cities and/or urban areas; the delegation and transfer of revenue raising powers; the recognition of principal and agency relationship between the county government and the city and/or urban area established; the accountability of the city and/or urban area to the county government; and the participation of the residents in the governance and management of the city and/or urban area.

3.2. Effective delegation and transfer of functions to cities and urban areas

Policy Objective: To provide clarity and ensure effective delegation and transfer of functions to the cities and urban areas.

Policy Strategies

The County government of Homa Bay will facilitate establishment of cities and urban areas of various categories through the issuance of Charters that provide clarity and ensure effective delegation and transfer of functions by the county government to the cities and/or urban areas established. The County government will facilitate the review of the existing charters to ensure clarity and effective delegation and transfer of functions to the cities and urban areas.



3.3 Effective delegation and transfer of revenue raising powers to cities and urban areas

Policy Objective: To provide clarity and ensure effective delegation and transfer of revenue raising powers to the cities and urban areas.

Policy Strategies

The County government of Homa Bay will facilitate establishment of cities and urban areas of various categories through the issuance of Charters that provide clarity and ensure effective delegation and transfer of revenue raising powers by the county government to the cities and/or urban areas established. The County government will facilitate the review of the existing charters to ensure clarity and effective delegation and transfer of revenue raising powers to the cities and urban areas.

3.4 Reorganization of the county government

Policy Objective: To ensure the reorganization of the county government activities, departments and administration to harmonize and align them to those of the cities and/or urban areas established.

Policy Strategies

The County government of Homa Bay will, upon the establishment of a city and/or urban area, facilitate the reorganization of the county government activities, departments and administration to harmonize and align them to those of the urban areas. This is necessary to ensure—

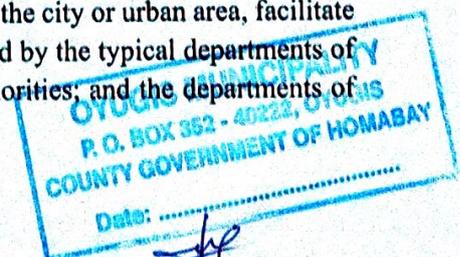
- i. That the county departments do not continue performing the functions of the urban areas.
- ii. That the relationship between the managers of the cities and/or urban areas, and other county officials such as the sub-county and ward administrators are streamlined and harmonized with proper reporting lines clarified.
- iii. The rationalization and transfer of some officers of the county departments to the departments of the urban areas to avoid duplication of personnel and expenditures.
- iv. The redeployment of the sub-county administrators to other duties either in the rest of the county or in the urban area to avoid duplication, where the boundaries of a city or municipality have subsumed some of the sub-counties.

3.5 Establishment of the Departments of the urban area

Policy Objective: To ensure the establishment of the departments of the urban area informed by the typical departments of an urban area.

Policy Strategies

The County government of Homa Bay will, upon the establishment of a city and/or urban area, in consultation with the board and Manager or administrator of the city or urban area, facilitate the establishment of the departments of the urban area informed by the typical departments of an urban area; the departments of the defunct urban local authorities; and the departments of



the county government to ensure seamless coordination. The departments may include the Clerk's Department responsible for the overall administration and coordination of the municipality; the Treasurer's or Finance Department responsible for handling financial management and accounting matters including procurement for the city and/or urban area; the Works Department responsible for infrastructure development and maintenance, including roads, buildings, and other public works; the Social Services Department responsible for providing social welfare services such as housing, healthcare, education, water supply, street lighting, refuse removal/solid waste management, sewerage services, fire stations and fire-fighting, the management and maintenance of local marketplaces, slaughterhouses, and recreational facilities; and community development programs; the Development Control and Planning Department responsible for physical planning and control of the development and use of land; the Trade Licensing Department responsible for the prohibition and control all manner of trade and businesses.

3.6 Retention and use of revenue raised by cities and urban areas

Policy Objective: To provide for the for the retention and use of money raised by cities and/or urban areas as Appropriation-In-Aid.

Policy Strategies

The County government of Homa Bay will, upon the delegation and transfer of revenue raising powers to urban areas, facilitate the retention and use of such revenues by urban areas as Appropriation-In-Aid. This is necessary to—

- i. Determine whether the urban areas are allowed a hundred percent retention or retention of just a certain percentage of the revenue.
- ii. Clarify that the revenue retained is to be use as Appropriation-In-Aid in terms of section 109(2) of the Public Finance Management Act, subject to all the rules that apply to AIA.

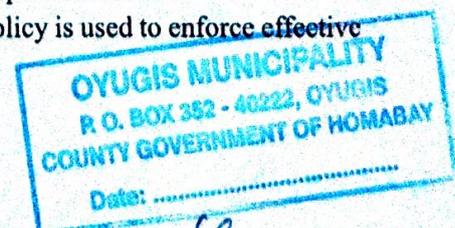
3.7 Management of implementation of the charters and transition to urban areas

Policy Objective: To ensure the provision of effective mechanisms for management of implementation of the charters and transition from the county departments to the cities and/or urban areas.

Policy Strategies

The County government of Homa Bay will, upon establishment of cities and urban areas, facilitate a well-planned mechanism of implementation of the charters and transition from the county departments to the cities and urban areas. This will entail the County Governor establishing a transition implementation committee headed by the County Secretary to ensure that—

- i. The county departments do not continue performing the functions transferred to the urban areas to avoid duplication of functions and expenditures.
- ii. Finance including budget processes which drives policy is used to enforce effective transfer of functions.



- iii. County departments cease including in their budgets, funds meant for functions that have been transferred to urban areas—for instance, the following financial years budget for the mother departments should not include funds for functions transferred to the urban area.
- iv. The County Department responsible for Finance must set the budget ceilings for the cities and/or urban area that ensure that all services in the city and/or urban area from different departments are included in the budget ceilings of the city and/or urban area.

3.8 Opening and maintenance of bank accounts for cities and/or urban areas

Policy Objective: To ensure provision for the opening and maintenance of bank accounts for cities and/or urban areas into which all funds received by the city or urban areas shall be deposited.

Policy Strategies

The County Government of Homa Bay will, upon establishment of a city and urban area, facilitate opening and maintenance of bank accounts for each city or urban area established by the county government into which, all funds received or due to the city or urban areas shall be deposited, as prescribed by section 179 of the PFMA which such bank accounts to be in accordance with any requirements that may be prescribed. The county government of Homa Bay must therefore, by a county law on county government financing of urban areas, prescribe such requirements, including specifying the signatories to those accounts.

3.9 Designation of the managers of urban areas as the Accounting Officers

Policy Objective: To ensure the designation of the city and municipal managers as the Accounting Officers, and revenue collector or receiver of revenue on behalf of their respective cities or municipalities.

Policy Strategies

The County Government of Homa Bay will facilitate the designation of the city and municipal managers as the Accounting Officers, and revenue collector or receiver of revenue on behalf of their respective cities or municipalities, by the County Executive Committee Member for finance in accordance with the provisions of the Public Finance Management Act.

3.10 Establishment of criteria for allocation of funds to the urban areas

Policy Objective: To through county legislation, establish criteria for allocation of funds to the cities and/or urban areas by the county government through its annual budget processes.

Policy Strategies

The County Government of Homa Bay, through its own county legislation, facilitate the establishment of criteria for allocation of funds to the cities and/or urban areas by the county



government through its annual budget processes, as prescribed by section 173 of the PFMA. This allocation is necessary because although urban areas may be allowed under section 172 of the PFMA to retain and use the revenue they raise, such revenue may not be enough to finance all the functions and services the urban areas are required to perform and provide. Some of the functions of the urban areas cannot be directly linked to individual consumers whom the urban area can charge a fee for the services. For example, while an urban area can impose fees on individual consumers of water services or refuse removal services; it cannot do the same for street lighting or drainage and storm water management services, yet they require a lot of money to provide these services that are not linked to individual consumers.

The criteria may include things like—population taking into account the fact that in some urban areas day populations may be higher than night populations; percentage contribution in revenue generated in an urban area; investment in terms of gain; regional balance; functions of the urban area as compared to those of the rural areas; the needs of urban areas as outlined in the spatial plan; special purpose with the spatial plan being the primary document of reference; and County vision and mission on urban area development—some may be developed for specific purposes. The criteria should also consider factors such as salaries; cost of services required and transferred to urban areas; development needs of the urban areas; equipment required for delivery of services; area coverage; special requirements such as planning initiative in the urban area that may spur development beyond the city or municipality. The criteria must ensure stability and predictability of the budget.

3.11 Fostering prudent, responsible and accountable management of the retained revenue

Policy Objective: To provide a framework for prudent, responsible and accountable management of the retained revenue by the cities and/or urban areas.

Policy Strategies

The County government of Homa Bay will facilitate the provision of a framework for prudent, responsible and accountable management by the cities and/or urban areas, of the retained revenue, including clear and proper budget processes by the cities and/or urban areas. This framework may provision for the establishment of Accounts department and procurement department for individual urban areas.

OYUGIS MUNICIPALITY
P. O. BOX 352 - 40222, OYUGIS
COUNTY GOVERNMENT OF HOMABAY
Date:



CHAPTER FOUR
POLICY IMPLEMENTATION

4. Introduction

This Policy will be implemented through an inter-departmental approach spearheaded by the County Department for Lands and Urban Development. The County Department for Lands and Urban Development will also commission a midterm evaluation of the implementation progress.

4.1 Policy Implementers

The actors responsible for the implementation of this Policy are the County Department for Lands and Urban Development, the County Governor, the County Executive Committee, the Implementation and Transition Committee established by the Governor, the County Executive Committee Member for Finance, and the County Assembly whose roles are as follows:

4.1.1 County Department for Lands and Urban Development

The County Department for Lands and Urban Development is in charge of coordinating the implementation and review of the Policy. Specifically, the department shall be responsible for:

- i. Requesting and compiling submissions in the review;
- ii. Ensuring adequate public participation in the proposed changes to the policy; and
- iii. Preparing a monitoring and evaluation report on the implementation.

4.1.2 The County Governor

The County Governor will be responsible for issuing charters for establishment of cities and urban areas; through Executive Orders, reorganization of the county activities, departments and administration including the departments of a city and/or urban area; appointment of the implementation and transition committee.

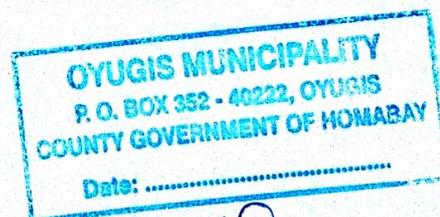
4.1.3 County Executive Committee

The county Executive Committee will be responsible for undertaking the following activities:

- i. Discuss, approve and adopt the Policy.
- ii. Lead and oversee the implementation of the Policy and any incidental legislation.
- iii. Development of the legislative proposals to implement the policy.
- iv. Make policy decisions on emerging issues concerning the Policy.

4.1.4 The Implementation and Transition Committee

The Implementation and Transition Committee established by the Governor, upon the establishment of any city or urban area, and chaired by the County Secretary, will be responsible for ensuring that:



- i. The county departments do not continue performing the functions transferred to the urban areas to avoid duplication of functions and expenditures.
- ii. Finance including budget processes which drives policy is used to enforce effective transfer of functions.
- iii. County departments cease including in their budgets, funds meant for functions that have been transferred to urban areas—for instance, the following financial years budget for the mother departments should not include funds for functions transferred to the urban area.
- iv. The County Department responsible for Finance must set the budget ceilings for the cities and/or urban area that ensure that all services in the city and/or urban area from different departments are included in the budget ceilings of the city and/or urban area.

4.1.5 The County Executive Committee Member for Finance

The County Executive Committee Member for Finance will be responsible for the designation of the city and municipal managers as the Accounting Officers, and revenue collector or receiver of revenue on behalf of their respective cities or municipalities, by the County Executive Committee Member for finance in accordance with the provisions of the Public Finance Management Act. He will also ensure that budgets of county departments do not include funds for functions that have been delegated and transferred to cities and/or urban areas.

4.1.6 County Assembly

The County Assembly will be responsible for the following activities:

- i. Noting the Policy submitted by the County Executive Committee.
- ii. Enacting any legislation required to give effect to the Policy.
- iii. Provide oversight to the county executive committee in the implementation of the Policy.



CHAPTER FIVE

5. MONITORING AND EVALUATION OF IMPLEMENTATION OF THE POLICY

5.1 Monitoring and Evaluation

Monitoring and evaluation of this policy will be conducted annually by the County Department of Lands and Urban Development to assess the progress of implementation. The Policy's broader impact on the overall governance, management and county financing of cities and urban areas will be monitored using the existing county monitoring framework.

5.2 Policy Review

This Policy will be reviewed after every five years or on a need arises.

