



THE  
OFFICIAL GAZETTE  
OF THE  
COLONY AND PROTECTORATE OF KENYA.  
(EXTRAORDINARY).

Published under the authority of His Excellency the Governor of the  
Colony and Protectorate of Kenya.

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## COLONY AND PROTECTORATE OF KENYA.

## AN ORDINANCE.

No. 23 OF 1922.

Assented to in His Majesty's name this 27th day of November, 1922.

R. T. CORYNDON,  
Governor.

**An Ordinance to Provide for Borrowing Money by  
the Issue of Treasury Bills.**

WHEREAS it may be expedient from time to time that the Governor or the Crown Agents for the Colonies on his behalf should borrow money by the issue of Treasury Bills in London. Preamble.

And whereas it is expedient to provide in one Ordinance the terms and conditions applicable to the borrowing of money by the issue of such bills.

Be it therefore enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof as follows:

1. This Ordinance may be cited as "The Colonial Treasury Bills Ordinance, 1922." Short title.

2. The Governor whenever authorised thereto by a resolution of the Legislative Council may request the Crown Agents for the Colonies to borrow by the issue in London of Kenya Government Treasury Bills sums not exceeding the amount specified in such resolution; and the Crown Agents may also, with the approval of the Governor, borrow from time to time by the issue of such Treasury Bills such sums as may be required to pay off at maturity Bills already lawfully issued by them and outstanding. Power to borrow by the issue of Treasury Bills.

3. The principal monies represented by the Treasury Bills issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Colony and Protectorate. Principal of Bills.

4. The proceeds of the issue of the Treasury Bill shall be paid into the General Account of the Colony and Protectorate with the Crown Agents for the Colonies. Proceeds of Bills.

5. Every Treasury Bill issued under this Ordinance shall be for the sum of £1,000 or a multiple of £1,000 and shall be payable at par at such time or times as the Governor or the Crown Agents for the Colonies on his behalf shall before the issue of such Treasury Bill fix and determine, but not later than one year from the date of issue. Amounts and period of currency of Bills.

6. The Governor shall appropriate out of the general revenues of the Colony and Protectorate the necessary sum to pay the principal represented by the Treasury Bills and shall remit that sum to the Crown Agents for the Colonies in London at such time as will enable them to pay the said principal at their office in London when the Treasury Bills fall due. Repayment of Bills.

7. Upon repayment of the principal monies represented by the Treasury Bills, the Bills shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of the Colony and Protectorate of Kenya. Cancellation of repaid Bills.

## AN ORDINANCE.

No. 24 of 1922.

Assented to in His Majesty's name this 27th day of November, 1922.

R. T. CORYNDON,  
Governor.

**An Ordinance to Supply a Further Sum of Money  
for the Service of the Period 1st April to 31st  
December, 1921.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

- Short title. 1. This Ordinance may be cited as "The Supplementary Appropriation Ordinance, 1922.
- Public Revenue charged. 2. The Public Revenue for the period 1st April to 31st December, 1921, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period 1st April to 31st December, 1921, with a further sum of one hundred and seventy-one thousand, nine hundred and fifty-three pounds, eight florins and twenty-nine cents, in addition to the sums provided by the Appropriation Ordinance No. 52, 1921.
- Application of money granted. 3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule annexed hereto.
- Treasurer's authority for payment. 4. The Treasurer of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of one hundred and seventy-one thousand nine hundred and fifty-three pounds, eight florins and twenty-nine cents, which have come in course of payment during the period 1st April to 31st December, 1921.

## SCHEDULE.

HEAD		£	Fls.	Cts.
2	Pensions and Gratuities ... ..	708	2	82
8a	Customs Department—Special Expenditure	379	0	22
15	Chemical Laboratory ... ..	204	0	83
18	Military Expenditure ... ..	56,220	0	82
18a	Military—Special Expenditure ...	5,934	5	19
19	Miscellaneous Services ... ..	12,958	4	65
21a	Railway Department—Special Expenditure	5,113	2	94
22a	Agricultural Dept.—Special Expenditure...	399	8	98
25	Trigonometrical and Topographical Survey Department ... ..	35	8	0
28	Public Works Recurrent ... ..	28,488	8	71
29a	Stand Premia ... ..	4,454	9	14
31	Interest ... ..	49,439	5	14
33	Special Expenditure for Magadi ...	6,827	7	69
35	Protectorate Share of War Expenses ...	789	3	16
Total £		171,953	8	29

## AN ORDINANCE.

No. 25 OF 1922.

Assented to in His Majesty's name this 27th day of November, 1922.

R. T. CORYNDON,  
*Governor.*

**An Ordinance to Amend The Natives' Trust Fund Ordinance, 1921.**

Be it enacted by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Natives' Trust Fund (Amendment) Ordinance, 1922," and shall be read as one with The Natives' Trust Fund Ordinance, 1921, hereinafter referred to as "the Principal Ordinance." Short title.

2. Section 6 of the Principal Ordinance is hereby amended as follows:— Amendment of Section 6 of Principal Ordinance.

(1) by repealing sub-section (2) thereof and substituting the following therefor:—

"(2) Such portion of the rents, fees or royalties paid to the Crown in respect of lands situate in Native Reserves as the Governor-in-Council may from time to time direct," and

(2) by the repeal of subsection (5) thereof.

## AN ORDINANCE.

No. 26 OF 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

**An Ordinance further to amend the Native Authority Ordinance, 1912.**

BE it enacted by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Native Authority (Amendment) Ordinance, 1922," and shall be read as one with the Native Authority Ordinance, 1912, hereinafter referred to as "the Principal Ordinance." Short title.

2. Section 7 of the Principal Ordinance is hereby amended by the deletion of the word "and" in clause (l), by the repeal of clause (m), and by the addition of the following clauses:— Amendment of Section 7 of the Principal Ordinance.

- (m) the providing of paid labour for urgent repairs in case of sudden or unforeseen damage to roads or railways or to Government buildings or works, or for the purpose of preventing loss of life or damage to property from fire, flood or other unforeseen cause;
- (n) the providing of paid porters for Government servants on tour and for the transport of urgent Government stores;
- (o) the providing of paid labour for work on the construction of and maintenance of the following works of a public nature:—

(1) Roads, Bridges and Waterworks,

(2) Railways,

(3) Government Buildings,

(4) Harbour Works, Wharves and Piers,

(5) Telegraph and Telephone Systems,

(6) Such other work of a public nature provided for out of public monies as the Governor may, with the prior approval of the Secretary of State, declare by notice in the Gazette to be a work of a public nature within the meaning of this clause;

Provided always that the powers conferred under Sections 7 and 8 of the Principal Ordinance shall not be utilised for any of the purposes mentioned in this clause without the authority first had and obtained of the Secretary of State which authority shall only be sought for a specified work for a specified period.

And provided further that no person shall be required to work under the provisions of this clause or of the clause immediately preceding:—

(1) for a longer period than 60 days in any one year;

(2) if he be fully employed in any other occupation or has been so employed during the preceding 12 months for a period of 3 months;

(3) if he be otherwise exempted under the provisions of any direction issued by the Governor.

- (p) requiring natives subject to his jurisdiction to attend, for any purpose in the interest of good government, before a Senior Commissioner or District Commissioner at any time and at any place appointed by him, or before himself at any place within the local limits of his jurisdiction;
- (q) prohibiting natives subject to his jurisdiction from holding or attending any meeting or assembly within the local limits of his jurisdiction which in his opinion might tend to be subversive of peace and good order, and
- (r) for any other purpose approved by the Governor in writing.

Repeal.

3. The Native Authority (Amendment) Ordinance, 1920, is hereby repealed.

## AN ORDINANCE.

No. 27 OF 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
Governor.

**An Ordinance to amend the Territorial Force Ordinance, 1921.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Territorial Force Amendment Ordinance, 1922," and shall be read as one with the Territorial Force Ordinance, 1921, hereinafter referred to as "the Principal Ordinance."

Short title.

2. (1) Section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definition:—

Amendment of Section 2 of the Principal Ordinance.

"Officer" any person appointed by the Governor to hold commissioned rank in the Territorial Force.

(2) Section 2 of the Principal Ordinance is hereby further amended by the deletion of the word "Officer" where it first appears in the definition of the expression "Member."

3. Section 3 of the Principal Ordinance is hereby repealed and the following Section is substituted therefor:—

Amendment of Section 3 of the Principal Ordinance.

"3. (1) It shall be lawful for the Governor, by notification in the Gazette, to establish under this Ordinance a Territorial Force for the Colony and Protectorate and to accept on behalf of His Majesty the services of any qualified persons to become members of such force.

(2) Upon such notification the Territorial Force shall be deemed to be lawfully established.

(3) The Officers of the Territorial Force shall be commissioned by the Governor and such commissions shall not be deemed to be vacated by the death or retirement from office of the Governor by whom the same was issued.

(4) The Governor may by notification in the Gazette declare any portion of the Territorial Force to be a Corps or Unit for the purposes of this Ordinance.

(5) Upon such notification a Corps or Unit shall be deemed to be lawfully constituted."

4. Section 5 of the Principal Ordinance is hereby amended by the insertion of the words "Every Officer, and" at the commencement thereof.

Amendment of Section 5 of the Principal Ordinance.

5. Section 7 of the Principal Ordinance is hereby amended by the deletion of the words "in time of war" and by the substitution therefor of the words "when the whole or any part of the Territorial Force is called out for active service."

Amendment of Section 7 of the Principal Ordinance.

6. Section 12 of the Principal Ordinance is hereby amended by the insertion of the words "officer or" before the word "member."

Amendment of Section 12 of the Principal Ordinance.

7. Section 13 of the Principal Ordinance is hereby amended by the deletion of the word "dismiss" and by the substitution therefor of the words "release from service any officer or discharge."

Amendment of Section 13 of the Principal Ordinance.

Amendment of  
Section 21 of  
the Principal  
Ordinance.

8. Section 21, Sub-section (1) of the Principal Ordinance is hereby amended by the deletion of the words " Each member of the Territorial Force shall reckon his service from the date of enrolment " and by the substitution therefor of the words " Each officer and member of the Territorial Force shall reckon his service, as an officer or member, from the date of his appointment or enrolment, as the case may be."

Amendment of  
Section 23 of  
the Principal  
Ordinance.

9. Section 23, Sub-section (1) of the Principal Ordinance is hereby amended by the insertion of the words " officers and " before the word " members."

Amendment of  
Section 24 of  
the Principal  
Ordinance.

10. Section 24 of the Principal Ordinance is hereby repealed and the following Section is substituted therefor:—

" 24. (1) Officers of the Territorial Force, at all times, and Officers of the Territorial Force Reserve, when called out for Active Service, shall be subject to Military Law.

(2) The Provisions of the Army Act 44 and 45 Victoria Chapter 58 and all Acts amending or substituted for the same so far as applicable shall apply to members of the Territorial Force when they are on active service or Military service or called out for the same subject to the following modifications:—

(a) The words " The Territorial Force " may be read therein for the words " Regular Forces " the words " Member of the Territorial Force " for the word " Soldier " and the word " Governor " for the words " His Majesty " and " Secretary of State."

(b) No Sentence of a Court Martial upon the trial of an officer or a member of the Territorial Force shall be carried into execution unless confirmed by the Governor.

(3) For the purposes of discipline the provisions of the Army Act 44 and 45 Victoria Chapter 58 and all Acts amending or substituted for the same so far as applicable shall apply to the permanent staff appointed under section 39 subject to the modifications set out in sub-section (2) (a) and (b) of this section."

Amendment of  
Section 25 of  
the Principal  
Ordinance.

11. (1) Section 25 of the Principal Ordinance is hereby amended by the insertion of the words " officer or " before the word " member " where it first appears therein.

(2) Section 25 of the Principal Ordinance is hereby further amended by the deletion of the words " provided, however, that dismissal from the force may be lawfully added to any punishment awarded to a member of the Territorial Force by virtue of the provisions of the Army Act."

Amendment of  
Section 29 of  
the Principal  
Ordinance.

12. (1) Section 29 of the Principal Ordinance is hereby amended by the insertion of the words " officer or " before the word " member " where it first appears therein.

(2) Section 29 of the Principal Ordinance is hereby further amended by the deletion of the words " provided that nothing herein contained shall prevent any member of the Territorial Force who has been convicted or acquitted from being dismissed from the said Force or reduced in rank therein."

Amendment of  
Section 30 of  
the Principal  
Ordinance.

13. Section 30 of the Principal Ordinance is hereby amended by the insertion of the words " officer or " before the word " members " wherever it appears therein.

Amendment of  
Section 31 of  
the Principal  
Ordinance.

14. (1) Section 31 Sub-sections (1) and (2) of the Principal Ordinance are hereby amended by the insertion of the words " officer or " before the word " member " wherever it appears therein.

(2) Section 31 of the Principal Ordinance is hereby further amended by the addition of the following sub-section:—

“ 31. (3) Any officer or member of the Territorial Force when called out for active or military service as provided under the preceding sub-sections shall, as and from the date of such calling out, also be subject to the provisions of sub-sections 24 (1) and (2).”

15. Section 32 of the Principal Ordinance is hereby amended by the insertion of the words “ officer or ” before the word “ member ” wherever it appears therein. Amendment of Section 32 of the Principal Ordinance.

16. Section 33 of the Principal Ordinance is hereby amended by the insertion of the words “ officer or ” before the word “ member ” wherever it appears therein. Amendment of Section 33 of the Principal Ordinance.

17. Section 38 of the Principal Ordinance is hereby amended by the insertion of the words “ officer or ” before the word “ member.” Amendment of Section 38 of the Principal Ordinance.

18. (1) Section 40 Sub-section (2) of the Principal Ordinance is hereby amended by the deletion of the word “ dismissal ” and the substitution therefor of the words “ release from service.” Amendment of Section 40 of the Principal Ordinance.

(2) Section 40 Sub-section (3) of the Principal Ordinance is hereby amended by the insertion of the word “ reduction ” before the word “ discharge.”

(3) Section 40 Sub-section (3) of the Principal Ordinance is hereby further amended by the insertion of the words “ Warrant Officers ” before the words “ Non-Commissioned Officers.”

(4) Section 40 Sub-section (4) of the Principal Ordinance is hereby amended by the insertion of the words “ release from service ” before the word “ discharge.”

(5) Section 40 Sub-section (7) of the Principal Ordinance is hereby amended by the insertion of the words “ officers or ” before the word “ members.”

## AN ORDINANCE.

No. 28 of 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

### An Ordinance to Repeal the Entertainment Tax Ordinance, 1920, and the Entertainment Tax Amendment Ordinance, 1921.

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as “The Entertainment Short title. Tax Repeal Ordinance, 1922”.

2. The Entertainment Tax Ordinance, 1920, and the Repeal. Entertainment Tax Amendment Ordinance, 1921, are hereby repealed without prejudice to anything done thereunder or to the recovery of any tax due and unpaid at the date hereof.



## AN ORDINANCE.

No. 29 of 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

**An Ordinance to amend "The Crown Lands (Discharged Soldiers Settlement) Ordinance, 1921."**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

Short title.

1. This Ordinance may be cited as "The Crown Lands (Discharged Soldiers Settlement) Amendment Ordinance, 1922," and shall be read as one with the Crown Lands Ordinance, 1915, hereinafter referred to as "the Principal Ordinance" and the Crown Lands (Discharged Soldiers Settlement) Ordinance, 1921.

Repeal of sub-sections 8 (8) and (9) and the substitution thereof of the following.

2. Sub-sections 8 (8) and (9) of the Crown Lands (Discharged Soldiers Settlement) Ordinance, 1921, are hereby repealed and the following sub-sections are hereby substituted therefor:—

Power to remit purchase money in certain events

8. (8) Notwithstanding the provisions of sub-sections (3) and (4) of this section if any purchaser shall within the times prescribed by Section 41 (1) of the Principal Ordinance effect or place on the land leased improvements of the nature and value therein specified to the satisfaction of the Land Officer then and in every such case the purchase money, or any portion thereof, and the interest payable thereon, unpaid at the date of the commencement of this Ordinance shall be remitted and an endorsement to that effect shall be made upon the original title and duly registered but such remission shall not apply in respect of any purchase money or portion thereof paid prior to such date. Provided that nothing in this sub-section contained shall release such purchaser from his obligations under Section 41 (2) (3) and (4) of the Principal Ordinance.

Transfer.

(9) Any purchaser may, subject to the provisions of Sections 42 to 43 and Sections 71 to 73 of the Principal Ordinance, assign, lease or charge his interest in any farm of the description Class B, or portion thereof, before completing the improvements prescribed by Section 41 (1) of the Principal Ordinance without payment of any portion of the purchase money and thereupon the assignee, lessee, or chargee shall succeed to all the rights and liabilities of the purchaser, and may in like manner transfer his interest.

## AN ORDINANCE.

No. 30 of 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

**An Ordinance to Amend The Nairobi (Rating of Unimproved Site Values) Ordinance, 1921.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

Short title and commencement.

1. This Ordinance may be cited as "The Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922," and shall be read as one with The Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, hereinafter called "the Principal Ordinance," and shall come into operation on the first day of January, 1923.

2. Section 28 (1) of the Principal Ordinance shall be and is hereby amended as follows:—

Amendment of  
Section 28 (1) of  
the Principal  
Ordinance.

After the word "Council" in the said section there shall be added the words "may sue as for a civil debt recoverable summarily, or alternatively."

3. The Principal Ordinance is hereby amended by the addition of the following section:—

39. Nothing in this Ordinance shall apply to that portion of any plot of land which is:—

(a) Occupied by buildings used primarily for Public Worship, and by their necessary curtilage.

(b) Used for burial or burning grounds.

(c) Occupied by buildings used as charitable or educational institutions supported mainly by endowments or voluntary contributions, and their necessary curtilage.

(d) Owned by or held in trust for the Council.

(e) Held under temporary occupation licences from the Crown or Council for the purpose of recreation.

## AN ORDINANCE.

No. 31 of 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

### The Colony and Protectorate of Kenya Port Ordinance, 1922.

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Port Ordinance, 1922." Short title.

2. The provisions of this Ordinance shall apply to such places or areas of sea or land as may from time to time be declared by the Governor-in-Council by Proclamation in the Gazette to be Ports. Application.

Every such Proclamation shall define the precise limits of the area to which it refers.

3. "Port Captain" means the Chief Executive Officer appointed to take charge of the Port and Marine Departments for the control of all ports to which this Ordinance applies. Definitions.

"Port Officer" means the officer appointed to take charge of a particular port under the Port Captain.

"High Water mark" means the highest point reached by ordinary spring tides at any season of the year.

"Pilot" means a person for the time being authorised by the Port Captain in accordance with rules made under this Ordinance to pilot vessels.

"Master" when used in relation to any vessel means any person having, for the time being, the charge or control of the vessel.

Powers of  
Port Officers.

4. The Port Captain, or the Port Officer of any port, may give directions for carrying into effect the provisions of this Ordinance and any Rules made thereunder within the port or ports under his charge.

## Penalties.

5. If any person wilfully or without lawful excuse refuses or neglects to obey any lawful direction of the Port Captain or Port Officer he shall, for every such offence, be punishable with a fine which may extend to ten pounds, or in the case of a continuing offence, with a further fine which may extend to ten pounds for every day during which he shall without lawful excuse continue to disobey such direction.

Port Officer  
may enforce  
compliance.

6. In case of such refusal or neglect, the Port Captain or Port Officer may do, or cause to be done, all acts necessary for the purpose of carrying such direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey such direction.

Power to cut  
warps.

7. The Port Captain or Port Officer of any port may, in case of urgent necessity, cut or cause to be cut any warp, rope, cable or hawser endangering the safety of any vessel in the port.

Removal of  
obstruction.

8. (1) The Port Captain or Port Officer may order the removal of, or if in his opinion such action is necessary may remove, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses for the removal thereof and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, he shall also be punishable with a fine which may extend to ten pounds.

Recovery of  
expenses of  
removal.

9. If the owner of any such timber, raft or other thing, as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in such manner as the Port Captain or Port Officer directs, the Port Captain or Port Officer may cause such timber, raft or other thing so removed, or so much thereof as may be necessary to be sold by public auction and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing as may remain unsold to the person entitled to receive the same; and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Port Captain or Port Officer may direct; and may, if necessary, from time to time realise the expenses of keeping the same together with the expenses of sale by a further sale of so much of the thing as may remain unsold. After the expiry of six months from the date of such demand or notice as aforesaid the Port Captain or Port Officer may sell so much of the thing as remains unsold and after retention of a sum sufficient to meet the expenses of keeping the same shall pay the proceeds of such sale to the Revenue of the Colony.

Fouling of  
moorings.

10. (1) If any vessel hooks or gets foul of any of the moorings laid down by the authority of the Port Captain or Port Officer in such port, the master of the vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the permission of the Port Captain or Port Officer and the Port Captain or Port Officer on receiving notice of such accident may assist and superintend the clearing of such vessel; and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) The master of such vessel shall upon demand pay such reasonable expenses as may be incurred in restoring the buoy or mooring to its original condition.

(3) Any master or any other person offending against the provision of this section shall, for every such offence, be punishable with a fine which may extend to ten pounds.

11. (1) If any vessel is wrecked, stranded or sunk in any such port so as to impede or be likely to impede navigation, the Port Captain or Port Officer may cause the vessel to be raised, removed or destroyed.

Raising or removal of wreck impeding navigation.

(2) Any property recovered through this action, if claimed, will be returned to the person proving the right to claim, upon payment by him of the reasonable expenses incurred by the Port Captain or Port Officer plus 20 per centum of the amount of such expenses.

(3) If unclaimed, or if the person claiming fails to pay such reasonable expenses plus 20 per centum as aforesaid the Port Captain or Port Officer may sell the property by public auction forthwith if the property is of a perishable nature, and if not so, then at any time not less than six months after the recovery thereof.

(4) The expenses and further sum aforesaid shall be payable to the Port Captain or Port Officer out of the sale proceeds of the property and the balance shall be paid to the person entitled to the property recovered. Provided that such person makes his claim within three years from the date of sale.

12. (1) The Port Captain or Port Officer or any person generally or specially authorized by him may, whenever he suspects that any offence against this Ordinance has been or is about to be committed, or whenever it is necessary for him to do so in the performance of any duty imposed upon him by this Ordinance, either alone or with any other person or persons, board any vessel or enter any building or place, within the limits of any port subject to this Ordinance.

Power to board vessels and enter buildings

(2) If the master of the vessel or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Ordinance, he shall be guilty of an offence under this Ordinance.

13. The Government of the Colony and Protectorate of Kenya shall not be responsible for any act or default of the Port Captain or of the Port Officer of any port subject to this Ordinance or of any Deputy or Assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, or for any act or default of any pilot.

Indemnity of Government against act or default of Port Officials

14. (1) Port and light dues shall be levied on vessels entering any port at such rates and in such manner as the Governor-in-Council may order by notice in the Gazette.

Levy of Port dues.

(2) Within any port fees shall be charged for piloting, berthing, mooring and other services rendered to vessels at the rates the Governor-in-Council may by notice in the Gazette direct.

(3) Fees shall be charged in respect of any licence, permit, certificate or any other matter carried out in pursuance of this Ordinance, at such rates as the Governor-in-Council may by notice in the Gazette direct.

15. All acts, orders or directions by this Ordinance authorized to be done or given by the Port Captain or Port Officer may, subject to his control be done or given by any deputy or assistant of such Port Captain or Port Officer.

Exercise of powers of Port Captain by Assistants.

16. Any written notice of a direction given under this Ordinance which may be left for the master of a vessel with any person employed on board thereof, or fixed on a conspicuous place on board of the vessel shall, for the purposes of this Ordinance, be deemed to have been given to the master.

Service of written notices of directions.

Inspection of  
Rules.

17. A copy of every rule or notice issued in pursuance of the provisions of this Ordinance and published in the Gazette shall be kept in the office of the Port Captain and of every Port Officer and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

Vessels  
entering or  
leaving  
Mombasa Port  
must have  
pilot on board.

18. (1) No vessel of the measurement of 200 tons net register or upwards may enter, leave, be moored or berthed in the port of Mombasa or any other port to which the provisions of this section may be extended by proclamation in the Gazette, without having a pilot on board, provided always that the Port Captain or Port Officer may by writing under his hand exempt any particular vessel from the operation of this section either generally or on a special occasion in accordance with rules made under this Ordinance.

Penalty.

(2) If any vessel, except in case of urgent necessity, enters leaves or is moved in the Port contrary to the provisions of subsection (1) the master shall for every such offence be liable to a fine not exceeding one hundred pounds and in addition thereto shall be liable to pay pilotage fees unless upon application to the proper officer the master was unable to procure a pilot.

Penalties for  
disobedience of  
Rules and  
orders of  
Government.

19. Any contravention of this Ordinance or of any order or Rule, issued thereunder not otherwise specially provided for shall render the person so contravening liable in respect of each offence to a fine not exceeding Fifty pounds or to imprisonment not exceeding a period of six months or to both such fine and imprisonment.

Offences, how  
triable and  
Penalties, how  
recoverable.

20. All offences against this Ordinance may be tried by a Magistrate of the 1st or 2nd class and any such Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel and tackle, or so much thereof as is necessary.

Ascertainment  
and recovery  
of expenses  
and damages  
under this  
Ordinance.

21. If any dispute arises as to any sum of money to be paid in pursuance of the provisions of this Ordinance or the Rules issued thereunder such dispute shall be determined by a Magistrate of the 1st or 2nd class upon application made to him for that purpose by either of the disputing parties and any sum adjudged by such Magistrate to be payable shall thereupon be a civil debt recoverable summarily.

Magistrate to  
determine the  
amount to be  
levied in case  
of dispute.

22. If any dispute arises concerning the amount leviable by any distress or pursuant to any attachment under this Ordinance, or the costs payable under the last foregoing section, the person making the distress or executing the attachment may detain the goods distrained upon or attached, or the proceeds of the sale thereof if such goods have already been sold, until the amount to be levied has been determined by a Magistrate as hereinbefore provided who, upon application made to him for that purpose, may determine the amount and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be recoverable as a civil debt recoverable summarily.

Power to make  
Rules.

23. The Governor-in-Council may make Rules for the carrying out of the provisions of this Ordinance and for the better regulation of the ports of the Colony and Protectorate.

Repeal.

24. The Port Regulations dated September 13th, 1899, are hereby repealed without prejudice to anything done thereunder.

## AN ORDINANCE.

No. 32 OF 1922

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

**An Ordinance to Amend the Customs Ordinance,  
1910, as Amended by the Customs Amendment  
Ordinance, 1913.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Customs (Amendment) Ordinance, 1922, and shall come into operation on the first day of January, 1923. Short title and commencement.

2. In this Ordinance the following terms shall have the following meanings:— Definition.

"nett total duty" means the total amount collected in respect of duty less the total amount of such duty refunded.

"nett revenue" means the gross revenue less the gross expenditure.

"gross revenue" means the total amount collected in respect of the following:—

- (1) nett total duty;
- (2) transit and re-export fees;
- (3) administration fees;
- (4) crantage charges;
- (5) nett proceeds of sale of confiscated and unclaimed goods;
- (6) nett proceeds of sales of departmental stores or equipment the cost of which has been charged against the expenditure of the combined department;
- (7) weighing fees, sealing fees, endorsement fees, commission on sale of unclaimed goods and other similar receipts for specific services rendered by the combined department;
- (8) warehousing fees;
- (9) 75% of the nett amount of all fines imposed under any law relating to Customs, whether by any Judicial Court or by the Commissioner of Customs. The term "nett amount" meaning the amount credited to revenue after the payment of any awards.

"gross expenditure" means:—

- (1) all salaries and expenses of the combined department provided for in the Customs Estimates;
- (2) expenses actually incurred for rent of warehouses for storage of uncustomed goods at Mombasa and Kilindini and an allowance in respect of rent on warehouses used by the department at Mombasa and Kilindini which have been erected at the cost of the Kenya Government calculated on the cubic storage capacity and the average rental payable for similar storage accommodation;

(3) house allowances paid to officers of the combined department stationed at Mombasa and Kilindini and in cases where such officers occupy Government houses the amount of house allowance to which they would be entitled, if they did not occupy Government quarters;

(4) interest and sinking fund on the capital expended on any new building erected in the future as Headquarters for Customs purposes and the equipment thereof;

(5) cost of all stationery supplied to the combined department from any source whatever.

Amount of  
Customs  
revenue  
payable to  
Uganda.

3. Section 4 of the Customs Amendment Ordinance, 1918, is hereby repealed and replaced as follows:—

“4. There shall be payable annually to the Government of the Uganda Protectorate a sum which bears the same proportion to the nett revenue collected by the Customs Department as the total nett duty collected on goods imported into or exported from Uganda bears to the nett total duty collected.”

## AN ORDINANCE.

No. 33 OF 1922.

Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,

Governor.

### **An Ordinance to amend and consolidate the Law relating to Municipal Corporations.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

Short title.

1. This Ordinance may be cited as “The Municipal Corporations Ordinance, 1922.”

#### PART I.

##### APPLICATION OF ORDINANCE.

Application  
of Ordinance.

2. This Ordinance shall apply to every municipality constituted under the provisions of this Ordinance or the Municipal Corporations Ordinance, 1909.

Provisions  
where town-  
ships come  
under the  
operation of  
the Ordinance.

3. Whenever any township proclaimed under the East Africa Townships Ordinance, 1903, shall come under the operation of this Ordinance the following provisions shall apply:—

(1) The provisions of the East Africa Townships Ordinance, 1903, and of the Township Fees and Conservancy Ordinance, 1908, shall save as hereinafter mentioned cease to apply to such township.

(2) All rules made under the said Ordinances and then in force in such township shall (unless repugnant to the provisions of this Ordinance) be deemed to be bye-laws made under this Ordinance and shall continue in force in the municipality until altered, amended or repealed under this Ordinance.

(3) All assessments, valuations, measurements, divisions and appointments made, powers conferred and notifications served or published under the said Ordinances in such townships shall (in so far as they are consistent with this Ordinance) be deemed to have been respectively made, conferred, served, and published under this Ordinance.

(4) All works and undertakings authorised to be executed, all rights, liabilities and engagements existing and all actions and suits and proceedings pending by or against the committee of such township shall be vested in, attached to, and be enforced carried on and prosecuted by or against the Municipal Council under this Ordinance and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by such constitution.

(5) All rates, fees and charges due or payable to or recoverable under the said Ordinances by or on behalf of the Government or by or on behalf of a committee of such township in respect of such township shall be vested in and recoverable by the Municipal Council and the valuation and assessment roll in use at such time shall continue to be used until a new one shall be made.

(6) All property movable or immovable vested in or held in trust for the committee of such township shall be vested in and belong to the Municipal Council and all rights and duties of whatever description used enjoyed or possessed by or imposed on such committee shall become vested in and imposed upon the Municipal Council.

(7) All licences, registrations and permits issued, made or granted under or in pursuance of the said Ordinances shall continue in force for the period, if any, specified in such licences, registrations or permits unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance.

4. In this Ordinance and in every bye-law under this Ordinance unless there be something repugnant in the context or subject matter the following expressions in inverted commas shall have the meanings opposite to them:— Definitions.

“Owner” shall in the case of freehold property mean the person (other than His Majesty) owning such property and in the case of leasehold and other property shall mean the person (other than His Majesty) holding such property directly from the Crown (or from a Council) as lessee or licensee and includes any agent who receives rents or profits from such person and also any superintendent, overseer or manager of a lessee or licensee from the Crown (or the Council) in respect of any holding on which he resides as such superintendent, overseer or manager.

“Occupier” shall include any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises sub-divided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein.

In this Ordinance the term “Native” shall include Somalis and Swahilis.

5. Subject to the provisions of this Ordinance the Governor-in-Council may from time to time exercise all or any of the powers following:— Powers of the Governor-in-Council.

- (1) declare any township to be a municipality constituted under the provisions of this Ordinance;
- (2) assign a name to such municipality;
- (3) define and alter the boundaries of such municipality.

## PART II.

### CONSTITUTION.

6. There shall be within every municipality established under this Ordinance a Council thereof constituted and nominated as hereinafter provided, and the said Council shall under such name or designation as the Governor may by proclamation declare be a body corporate with perpetual succession and a common seal with power to alter and change the same from time to time and shall by such name be capable in law of suing and being sued, or purchasing, holding, and alienating land and of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Ordinance. Constitution of Council.



Councillors to  
be appointed  
by Governor.

7. (1) The Council of any municipality shall consist of so many councillors as the Governor shall from time to time by notice in the Gazette determine in respect of such municipality to be appointed by the Governor and to hold office during the Governor's pleasure, for a period not exceeding three years. Provided that at least one-third of such members shall retire from the Council every twelve months, such retirement to be in rotation and provided further that nothing in this sub-section shall prohibit the re-appointment of the retiring or retired councillor.

Provision for  
temporary  
absence of  
councillors.

(2) Where any member of the Municipal Council leaves the Colony and Protectorate for a period not exceeding twelve months the Council may with the consent of the Governor co-opt a member to discharge the duties of such member during his absence from the Colony and Protectorate. Provided that if any member is absent from the Colony and Protectorate for a period exceeding twelve months his seat shall become vacant.

Appointment  
of a Mayor.

(3) At the first meeting of the Council held after the constitution thereof and thereafter at the first meeting of the Council held in the month of January in each year the councillors present shall elect one councillor to be Mayor and another councillor to be deputy Mayor and such Mayor and deputy Mayor shall hold office until their successors be appointed as hereinbefore provided. In the event of the office of Mayor or deputy Mayor becoming vacant through any cause whatever a successor shall, at the meeting next but one of the Council after such vacancy, be chosen by the councillors from amongst themselves who shall forthwith enter upon his office and serve as Mayor or deputy Mayor, as the case may be, for the remainder of the period for which the Mayor or deputy Mayor was elected. A retiring Mayor or deputy Mayor may be re-elected to the office he is vacating or may be elected as Mayor or deputy Mayor.

Resignation  
of councillors.

8. (1) It shall be competent for any councillor to resign his seat on the Council by giving one month's notice in writing of such intention to resign to the Governor through the Mayor.

Disqualifica-  
tion of  
councillors.

(2) No person holding any office or place of profit under or in the gift of the Council shall be capable of being nominated or of continuing a councillor.

(3) No person nominated a councillor shall have or receive any salary or shall take or accept any fee or reward whatsoever for or on account of anything done as such councillor nor shall he act as agent for any ratepayer at any meeting of any court, board or committee appointed to assess the value of property for rating purposes. Any councillor contravening the provisions of this section shall *ipso facto* become disqualified from continuing as councillor.

(4) All proceedings of the Council or of any person acting as Mayor, deputy Mayor or Town Clerk, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any councillor, Mayor, deputy Mayor or Town Clerk, or any disqualifications, be as valid and effectual as if every such councillor, officer or person had been duly appointed or qualified.

### PART III.

#### MEETING OF COUNCIL.

Meeting of  
Council.

9. The Council shall meet for the despatch of business on such days and at such hours as the Council may from time to time appoint but not less often than once in every month.

Special  
meetings.

10. The Mayor may at any time and shall on the request of not less than four councillors in writing call a special meeting of the Council (and the day fixed for such meeting shall be within fourteen days of the presentation of such request). The notice of such meeting shall be signed by the Town Clerk and circulated among all the members of the Council together with an agenda list shewing all the subjects to be dealt with at such meeting, and no other subjects than those on the agenda list shall be discussed at such meeting.

Provided that no act, matter or thing shall be done by the council at a special meeting unless two-thirds of the members of such council shall be present at such meeting.

11. Meetings of the Council shall be open to the public and press provided that nothing in this section shall apply to any committee of the Council or to a committee of the whole Council.

Meetings to be public.

12. Save where it is otherwise specially provided in this Ordinance all acts, matters or things hereby authorised or required to be done by the Council, and all questions that may come before it shall be done and decided by the majority of the councillors who shall be present at any meeting at which not less than one half or such larger proportion as the Council may from time to time fix of the members of the Council shall attend.

Quorum to be not less than one-half or such larger proportion of the members as the Council may fix.

13. (1) At every meeting of the Council the Mayor if present shall preside and in the case of his absence the deputy Mayor and if the deputy Mayor be absent then the councillors present shall elect a chairman from among themselves to preside at such meeting.

Proceedings.

(2) In the case of equality of votes the chairman of the meeting shall have a second or casting vote.

Casting vote of chairman.

(3) In case the Mayor be absent from duty owing to illness, incapacity or any other cause then the deputy Mayor if there be one shall act as chairman during such absence as aforesaid and if there be no deputy Mayor or if he is also absent the Council shall at the first meeting held during such absence elect from among themselves a chairman who shall act during such absence as aforesaid.

14. Minutes of the proceedings of every meeting of the Council shall be regularly entered in a book to be kept for that purpose and minutes of proceedings at a meeting of the Council signed at the next ensuing meeting by the chairman or by a member of the Council describing himself as or appearing to be chairman of the meeting at which the minutes are signed shall be received in evidence without further proof, except as otherwise provided in this Ordinance.

Minutes to be recorded and signed.

15. The minutes of proceedings of the Council shall at reasonable times be open to the inspection of any ratepayer of the municipality who may obtain a copy thereof or an extract therefrom on payment of such fees as may be prescribed by regulation.

Minutes of proceedings open to inspection.

16. The members present at any meeting may from time to time adjourn such meeting and if at any meeting of the Council a sufficient number of members do not present themselves to exercise the powers vested in the Council the member or members present shall adjourn the meeting and if there be no member present the Town Clerk shall adjourn the meeting.

Adjournment.

17. The Council may from time to time appoint from amongst the members thereof such and so many committees either of a general or special nature, consisting of such number of councillors as the Council may think fit, for the purpose of examining and reporting upon any matter, or performing any act which in the judgment of the Council would be more conveniently performed or examined into by means of a committee, and may delegate to any committee such powers as it may think fit, and fix the quorum of each committee; and every such committee may from time to time appoint one of its members to be chairman thereof.

Committees.

18. In no case shall any act of any committee be binding on the Council until submitted to and approved by the Council, except in the cases in which the Council shall by resolution have authorised a committee to manage, regulate, or conclude any matter or matters without further reference to the Council: Provided always that the proceedings of every such committee shall be regularly entered in the minute book thereof and the result reported to the Council.

Acts of committee not binding on council.

19. The Council shall from time to time appoint a Finance Committee for regulating the finances of the Council; and an order for payment of a sum out of the funds of the Council shall not be made except in pursuance of a resolution of the Council after considering the recommendation of the Finance Committee. Provided that where more than one-half of the Finance Committee are present at a meeting of the Council and a majority of the whole Finance Committee vote in favour of a resolution for the expenditure of funds the Council may without further reference to the Finance Committee proceed with such expenditure.

Finance Committee.

Adjournment  
and quorum  
of committee.

20. Every committee appointed by the Council may meet from time to time and may adjourn from place to place as it may think proper and no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the Council and if no quorum be fixed, two members be present; and at all meetings of the committee if the chairman of the committee be not present one of the members present shall be appointed chairman, and all questions shall be determined by majority of votes of the members present and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Contracts for  
execution of  
works.

21. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods to the amount of £75 or upward is entered into by the Council, fourteen days' clear notice at the least shall be given in the Gazette or in one of the principal newspapers published in the Colony and Protectorate and circulating in the municipality expressing the purpose of such contract and inviting any person willing to undertake the same to make tenders therefor to the Council. The council shall accept the tenders which on a view of all the circumstances appear to them to be most advantageous and may take security for the due and faithful performance of every such contract, or the Council may decline to accept any such tenders. Where such contracts are entered into or purchases made amounting to the said sum of £75 without being put up to public tender the reasons shall be stated by the Finance Committee in a report to be read out to the Council before the resolution to make such contract or purchase has been passed and such report shall be attached to the resolution and entered in the minutes of the Council.

Authentication  
of documents.

22. Every order, notice or other document requiring authentication by the Council shall be sufficiently authenticated without the common seal of the municipality if signed by two councillors and the Town Clerk or by any officer of the Council duly authorised thereto by any resolution, bye-law or regulation of the Council.

Pecuniary  
interest of  
councillors in  
matters coming  
before Council.

23. (1) No councillor shall be disqualified by his office from entering into any contract with the council nor shall any such contract entered into by or on behalf of the Council in which any councillor shall be in any way directly or indirectly interested be on account of such interest avoided or set aside, nor shall any councillor so contracting or being so interested be liable to account to the Council for any profit realised by any such contract by reason of such councillor holding that office: provided that the nature and extent of his interest shall be disclosed by him so that such disclosure is duly minuted prior to or at the meeting of the Council at which the contract is determined on, if the interest then exists, or in any other case at the first meeting of the Council after the acquisition of his interest.

(2) No councillor shall vote upon or take part in the discussion of any matter in or before the Council or a committee thereof in which he has directly by himself or his partners any pecuniary interest.

(3) Any councillor contravening the provisions of this section shall be liable on conviction to a penalty not exceeding £75, and in default of payment to imprisonment of either description for a period not exceeding three months and shall *ipso facto* become disqualified from continuing to be a councillor and shall account to the Council for any profit which may accrue to him in respect of such contract or arrangement.

Validity of  
acts of  
Council, etc.

24. All acts of the Council or of any person acting as Mayor, deputy Mayor, chairman, councillor, Town Clerk, or any other municipal official as the case may be shall notwithstanding that it be discovered that there was some defect in the election or appointment of any such person as aforesaid or any disqualification be as valid and effectual as if every such person as aforesaid had been duly elected or appointed and qualified.

## PART IV.

## ACCOUNTS AND AUDIT.

25. The Municipal Council shall in each year prepare a budget showing the estimates of revenue and expenditure of the Council for the ensuing year and such budget shall be forwarded to the Governor-in-Council for sanction and when approved an abstract thereof shall be published in the Gazette and the budget shall come into force from the first day of January in the year for which such estimates shall be prepared; and the Council shall not incur any expenditure which has not been included in such estimates and approved in such manner except with the sanction of the Governor.

Council to prepare and forward to the Governor a yearly budget of revenue and expenditure.

26. The Council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid, which books shall at all reasonable times be open to the inspection of any member of the Council, ratepayer or creditor of the municipality without fee or reward. And any such person may take copies of or extracts from the said books without paying for the same.

Keeping of accounts.

27. The Council shall appoint annually during the month of January for the purpose of auditing the municipal accounts throughout the current financial year a person who is entitled under Section 144 of the Companies Ordinance, 1921, to act as an auditor of Companies. There shall, subject to Section 25 hereof, be paid to such auditor out of the municipal funds such remuneration as the Council shall deem fitting. Such auditor shall not be dismissed without the consent of the Governor.

Appointment of Auditor.

28. The Council shall by the Town Clerk place before the auditor all books, papers, vouchers, and documents relating to the accounts and shall allow him access at all reasonable times to the same.

Auditor's access to accounts.

29. (1) The Council shall in each year not later than the last day of February cause the accounts of the municipality to be balanced to the 31st day of December preceding such first-mentioned date and annual statements of the financial position of the municipality shall be prepared and laid before the Council at the first ordinary meeting in the month of April following, bearing certificates from the auditor to the effect that they have been duly examined. Such statements shall contain an account of all moneys received and moneys paid by the Council during the preceding year and of all assets and liabilities of the Council.

Annual statement of account.

(2) The auditor shall at the same time make a report to be laid before the Council certifying:—

Auditor's report.

(a) how far he has found the accounts in order and how far he has found the statements which he has certified as duly examined to be correct.

(b) how far all moneys received have been duly accounted for and payments charged have been duly authorised.

(c) how far separate accounts of all trading undertakings have been kept and that every charge which each ought to bear has been debited thereto;

(d) how far in his opinion the accounts issued present a true and correct view of the transactions and results of trading for the period under investigation;

(e) how far due provision has been made out of revenue for the repayment of loans, that all known liabilities have been brought into account and that the value of all assets has been verified.

(f) whether in his opinion any items in the accounts should be disallowed.

(3) The auditor shall in his report give his opinion as to the necessity for and adequacy of any reserve funds and amounts set aside for depreciation and obsolescence of plant and shall include in his report observations upon any matters as to which he has not been satisfied or which, in his opinion, call for special notice, particularly with regard to any assets taken into account.

Accounts  
balanced and  
audited to be  
passed by  
Council.

**30.** (1) The accounts of the Council so balanced and certified as examined by the auditor shall be produced at the last-mentioned meeting together with the said statements, and report and the accounts shall then be finally examined and settled by the Council and certified accordingly under the hand of the chairman of such meeting.

(2) A copy of the accounts together with the auditor's report shall be sent by the Council to the Governor before the last day of May next following.

(3) A copy of the accounts together with the auditor's report shall be supplied to any ratepayer demanding the same and on payment of a reasonable charge.

Abstract of  
accounts to be  
published.

**31.** The Council shall cause an abstract of the said accounts certified as aforesaid to be prepared and shall cause the same to be published in one of the principal newspapers published in the Colony or Protectorate and generally circulating in the neighbourhood and also in the Gazette. And a copy of such abstract shall be kept by the Town Clerk at the office of the council and shall be open to be inspected by any creditor or ratepayer during office hours.

Governor-in-  
Council may  
direct an  
audit of  
accounts at  
any time.

**32.** The Governor-in-Council may at any time direct a Government Auditor to examine the accounts of any municipality and the Council of such municipality shall by the Town Clerk produce and lay before the person so appointed all books and accounts of the municipality with all vouchers in support of the same and all books, papers and writings in their power relating thereto, which such auditor may demand.

Misapplication  
of municipal  
funds.

**33.** (1) If it appears to the Government Auditor that any money forming part of any fund under the control of the Municipal Council has been applied for purposes to which it is not lawfully applicable or that any councillor or municipal employee has applied or connived at or concurred in the application of such money he shall give notice that he will receive and consider such explanation as may be offered by or on behalf of the Council or such councillor or municipal employee and he shall receive and consider such explanation accordingly.

(2) After consideration of such explanation the Government Auditor shall disallow every payment which is contrary to law and shall surcharge every councillor or employee applying or conniving or concurring in such application with the amount so applied in such proportion as may be just, and shall in every such case certify the amount due from every such person.

(3) An appeal shall lie from the Auditor's decision to the Supreme Court or the person surcharged in lieu of such appeal may appeal to the Governor-in-Council whose decision shall be final.

(4) Every sum so certified to be due from any person shall be paid into the fund from which it was taken within thirty days from the date of the auditor's certificate unless there is an appeal against the Auditor's decision within that period.

(5) If such sum is not so paid and if there is no appeal the Auditor shall recover the same from the person surcharged by application to the Court.

(6) In any proceedings for the recovery of such money the Auditor's certificate shall be conclusive evidence that the sum is due and payable by the person charged.

(7) On the production of such certificate the Court shall give decree for the sum sued for and every such decree shall have the effect of a decree under the Code of Civil Procedure applicable to the Colony and Protectorate.

Auditor may  
take evidence  
on oath.

**34.** (1) For the purpose of any examination the Government Auditor may take evidence upon oath (which oath the Auditor is hereby empowered to administer) and may by summons under his hand require all such persons as he thinks proper to appear personally before him at the municipal offices and at a time to be fixed in and by such summons, and to produce to him all such books and papers as appear necessary for such examination.

(2) Any person so required who:—

Penalties for refusal to attend or give evidence.

(i) without just excuse, neglects or refuses to comply with the tenour of the summons; or

(ii) having appeared before the auditor, refuses without just excuse, to be examined on oath, concerning the premises, or to take such oath; or

(iii) having taken such oath, refuses without just excuse to answer such question concerning the premises as are put to him;

shall be liable to a penalty not exceeding £30 for every such refusal or neglect and in default of payment to imprisonment of either description for a period not exceeding three months provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter or thing required of him.

## PART V.

### POWERS AND DUTIES OF COUNCIL.

35. The Council shall from time to time appoint such officers as may be necessary except officers whose appointments are governed by any Ordinance relating to Public Health, and pay such salaries and allowances to such officers as it may determine, subject to the provisions of Section 25 hereof; and unless it shall be stipulated otherwise in the contract with or in the appointment of an employee the Council may at any time remove such employee upon notice of not less than one month or in the case of misconduct immediately.

Appointment of Town Clerk and other officers.

36. (1) Officers or servants of the Council shall not in anywise be concerned or interested in any bargain, contract, or arrangement whatsoever made by or with the Council.

No officer or servant to be interested in any bargain or contract of the Council.

(2) If any officer or servant so concerned or interested or under cover of his office or employment exacts or accepts any promise, fee, or reward whatsoever other than his proper salary, wages and allowances he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable to a penalty not exceeding £75 and in default of payment to imprisonment of either description for a period not exceeding three months. Any profits, fee, or reward which may have accrued to him by reason of such bargain, contract, or arrangement may be recovered by the Council.

37. No matter or thing done or omitted and no contract entered into by the Council and no matter or thing done or omitted by any member of or officer or servant or other person acting under the direction of the Council shall if the matter or thing were done or omitted or the contract was entered into *bona fide* for the purpose of executing the Ordinance subject any such person personally to any action, liability, claim or demand whatsoever, and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of the fund applicable to the general purpose of this Ordinance, provided that nothing in this section shall exempt any such member from liability to be surcharged with the amount of any payment which may be disallowed by the auditor in the accounts of the Council and which such member authorised or joined in authorising.

Exemption of servants and members of Council from personal liabilities.

38. Subject to the approval of the Governor-in-Council the council shall have power to acquire land compulsorily for municipal purposes and such land shall be vested in the Council and the provisions of the Indian Land Acquisition Act, 1894, or any Ordinance replacing or amending the same which may hereafter be in force shall apply to such acquisition.

Power of Council compulsorily to acquire land for municipal purposes.

Naming and  
numbering of  
streets.

39. The Council shall have the power to name any street, thoroughfare, square, bridge or public place and to erect sign boards in respect thereto and shall have the power to number the houses in any street or square provided that public notification is published beforehand in two consecutive issues of the Gazette and of a paper circulating in the municipality.

Public streets  
and squares  
vest in  
Council.

40. The Council shall have the general control and care of all public roads, streets, bridges, squares and all other open public places and over all gardens, parks and other enclosed spaces within the municipality which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the municipality shall at any time have or acquire a common right and the same shall be vested in the Council in trust to keep the same open for the use and benefit of the inhabitants, and the Council may make, construct, alter, repair and if necessary temporarily close all roads, streets, open spaces, bridges, ferries, sewers, drains and culverts vested in them or under their control and may make new roads, streets, bridges, ferries, dams, sewers, drains or culverts within the municipality, and if it shall be necessary may carry any sewers, drains and pipes through and across any private property, provided that compensation for damage done shall be made by the Council and if not mutually agreed upon be settled by arbitration.

Provided that notwithstanding anything in this section contained the Council shall have the power with the consent of the Governor to erect and maintain on any square or other open public place buildings for public purposes, or set apart any such open public place or portion thereof for any purpose they may from time to time think fit.

Power of  
Council to  
close or divert  
any street,  
road or  
thoroughfare  
vested in the  
Council.

41. The Council shall have the power anything to the contrary in this Ordinance notwithstanding, to close or divert or alter any street, road or thoroughfare vested in the Council under the preceding section of this Ordinance, provided that the Council shall in exercise of its power permanently to close or divert or alter any street, road or thoroughfare, be subject to the following conditions and restraints:—

(1) Before the Council shall sanction any such closing or diversion or alteration not less than fourteen days' notice shall be given to Council of the intention to move therefor.

(2) Before any such closing or diversion or alteration is carried out the Council shall prepare a plan shewing the nature thereof and shall give notice of the proposed work not less than one month before its commencement in the Gazette and in one or more of the principal newspapers published in the Colony or Protectorate and circulating in the municipality as well as by a sufficient number of conspicuous placards posted on or near the street, road or thoroughfare which it is proposed to close or divert or alter setting forth a place where the said plan shall be open for inspection at all reasonable hours and shall serve a copy of such notice on the owners or reputed owners, lessees or reputed lessees and occupiers of all property abutting upon the said street, road or thoroughfare and alteration or diversion thereof whose addresses can after reasonable enquiry be ascertained, and if the proposed street, road, thoroughfare or alteration or diversion thereof shall affect any land not vested in the municipality shall also serve a copy of such notice upon the Commissioner of Lands.

(3) Where notice in writing of any claim for compensation is served on the Council within the period of one month above mentioned by the Commissioner of Lands or any such owner, lessee or occupier or any other person aggrieved by such closing or diversion or alteration the Council shall make compensation to such person for any damage occasioned to him thereby and such compensation shall in default of agreement be fixed by arbitration: provided that in assessing the amount as compensation payable to any person hereunder the benefit or advantage derived or to be derived by such person by reason of such closing or diversion or alteration shall be taken into account.

(4) If any person interested as owner, lessee or occupier in any property abutting on the street, road or thoroughfare which it is proposed to so close or divert or alter shall at any time within the period of one month above mentioned serve written notice on the Council of any objection to such closing or diversion or alteration then unless such objection shall be withdrawn such closing or diversion or alteration shall not be carried out without the sanction of the Governor.

(5) After the serving of any such objection the Governor may on the application of the Council appoint a person or persons to make an enquiry into the proposed closing or diversion or alteration and the objection thereto and to report thereon and on receiving the report of such person or persons the Governor may make an order disallowing the proposed closing or diversion or alteration or allowing it with such modification (if any) as he may deem necessary.

(6) When property abutting upon any street, road or thoroughfare which it is proposed to close or divert or alter is owned, leased or occupied by the Crown or the Government, any notice which by this section is required to be served on any owner, lessee or occupier of property shall in respect of such property be served on or by the Commissioner of Lands, or other officer for the time being at the head of the Land Department of the Government, and compensation for any damage occasioned to the Crown or the Government by such closing or diversion or alteration shall be paid to the Commissioner of Lands or such other officer for and on behalf of the Government.

42. The Council may with the consent of the Governor acquire, construct, equip and carry on within or beyond the municipality tramways or works for the supply of light, heat, power or water within the municipality and may make such charges and conditions for such services as it may determine.

Power to acquire and construct tramways electric and water works.

43. The Council may with the approval of the Governor lay out on lands under its control such locations for natives as may be deemed desirable and erect suitable buildings thereon for the occupation of natives and may with such approval compel all natives residing in the municipality, except such as are employed in domestic service and are lodged on the premises of their employers or such as are exempted by the Governor, to reside within such locations.

Power to lay out native locations.

44. Any member or officer of the Council duly authorised in writing shall have power to enter any premises within the municipality and for the purpose of exercising any of the powers of inspection or execution of works given to it under its bye-laws or by this or any other Ordinance or necessary for the proper enforcement of such bye-laws.

Council may enter premises for exercise of powers under this Ordinance.

45. The Council may in the name and on behalf of the municipality enter into any contract with any person, firm, or body corporate:—

Council may make contracts for purpose of Ordinance.

(a) for the purchase or hire of any land, way-leave, water right or any other property within or beyond the municipality for the purposes of this Ordinance; or

(b) for the performance of any work which the Council is authorised by law to undertake or for any of the purposes of this Ordinance or any amendment thereof and all such contracts lawfully made shall bind the council and its successors and all other parties thereto. Every contract shall be deemed to be duly executed by or on behalf of the Council if signed by any one or more councillors thereto authorised by resolution of the Council.



**General powers.**

**46.** The Council shall have power, subject to the provisions of the Public Health Ordinance, 1921, to acquire, establish, maintain and carry on any of the following things and to make such charges in respect thereof as may be fixed by bye-laws:—

- (1) Cemeteries, mortuaries and crematoria whether within or beyond the municipality.
- (2) Markets, and market buildings, cold storages and public weighing machines.
- (3) Fire brigades.
- (4) Parks and recreation grounds whether within or beyond the municipality.
- (5) Libraries and museums.
- (6) Public baths and wash houses.
- (7) Sanitary services for the removal and destruction of or otherwise dealing with night soil, slops, rubbish and all kinds of refuse and effluent.
- (8) Water works, sewerage works and drainage works within or beyond the municipality.
- (9) Pounds whether within or beyond the municipality.
- (10) Slaughter houses whether within or beyond the municipality.
- (11) Public closets, urinals and lavatories.
- (12) Such offices and buildings as may be required for municipal purposes.
- (13) Camping, grazing and outspan grounds whether within or beyond the municipality.
- (14) Dhobie quarters and laundries.
- (15) Magazines for the storage of explosives and dangerous articles whether within or beyond the municipality.
- (16) Any other place or thing for a public purpose approved by the Governor-in-Council.

**Special powers.**

**47.** The Council shall have power subject to the provisions of the Ordinance to do any of the following things:—

- (1) To incur all expenditure necessary for the carrying out of any purpose of this Ordinance or any amendment thereof or of any municipal purpose (which shall include a reasonable amount for public entertainment, and travelling and personal expenses of members and officers on business of the Council).
- (2) To incur all expenditure necessary for making provision for the burial of destitute persons dying within the limits of the municipality, and return of destitute natives to their homes.
- (3) To make grants of money towards the establishment or maintenance of the institutions hereinafter mentioned not being of a private character that is to say hospitals, libraries, art galleries, museums, and musical or scientific institutions, asylums for the aged, destitute or infirm, homes for destitute orphans.
- (4) To charge fees for any licence which the council is empowered to issue and for the maintenance and regulation of water-furrows to persons supplied with water therefrom.
- (5) To promote private legislation in the interest of the municipality.

- (6) To enumerate the inhabitants of the municipality.
- (7) To sell all by-products resulting from the carrying on of any work which may be within the powers of the Council.
- (8) To plant, trim or remove trees in streets and open spaces.
- (9) To let, sell or otherwise dispose of any movable or immovable property of the municipality provided that no sale or other alienation of immovable property shall take place without the consent of the Governor-in-Council: provided always that previous to such sanction being obtained the Governor-in-Council may require that the resolution of the Council to sell, lease or otherwise alienate such property shall be published in four successive issues of the Gazette and of one or more papers circulating in the municipality.
- (10) To do all things necessary for carrying out all the purposes for and with regard to which the Council is empowered under this Ordinance or any amendment thereof to make, alter or revoke bye-laws or regulations, and for carrying all such bye-laws and regulations into effect.

## PART VI.

### BYE-LAWS.

43. The Council shall have power to make, alter and revoke bye-laws and regulations for any such things as are necessary or desirable for the maintenance of the health, safety and well being of the inhabitants or for the good rule and government of the municipality and more especially for any of the following purposes:—

Power to make  
bye-laws.

- (1) Regulating any of the things which it is empowered under the two preceding sections of this Ordinance to do, establish, maintain or carry on and the charges to be made in respect thereof.
- (2) Regulating, subject to the provisions of this or any other Ordinance, the duties and procedure of the Council and any committees thereof and the powers and duties of its officers and servants.
- (3) Preventing and extinguishing fires, and compensating owners for buildings removed to prevent the spread of fire.
- (4) Preserving public decency.
- (5) Regulating theatres and regulating and licensing music halls, public halls, concert rooms, public billiard rooms and public bagatelle rooms and other places of public amusement, provided that nothing in this sub-section shall be deemed to override any provision of the Stage Plays and Cinematographs Ordinance, 1912, or any Ordinance substituted therefor.
- (6) Prohibiting, regulating or licensing noxious and offensive trades.
- (7) Licensing the keeping of dogs and providing for the seizure, sale or destruction of vicious, dangerous, ownerless and unlicensed dogs.
- (8) Regulating or preventing the keeping of bees and of wild or dangerous animals.
- (9) Preserving and protecting birds and animals, wild and domesticated.
- (10) Preventing or regulating the planting of trees or shrubs in public streets or squares and preventing the removal or injuring thereof.
- (11) Regulating and licensing the making of bricks, burning of lime, and the digging or quarrying for or removal of clay, gravel or stone and the burning or cutting of firewood, brushwood and grass on municipal lands.

(12) Providing for the due and proper care of common pasture whether within or without the township and other municipal lands and regulating the quantity and kinds of live-stock which may be kept and be pastured on the said lands and the fees to be paid and the conditions to be observed in respect thereof.

(13) Regulating and licensing wood sawyers and other dangerous trades.

(14) Suppressing houses of ill-fame.

(15) Suppressing gambling houses.

(16) Regulating the possession and use of firearms and the carrying of weapons by which bodily hurt can be inflicted.

(17) Enforcing and regulating the fencing of unoccupied plots; and regulating the use of barbed wire for fencing.

(18) Regulating and charging fees for the removal of carcasses.

(19) The prevention and suppression of infectious or contagious diseases and the maintenance of the public health.

(20) Regulating and compelling the provision, construction, use and repair of drains, privies, and receptacles for solid or liquid refuse or slops, and all other conveniences, and the connection of any premises with any sewer or drain under the control of the Council.

(21) Compelling the use of any sanitary service under the control of the Council and the method of dealing with all night soil, slops, rubbish or refuse whatsoever, and fixing the fees payable for sanitary services and allocating the incidence of such fees.

(22) The prevention and abatement of nuisances including such as though arising beyond the municipality cause annoyance or danger or injury to health within the municipality.

(23) Regulating water furrows, wells, tanks and cess-pools and closing the same if expedient.

(24) Regulating and licensing slaughter-houses and meat shops and the killing of cattle or other animals and the sale of meat.

(25) Licensing and controlling hawkers and keepers of dairies, cow-sheds, milk-shops, restaurants, cafés, tea-rooms, hotels, eating and lodging houses and all places where articles of food or drink or drugs are manufactured or prepared for sale or sold.

(26) Preventing the possession, conveyance, handling, sale or offering for sale and providing for the destruction, when necessary in the Council's opinion of diseased animals and of any article of food or drink which is diseased or unfit for human consumption.

(27) Regulating stables, cattle sheds, and the keeping of live-stock and poultry.

(28) Regulating and licensing livery stables and any place where horses or other animals are kept for hire.

(29) Notification of death and disposal of the dead.

(30) Erecting, regulating and maintaining isolation hospitals and appointing a committee of management therefor.

(31) For cleansing of persons infected with vermin.

(32) For closing by order schools on account of epidemic disease.

(33) For regulating means of ingress or egress in places of public resort.

(34) For the prevention of malaria and other insect borne diseases.

(35) Preventing the adulteration, misdescription or reduction below a proper standard of quality and for ensuring the sale in a pure state of any article of food or drink or any drug.

(36) Regulating purveyors of milk.

(37) Regulating the washing of clothes in public or private places and licensing persons engaged in washing or laundry work.

(38) Regulating the construction, alteration, alignment and elevation of all buildings or other structures and all parts thereof and compelling the demolition, removal or rendering safe of any building or structure whatsoever which in the Council's opinion is dangerous or unfit for structural or sanitary reasons.

(39) Preventing the erection, alteration or use of any building or structure whatsoever which either in itself or from the circumstances or nature of the locality in which it is placed is a disfigurement to the town or an annoyance to the inhabitants thereof and for securing the removal or alteration of projections over streets.

(40) Regulating the erection and use of scaffolding and hoarding during the construction and demolition, alteration or repair of any buildings and charging fees in respect thereof.

(41) Regulating the amount of space to be allowed in and about buildings for securing the proper ventilation thereof and a free circulation of air.

(42) Regulating the closing of buildings or parts of buildings unfit for human habitation.

(43) Regulating the giving notice and the deposit of plans and sections by persons wishing to construct or alter buildings and the approval or disapproval thereof by the Council and the removal or alteration of any works begun or done in contravention of any bye-law or regulation of the Council and preventing the use of any new or altered building until it shall have been certified by the Council to be fit for use, and for charging of fees for inspection of plans and buildings.

(44) Regulating the giving of notice and deposit of plans by persons wishing to lay out building lots securing the continuity and uniformity of streets on or leading to private property, and preventing the laying out of building lots, except with the approval of the Council, or the closing up of any streets, roads or open spaces shown on any plan previously submitted to and approved by the Council.

(45) Regulating the construction and position of gutterings, down pipes and water butts and the discharge of the outflow therefrom.

(46) Regulating the holding of sales by auction of live stock on land or premises under the control of the Council and for charging of fees in respect of such sales.

(47) Regulating the carriage, sale and use, and licensing and regulating the manufacture and storage of petroleum, explosives, fireworks, gas and all other combustibles.

(48) Regulating the traffic and preventing and removing obstructions in public roads, streets and open spaces and dealing with live-stock or dead or injured animals found in any public place.

(49) Regulating and licensing road-locomotives, tramcars, omnibuses, cabs, rickshaws, trolleys, bicycles and all other vehicles whatsoever, whether private or plying or working for hire, and the drivers or haulers thereof, and porters, and fixing the charges to be made for the hire whether within the township or within a radius of five miles from a prescribed central point within the township, of any vehicle plying or working for hire.

(50) Regulating, prohibiting or licensing the erection of wires in, along, under, on or over any street or public place and of placards, boards or other advertisements or notices in or near or in view of any public street or place: provided that no such permission or licence shall be required for posts or wires erected or laid by the Government.

(51) Regulating street decorations and the erection and removal of temporary platforms or other structures for the use of the public at any meeting or entertainment or at any procession, ceremony or other spectacular display.

(52) Regulating, subject to the provision of any other Ordinance, the use and preventing the misuse or waste of or any interference with any water, gas, oil, or electric power or the pollution of any water supplied by or under the control of the council or which the public have a right to use.

(53) Preventing the pollution of gathering grounds, springs, wells, reservoirs, tanks, cisterns, filter beds or other sources of water supply or storage, whether within or beyond the municipality, the water wherein or wherefrom is used or is likely to be used within the municipality.

(54) Securing a proper and sufficient supply of water to all dwelling houses, schools, stores, factories and workshops.

(55) Regulating the use of public streets by natives and regulating or prohibiting the carrying by them of sticks, knives, spears or other weapons.

(56) Regulating, suppressing and charging fees for native dances, ngomas and nautches.

(57) Regulating the housing of natives by their employers.

(58) Regulating and licensing wash boys and native labourers other than those employed in industrial concerns or domestic service.

(59) Regulating the proper carrying out of the provisions of Section 43 for the effectual supervision of native locations.

(60) Regulating the charges to be made for the occupation of buildings and the use of locations as provided in Section 43.

(61) Regulating the issuing of passes to and the carrying of passes by natives in the municipality and for the fixing of charges payable by natives for passes not exceeding a maximum to be approved by the Governor-in-Council.

Provided always that no such bye-law shall be made contrary to the provisions of any Ordinance dealing with public health or of any order, notice, rule or regulation made under such Ordinance.

How bye-laws  
to be made.

49. No bye-law or regulation shall be made or amended by the Council unless a copy of such proposed bye-law or amendment shall have been deposited at the office of the Council for inspection by any person at all reasonable times, and a notice shall have been published in some newspaper circulating in the municipality or affixed to the principal door of the offices of the Council seven days prior to the meeting of the Council held for the purpose of making such bye-law or regulation or amendment, setting forth the general purport of the proposed bye-law or regulation or amendment of the same and stating that a copy thereof is open to inspection as aforesaid.

Bye-laws and  
regulations to  
be approved  
by the  
Governor-in-  
Council and  
published in  
the Gazette.

50. (1) After any bye-law or regulation has been passed by the Council, it shall be submitted for the approval of the Governor-in-Council and if approved it shall be published in the Gazette and thereupon such bye-laws or regulations shall have the force of law in the municipality.

Provided that bye-laws or regulations affecting public health shall not take effect until the provisions of the Public Health Ordinance, 1921, or any law amending or substituted for the same have been complied with.

(2) Should it appear to the Governor-in-Council that any Council is abusing or failing to use the powers in respect of bye-laws or regulations conferred upon it by this Ordinance he may by notice in the Gazette make, alter, or repeal any bye-laws or regulations for any municipality.

51. The Council may by regulation or bye-law impose a penalty for any breach of any bye-law or regulation made under this Ordinance and may also impose different penalties in case of successive breaches but no such penalty shall be imposed exceeding £25 and any bye-law or regulation may provide that in addition to any such penalty any expense incurred by the Council in consequence of any breach of such bye-law or regulation or in the execution of any work directed by any such bye-law or regulation to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work.

Penalties for  
breach of  
bye-laws.

52. (1) Any police officer may arrest without warrant any person who shall commit any offence against this Ordinance or against any regulation or bye-law in force in the municipality, and any officer of the Council in uniform or bearing a visible badge of office and authorised thereto in writing by the Council shall have power to arrest without warrant any person who shall in his presence commit any offence against this Ordinance or any bye-law in force in the municipality and detain such person until he can be delivered into the custody of a constable or police officer to be dealt with according to law provided that no person shall be arrested or detained without warrant unless there shall exist reasonable grounds for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.

Power of  
arrest.

(2) The East Africa Police Ordinance, 1911, or any law substituted therefor shall apply to every municipality constituted under the provisions of this Ordinance in like manner as it applies to any township.

53. All offences against any bye-law or regulation in force in the municipality shall be deemed to be offences against this Ordinance and in any prosecution for contravening the provisions of any bye-law or regulation it shall be sufficient to allege that the accused is guilty of contravening a bye-law or regulation of the Council and to allege the act constituting such contravention describing the bye-law or regulation by number.

Prosecution for  
contravention  
of bye-laws.

54. The Town Clerk or any other person authorised thereto by the chairman may prosecute in subordinate courts for all breaches of the Council bye-laws or regulations and the provisions of any laws relating to prosecutions by private persons shall apply to all such prosecutions.

Prosecution by  
Council for  
breach of  
bye-laws.

55. Every person guilty of any offence against this Ordinance or any bye-law in force in the municipality shall for every such offence be liable to the penalty expressly imposed by this Ordinance or by the bye-law and if no penalty be imposed then to a penalty not exceeding ten pounds.

Penalties.

56. All penalties or other moneys payable in respect of any offence against this Ordinance or any bye-law in force in the municipality may be recovered before any court of competent jurisdiction.

Recovery of  
penalties.

57. Save and except where it is otherwise specially provided whenever any penalty shall have been imposed under the provisions of this Ordinance or of any bye-law in force in the municipality and the person convicted shall not forthwith pay the same, the court may direct that such person shall suffer imprisonment of either description for a period not exceeding one month if the penalty imposed does not exceed ten pounds, or for a period not exceeding three months if the penalty be above ten pounds, and such person shall be imprisoned as aforesaid unless he shall sooner pay the penalty.

Default of  
payment of  
penalties.

Application of penalties.

58. All penalties recovered for offences against the bye-laws and regulations of the Council or for offences against this Ordinance shall be paid as to one half into the revenue of the Council and as to the remaining half into the general revenues of the Colony and Protectorate.

Actions.

59. All actions against the Council shall be brought within six months of the time when the causes of such actions arose, and all such costs, charges and expenses as the Council may be put to or become chargeable with by reason of the prosecution or defence of any such actions or under the judgment of the court may be paid out of the revenue of the Council.

Obstructing officers of the Council.

60. The following persons shall be liable to a penalty not exceeding twenty pounds or to imprisonment of either description for a period not exceeding three months:—

(1) any person who wilfully obstructs any member of the Council or any person duly employed by the Council in the execution of his duty as such;

(2) any occupier of premises who prevents the owner of such premises from complying with any of the requirements of the council;

(3) any occupier of premises who on demand refuses or wilfully omits to disclose, or wilfully mis-states the name of the owner of such premises.

## PART VII.

### FINANCIAL.

Revenue of Council.

61. The revenue of the Council shall include:—

(1) all rates levied by the Council;

(2) all licence moneys on licences issued by the Council and all market dues, pound fees and taxes on goods;

(3) one half of all fines imposed by a competent court for the contravention of bye-laws and regulations made by the Council and of the provisions of this Ordinance;

(4) all charges levied by the Council for the supply of sanitary or other services;

(5) proceeds of sale of by-products.

(6) all other fees, charges, dues or rents recoverable by the Council;

(7) all revenue accruing to the Council from the Government either as a grant-in-aid or endowment or otherwise.

(8) interest on monies invested by the Council.

Disposal of municipal funds.

62. Unless the Governor shall otherwise order, all sums received on account of the municipal fund shall be paid into the Government Treasury, or into such bank or branch bank in the municipality as may be approved by the Governor and shall be credited to an account on behalf of the municipality to which they belong.

Provided that the Governor may authorise the investment in such securities as he may approve of any monies not required for immediate use.

Advances from Government.

63. It shall be lawful for the Council from time to time to obtain from the Governor advances of monies required for the proper carrying out of the provisions of this Ordinance. The monies so advanced and the interest thereon, if any, shall constitute a liability of the Council and shall be a charge on the property and revenues of the Council present and future.

Borrowing powers.

64. (1) It shall be lawful for the Council from time to time to raise loans in such amounts and on such conditions as may be allowed by the Governor with the approval of His Majesty's Secretary of State for the Colonies subject to the provisions of this Ordinance.

(2) Such loan shall be secured on the property and revenues of the Council including any lands which may be specifically placed at the disposal of the Council under the provisions of any law provided always that this section shall not be deemed to confer any powers of alienating such lands other than are conferred by such law.

(3) Where any such loan shall be raised by means of stock, the provisions of any borrowing powers Ordinance that may be applicable and in force in the Colony and Protectorate with regard to the issuing of stock, the provision to be made for payment of interest thereon and for the redemption thereof at the time or times fixed for repayment, and the proceedings to be taken in case of default, shall apply.

(4) If at any time any interest due on any loan other than stock shall remain unpaid for three months after demand therefor in writing has been lodged with the Town Clerk by the person entitled thereto or his duly authorised representatives, application may be made by such person or his representative to the Supreme Court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of the monies due. In particular, the court may order and declare that a rate or rates of such amount or amounts as it shall fix be levied upon all rateable property within the municipality. And such rate so ordered shall have the same incidence as any rate imposed by the Council, and may be enforced in like manner, and the proceeds thereof shall be paid into court or otherwise as the court shall direct.

(6) If at any time default shall be made in the repayment of any loan after a period of one month from the date on which such loan shall have become repayable, the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorised representative.

(7) The court on such application, in addition to any order which it is empowered to make under sub-section (5), may if it shall think fit order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the Council under such law.

### PART VIII.

#### MISCELLANEOUS.

65. When any matter or thing is by this Ordinance or by any order or notice made and published under the authority thereof directed or forbidden to be done, or where any authority is given by this Ordinance to any person to direct any matter or thing to be done or to forbid any matter or thing to be done, and such act so directed to be done remains undone or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Ordinance.

Persons offending against order or notice under this Ordinance to be deemed guilty of offence against Ordinance.

66. The Council shall have the power to refuse to grant any licence to carry on any trade or business which it has power to grant in accordance with bye-laws made under this Ordinance on any of the following grounds:—

Power of Council to refuse licences under certain conditions.

(a) that the applicant has been convicted three times within the three years preceding his application of contravening the law or the bye-law of any municipality with regard to the conduct of the trade for which the licence is applied for in such a manner as to cause danger to the public health;

(b) that the premises on which the applicant intends to conduct his trade do not conform to the requirements of the Council's bye-laws;

(c) that the granting of such licence would be contrary to the public interest;



Right of  
appeal from  
Council's  
decision.

Provided, however, that any applicant for a licence whose application has been refused may appeal against the Council's decision to the court of the Resident Magistrate or if there is no Resident Magistrate to any first class Magistrate within whose jurisdiction the premises on which the applicant intended to conduct his trade lies and on such appeal, in the event of the appellant satisfying the court that the licence was not refused on good and sufficient grounds the court may make an order requiring the Council to grant such licence and such licence shall be granted accordingly; provided that the appellant or the Council may appeal to the Supreme Court against any such order of the Magistrate and the decision of the Supreme Court shall be final.

Power of  
Council to  
refuse to  
licence certain  
premises.

67. The Council shall have power to refuse to licence any premises as a music-hall, public-hall, concert-room or other place of amusement, or as a restaurant or eating house, on any of the grounds mentioned in the preceding section or on any one or more of the following grounds:—

(a) that the applicant has failed to produce satisfactory evidence of good character;

(b) that the premises in respect of which a licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;

(c) that the granting of such licence in respect of the premises for which the same is sought is calculated to cause nuisance or annoyance to persons residing in the neighbourhood; provided however that the refusal of the Council to grant any licence on any of the grounds herein stated shall be subject to the same appeal as is provided in the preceding section.

Penalty on  
conviction of  
licence  
holder for  
contravention  
of law or  
Council's  
bye-law.

68. On the conviction of any person holding a trade licence granted by the Council for any contravention of the law or the Council's bye-laws with regard to the conduct of such trade, it shall be lawful on the application of the Council for the Magistrate before whom such person is convicted to cancel or suspend his licence and order that no new licence to carry on such trade within the same municipality shall be granted to such person for a period not exceeding one year from the date of such cancellation, and thereupon such person shall become disqualified to hold a licence during such period of cancellation or suspension.

Gazette.  
Evidence of  
bye-law.

69. A copy of the Gazette containing any bye-law or regulation of the Council shall be evidence of the due making of such bye-law or regulation and of the contents thereof.

Saving of  
Public Health  
Ordinance.

70. Nothing in this Ordinance shall be deemed to over-ride the provisions of the Public Health Ordinance, 1921, or any Ordinance substituted therefor.

Repeal.

71. The Municipal Corporations Ordinance, 1909, is hereby repealed. Provided that:—

(1) All bye-laws made under the said Ordinance shall be deemed to be bye-laws under this Ordinance and shall continue in force in the municipality to which they apply until altered or amended under this Ordinance or repealed.

(2) All appointments made, powers conferred and notifications served or published under the said Ordinance shall be deemed to have been respectively conferred, served and published under this Ordinance.

(3) All works and undertakings authorised to be executed, all rights, liabilities and engagements existing and all actions and suits and proceedings pending by or against the Council of such municipality shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the Municipal Council under this Ordinance and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by such constitution.

(4) All fees, charges and debts of whatever description due or payable to or recoverable by the Council of such municipality shall be payable to and recoverable by the Council under this Ordinance.

(5) All property, movable or immovable, vested in or held in trust for, and all rights and duties of whatever description used, enjoyed or possessed or imposed upon the council of such municipality shall become vested in and held in trust for or imposed upon the Council under this Ordinance.

(6) All licences, registrations and permits issued, made or granted under or in pursuance of the said Ordinance shall continue in force for the period, if any, specified in such licences, registrations or permits unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance.

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## AN ORDINANCE.

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No. 34 of 1922.

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Assented to in His Majesty's name this 30th day of December, 1922.

R. T. CORYNDON,  
*Governor.*

### **An Ordinance further to Amend the Customs Ordinance, 1910.**

BE it enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Customs Short title. (Amendment) Ordinance (No. 2), 1922", and shall be read as one with the Customs Ordinance, 1910 (hereinafter referred to as "the Principal Ordinance") and all amendments thereto.

2. Section 27 of the Principal Ordinance is hereby amended by the addition of the following proviso:—

Amendment of  
Section 27 of  
the Principal  
Ordinance.

"Provided that goods imported into the Colony and Protectorate which are proved to the satisfaction of the Commissioner of Customs to be the growth, produce or manufacture of Tanganyika Territory shall be free of duties of Customs for and on account of such importation."