

DRAFTING NOTE

LOCAL GOVERNMENT ACT 2026

1. Status and purpose of this note

This drafting note is explanatory and is not part of the proposed Assembly Act. It identifies the legislative need, the relationship with earlier Eritrean law, the principal matters retained, the modernization choices made and the place of the draft within the emerging constitutional statute book. The instrument remains a consultation draft and should be finalized only after legal, institutional, fiscal and public review.

2. Legislative need and prior law

The earlier zoba and local-government instruments require replacement by a framework grounded in Article 1(5), democratic decentralization and Eritrea's village, county and provincial realities.

3. What the draft retains

The draft retains territorial administration, village institutions, local services, local planning, community dispute resolution where lawful and coordination with national government.

4. What the draft updates and modernizes

It creates elected and accountable councils, subsidiarity, transparent local finance, public participation, digital records, equitable service standards, protected village legitimacy, legality-based supervision and court review without turning national ministries into local governments.

5. Constitutional, code and treaty fit

The draft is framed under the Constitution of Eritrea 1997 and must be read with the Civil Code, Penal Code, Civil Procedure Code and Criminal Procedure Code of Eritrea 2015 where those Codes govern. It is also coordinated with the other institutional, financial, commercial, land, labour, administrative and sectoral drafts in this collection. References to international or regional standards guide compatibility and implementation; they do not bypass the Treaty-Making Act or convert an unincorporated instrument into domestic law.

6. Scope and organization

The principal divisions address preliminary provisions; territorial organization; councils and democratic representation; council organization and procedure; executive and professional administration; functions and intergovernmental relations; planning, land and public assets; local finance; participation, information and accountability; supervision, intervention and dispute resolution; transition and final provisions.

7. Transition, implementation and consultation

The draft preserves lawful accrued rights, completed transactions, pending proceedings and institutional continuity where appropriate, while preventing temporary savings from preserving unconstitutional coercion or indefinite executive discretion. Before enactment or issuance, authentic predecessor instruments and amendments should be verified, cross-references and fiscal capacity confirmed, implementing regulations and digital systems prepared, and affected institutions, professions, communities and the public given a practical opportunity to comment.

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. ____ OF 2026

LOCAL GOVERNMENT ACT 2026

(ACT)

AN ACT TO ESTABLISH DEMOCRATIC, ACCOUNTABLE AND FINANCIALLY RESPONSIBLE LOCAL GOVERNMENT; TO GIVE EFFECT TO DECENTRALIZATION; TO DEFINE THE POWERS OF PROVINCES (ZOBAS), COUNTIES (SUB-ZOBAS), VILLAGES AND OTHER COMMUNITY AUTHORITIES; TO PROVIDE FOR ELECTED COUNCILS, PROFESSIONAL ADMINISTRATION, LOCAL FINANCE, PUBLIC PARTICIPATION, NATIONAL SUPERVISION AND JUDICIAL REMEDIES; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Article 1(4) and (5) of the Constitution of Eritrea require democratic government with strong participatory institutions and establish Eritrea as a unitary State divided into units of local government whose powers and duties shall be determined by law;

WHEREAS Articles 7, 14, 19 and 32 of the Constitution require accountable government, equality, participation, access to information and legislation by the National Assembly;

WHEREAS effective decentralization brings lawful public services closer to communities while preserving the unity of the State, national standards and equal citizenship;

WHEREAS elected councils, professional administration, transparent finance and independent courts are necessary to replace centralized and informal control;

NOW, THEREFORE, be it enacted by the National Assembly of Eritrea, acting under Article 32 of the Constitution, as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

1. This Act may be cited as the “Local Government Act 2026”.
2. This Act applies throughout Eritrea.

Article 2 — Purposes

1. to establish democratic and effective local government;
2. to assign functions at the lowest level capable of performing them;
3. to protect national unity, equality and minimum service standards;
4. to secure participation, transparency and accountable local finance; and
5. to provide supervision and remedies consistent with local autonomy.

Article 3 — Interpretation

1. “community authority” means a village, city, town or other smallest local-government authority established under this Act;
2. “county” or “sub-zoba” means an intermediate local-government unit established by an Assembly Act;
3. “Council” means an elected provincial, county or community council;
4. “local government” includes a province, county and community authority but not a national ministry field office;
5. “Minister” means the minister assigned responsibility for local government;
6. “own-source revenue” means revenue lawfully raised by a local government;
7. “province” or “zoba” means the highest subnational territorial tier established by law; and
8. “village” means a historically and culturally constituted local community recognized as the smallest rural unit of government, without prejudice to a Pastoral Land Community recognized by the Land Act.

Article 4 — Principles of local government

1. Local government shall be democratic, participatory, transparent, inclusive and subject to law.
2. Functions shall follow subsidiarity, capacity, fiscal responsibility and equitable development.
3. A local government is accountable to its residents and subject to constitutional national oversight.
4. No local authority may discriminate or create separate citizenship.

Article 5 — Legal personality and continuity

1. A local government is a public legal person capable of holding property, contracting and suing or being sued.
2. Its boundaries, officeholders or reorganization do not extinguish lawful obligations.
3. Public assets are held for inhabitants and shall not be treated as party or personal property.
4. Liability and succession shall be governed by this Act and other law.

CHAPTER II TERRITORIAL ORGANIZATION

Article 6 — Levels of local government

1. Local government consists of provinces, counties and community authorities, using the familiar names zoba and sub-zoba where law so provides.
2. A tier shall coordinate and support lower tiers without duplicating a function that a capable lower tier can perform effectively.
3. Asmara may have metropolitan status prescribed by an Assembly Act.
4. Traditional and customary community institutions may participate in governance but shall not exercise coercive public power without law.

Article 7 — Establishment and alteration of boundaries

1. The National Assembly may establish, merge, divide, name or alter provinces and counties by Act.
2. The Minister may propose community boundaries after study and consultation, subject to approval by the National Assembly or authority expressly delegated by Act.
3. A proposal shall consider population, geography, access, identity, service capacity, pastoral mobility and fiscal viability.
4. Boundary change shall not be used for partisan or discriminatory advantage or to extinguish a Community Land Right under the Land Act.

Article 8 — Boundary Commission

1. An independent Local Government Boundary Commission is established.
2. It shall conduct public inquiries, publish maps and reasons and recommend boundaries.
3. Members shall be appointed through a transparent merit process and be politically impartial.
4. Its recommendations and evidence shall be submitted to the National Assembly and published.

Article 9 — Community status

1. A settlement may be designated a city, town or village according to published population, service and planning criteria.
2. Status shall determine appropriate institutions without diminishing equal rights.
3. Residents shall be consulted before designation or material change.
4. Designation is reviewable for legality and procedural fairness.

Article 10 — Headquarters and service access

1. Each local government shall maintain an accessible headquarters and electronic public-service portal.
2. Services shall be decentralized or mobile where distance or disability creates barriers.
3. Office locations and hours shall be published.
4. Digital access shall supplement rather than exclude reasonable in-person access.

CHAPTER III COUNCILS AND DEMOCRATIC REPRESENTATION

Article 11 — Elected councils

1. Every province, county and community authority shall have a council elected by residents under electoral law applicable to local government.
2. A council exercises local legislative, budgetary and oversight authority within functions assigned to its tier.

3. Members represent all residents and shall act in the public interest.
4. No unelected body may displace a council except under a time-limited court-supervised measure authorized by this Act.

Article 12 — Composition and term

1. Council size shall reflect population, geographic representation and workable deliberation under electoral law applicable to local government.
2. The ordinary term is four years.
3. Measures shall promote fair representation of women, persons with disabilities and marginalized communities consistent with the Constitution.
4. A term shall not be extended except by an Assembly Act during a constitutional emergency.

Article 13 — Qualification and incompatibility

1. A candidate shall meet citizenship, residence and other constitutional qualifications prescribed by electoral law applicable to local government.
2. A judge, prosecutor, serving police or defence officer, election official or senior local employee shall not simultaneously serve as councillor.
3. A disqualification shall be clear, proportionate and judicially reviewable.
4. Party opinion, religion, ethnicity, sex, disability or lawful criticism is not disqualification.

Article 14 — Vacancy and replacement

1. A seat becomes vacant on death, resignation, lawful disqualification or final removal.
2. A vacancy shall be filled promptly under electoral law applicable to local government.
3. The council shall publish notice and shall not manipulate timing to alter representation.
4. A vacancy does not invalidate proceedings where quorum remains.

Article 15 — Oath and code of conduct

1. A councillor shall swear fidelity to the Constitution and impartial service to residents.
2. A statutory code shall govern integrity, gifts, conflicts, attendance, confidentiality and respectful conduct.
3. The code shall protect robust debate and minority opinion.
4. A breach shall receive proportionate sanction after due process.

Article 16 — Removal and recall

1. A councillor may be removed only for incapacity, serious misconduct, corruption, persistent unjustified absence or constitutional ineligibility.
2. Removal requires notice, evidence, hearing and reasoned decision by an independent body or court.
3. Recall by electors may be provided by electoral law applicable to local government with safeguards against harassment and premature repetition.

4. Political disagreement alone is not a ground.

CHAPTER IV COUNCIL ORGANIZATION AND PROCEDURE

Article 17 — Chairperson and deputy

1. A council shall elect a chairperson and deputy from among its members by secret ballot.
2. They organize meetings and represent the council but do not possess unilateral legislative power.
3. The council may remove either by reasoned vote after fair notice.
4. Vacancy shall be filled without interrupting administration.

Article 18 — Meetings and quorum

1. A council shall meet regularly under a published calendar and when lawfully convened for urgent business.
2. A majority of filled seats constitutes quorum unless this Act provides otherwise.
3. Remote participation may be allowed with identity, access and record safeguards.
4. Deliberate denial of notice invalidates affected business.

Article 19 — Open meetings

1. Council meetings are public except for a narrowly justified closed session concerning protected personal, legal, security or procurement information.
2. The agenda and supporting documents shall be published in advance.
3. A closed-session decision and legal ground shall be recorded.
4. Final legislative and budget votes shall be public.

Article 20 — Voting and minutes

1. Each councillor has one vote and ordinary questions are decided by majority of those present.
2. A tie is defeated unless another law provides a transparent casting procedure.
3. Minutes shall record attendance, motions, votes, recusals and decisions.
4. Approved minutes and recordings shall be publicly accessible.

Article 21 — Committees

1. A council may establish finance, audit, planning, services, ethics and other committees.
2. Committee composition shall fairly reflect the council and include minority voices.
3. A committee may receive evidence but shall not usurp reserved council decisions.
4. Committee reports shall be published subject to lawful confidentiality.

Article 22 — Local bylaws

1. A council may make bylaws only within powers conferred by an Assembly Act.
2. A bylaw shall be consulted upon, reasoned, accessible and published before enforcement.
3. It shall not create imprisonment, taxation, expropriation or coercive power without express statutory authority.
4. The competent regional court may review a bylaw for constitutionality and legality.

CHAPTER V EXECUTIVE AND PROFESSIONAL ADMINISTRATION

Article 23 — Chief administrator

1. Each council shall appoint a chief administrator through an open merit process supervised by the Civil Service Administration Commission.
2. The chief administrator is accountable to the council for lawful implementation and professional management.
3. Appointment shall be for a defined renewable term with performance standards.
4. Removal requires lawful cause, fair procedure and recorded reasons.

Article 24 — Separation of roles

1. The council determines policy, bylaws, budget and oversight; the administration implements and manages personnel and services.
2. A councillor shall not direct individual hiring, procurement, licensing, enforcement or benefit decisions.
3. The chief administrator shall refuse an unlawful direction and report it.
4. Neither level shall obstruct the lawful function of the other.

Article 25 — Departments and staff

1. A council may establish departments within its functions and approved budget.
2. Staff are public servants governed by the Civil Service Administration Act.
3. Recruitment shall be competitive, merit-based and representative without unlawful preference.
4. Political service, national-service status or personal loyalty shall not substitute for employment terms.

Article 26 — Delegation

1. A council may delegate administrative functions but not bylaw enactment, budget adoption, taxation, borrowing, audit response or appointment of the chief administrator.
2. A delegation shall be written, limited and published.
3. The delegating body retains oversight and may revoke prospectively.
4. A delegate may not subdelegate without authority.

Article 27 — Service standards and digital administration

1. Each local government shall publish service descriptions, responsible offices, fees, documents, time limits and complaint routes.
2. Applications and payments shall be available electronically as far as practicable by the applicable national deadline.
3. A person shall receive a tracking number and reasoned decision.
4. No person shall be required to make an unofficial payment or visit an undisclosed office.

CHAPTER VI FUNCTIONS AND INTERGOVERNMENTAL RELATIONS

Article 28 — General local functions

1. Local functions include local roads, markets, sanitation, waste, drainage, parks, community facilities, local planning, fire coordination and other matters assigned by Act.
2. A function includes reasonable regulatory, contracting and service-delivery powers.
3. Local action shall comply with national rights, health, environmental and technical standards.
4. An unfunded mandate shall be accompanied by realistic financing or phased implementation.

Article 29 — Shared functions

1. Education, primary health, water, housing, agriculture, social protection and emergency management may be shared under sector legislation.
2. The responsible national ministry sets lawful national standards and supports capacity.
3. The local government adapts delivery to community conditions and reports results.
4. Duplication and contradictory commands shall be resolved by written intergovernmental agreement or court.

Article 30 — Subsidiarity and assignment

1. A function should be assigned to the lowest level capable of effective, accountable and equitable performance.
2. Assignment shall consider economies of scale, spillovers, capacity and equal national access.
3. Transfer shall identify assets, personnel, revenue, standards and transition date.
4. A regulation shall not transfer a constitutionally or statutorily reserved function.

Article 31 — Agreements and joint authorities

1. Local governments may cooperate, share services and establish joint administrative bodies by written agreement.
2. An agreement shall state governance, finance, assets, liability, duration and withdrawal.
3. A joint body remains publicly accountable and audited.

4. Foreign cooperation requires national law and shall not compromise sovereignty.

Article 32 — National-local forum

1. A National-Local Government Forum is established for consultation on legislation, finance, standards and disputes.
2. It includes national government and representative provincial, county and community authorities.
3. Consultation does not create a veto over constitutional legislative authority.
4. Proceedings and recommendations shall be published.

CHAPTER VII PLANNING, LAND AND PUBLIC ASSETS

Article 33 — Development plan

1. Each council shall adopt a rolling five-year development plan after public consultation.
2. The plan shall identify needs, measurable outcomes, environmental impacts, finance and maintenance.
3. It shall align with lawful national plans while reflecting local priorities.
4. Annual budgets shall explain material departures.

Article 34 — Spatial planning

1. Local spatial plans shall promote safe settlement, transport, housing, economic activity, heritage and environmental protection.
2. Planning shall follow land and environmental law and shall not convert State ownership into arbitrary allocation.
3. Affected persons shall receive notice and opportunity to object.
4. A planning decision shall state reasons and be appealable.

Article 35 — Local public property

1. A local government shall inventory, register, protect and maintain its property.
2. Disposal or long lease of significant property requires valuation, public notice and competitive process unless lawfully exempted.
3. Public streets, parks and common resources shall not be alienated secretly.
4. The Auditor General may examine every transaction.

Article 36 — Acquisition and compensation

1. A local government may acquire property compulsorily only under an Assembly Act, for public purpose and with fair compensation under Article 23 of the Constitution.
2. The council shall prefer agreement and minimize displacement.
3. Notice, valuation, objection and prompt court access are required.
4. No bylaw may create expropriation power.

CHAPTER VIII LOCAL FINANCE

Article 37 — Local government fund

1. Each local government shall maintain a consolidated fund into which all public money is paid.
2. Money may be withdrawn only under an approved budget and lawful financial authority.
3. Public money shall be held in authorized accounts and never personal or party accounts.
4. The treasury system shall permit real-time record and audit access.

Article 38 — Budget

1. The chief administrator shall prepare and the council shall adopt an annual balanced budget after public consultation.
2. The budget shall disclose revenue, transfers, debt, personnel, procurement, projects and contingent liabilities.
3. No expenditure may be concealed off-budget.
4. The approved budget and quarterly execution reports shall be published.

Article 39 — Local revenue

1. A local government may levy only taxes, rates, fees and charges authorized by an Assembly Act.
2. A charge shall relate reasonably to service or regulatory cost unless expressly a tax.
3. Revenue measures shall be fair, administrable and not impede constitutional movement or national trade.
4. Every liability and exemption shall be published.

Article 40 — Intergovernmental transfers

1. National transfers shall combine predictable base funding, equitable need and transparent performance components.
2. The formula shall consider population, poverty, geography, service cost and own-revenue capacity.
3. Political loyalty shall not affect allocation.
4. The formula, calculations and payments shall be published.

Article 41 — Borrowing and guarantees

1. A local government may borrow only under the Government Borrowing and Public Debt Act.
2. Borrowing shall finance lawful capital or exceptional purposes and not conceal recurrent deficit.
3. A guarantee, security or public-private obligation requires disclosure and approval.

4. The national government is not liable unless it expressly and lawfully guarantees the debt.

Article 42 — Procurement

1. Local procurement is governed by the Public Procurement Act.
2. Planning, competition, beneficial ownership, contract award and performance shall be transparent.
3. Councillors and officials shall disclose and avoid conflicts.
4. Emergency procurement shall be narrowly used and promptly audited.

Article 43 — Accounts and audit

1. Accounts shall follow national public-sector standards and be submitted timely to the Auditor General.
2. The Auditor General has unrestricted lawful access to records, systems, property and personnel.
3. The council shall hold a public hearing on audit findings and adopt a corrective plan.
4. Failure to address material findings may trigger lawful remedial supervision.

CHAPTER IX PARTICIPATION, INFORMATION AND ACCOUNTABILITY

Article 44 — Public participation

1. A council shall provide inclusive opportunities to influence plans, budgets, bylaws and major projects.
2. Methods may include hearings, neighborhood forums, petitions, surveys and digital consultation.
3. Participation shall reach women, youth, rural residents, minorities and persons with disabilities.
4. Consultation results and responses shall be published.

Article 45 — Petitions and initiatives

1. Residents may petition a council and receive acknowledgment and reasoned response.
2. A prescribed number of electors may propose debate of a bylaw or local question.
3. Constitutional rights, taxation, employment cases and individual adjudication shall not be decided by local referendum contrary to law.
4. Procedures shall be accessible and prevent fraud without unreasonable burdens.

Article 46 — Access to information

1. Local records are public under the access-to-information law.
2. Budgets, contracts, bylaws, land decisions, service standards, officials and meeting records shall be proactively published.
3. Refusal requires a specific lawful exemption and information on appeal.

4. Records shall be maintained in searchable and accessible form.

Article 47 — Complaints and ombuds function

1. Each local government shall maintain a simple independent complaint process.
2. A complaint shall be tracked, investigated and answered within published time limits.
3. Retaliation is prohibited.
4. The process does not restrict court, Advocate General, Auditor General or other remedies.

Article 48 — Integrity and interests

1. Councillors and designated officials shall declare assets, interests, gifts and relevant beneficial ownership under law.
2. A person with a conflict shall disclose and recuse.
3. Registers shall be public subject to proportionate privacy protection.
4. Corruption, favoritism and misuse of information are subject to criminal, civil and disciplinary law.

CHAPTER X SUPERVISION, INTERVENTION AND DISPUTE RESOLUTION

Article 49 — Lawful national supervision

1. National supervision shall protect constitutionality, minimum standards, fiscal integrity and rights while respecting local democratic choice.
2. A ministry may request information, provide guidance and require a corrective plan under law.
3. It shall not substitute its political preference for a lawful council decision.
4. Every binding direction shall state authority, reasons, scope and review rights.

Article 50 — Remedial intervention

1. Intervention is permitted only for serious persistent illegality, service collapse, financial emergency or grave rights violation.
2. Before intervention, the Minister shall ordinarily give notice, assistance and reasonable opportunity to correct.
3. Measures shall be targeted, temporary and no broader than necessary.
4. The competent regional court shall confirm any suspension of a council or assumption of core powers within seven days.

Article 51 — Administrator during intervention

1. A temporary administrator shall be professionally qualified, politically impartial and bound by the approved budget and court order.
2. The administrator shall preserve services, records and assets and shall not make avoidable long-term commitments.

3. Monthly reports shall be published.
4. Democratic authority shall be restored at the earliest safe and lawful time.

Article 52 — Intergovernmental disputes

1. Governments shall attempt good-faith negotiation and mediation before litigation where urgency permits.
2. The National-Local Government Forum may facilitate resolution.
3. A dispute concerning constitutional power, coercion or rights may be taken directly to court.
4. Essential services shall continue during dispute.

Article 53 — Judicial review and remedies

1. The competent regional court may review a bylaw, decision, omission, intervention, boundary process or financial measure for constitutionality and legality.
2. An affected person and a qualified public-interest body have standing according to law.
3. The Court may declare, suspend, quash, compel, compensate or supervise compliance.
4. Local autonomy is not immunity from judicial remedy.

CHAPTER XI TRANSITION AND FINAL PROVISIONS

Article 54 — Transition from existing administration

1. Existing zoba, sub-zoba and local offices continue temporarily as provincial, county and community administrative units subject to this Act.
2. Their assets, personnel, records, contracts and liabilities shall be inventoried and assigned lawfully.
3. Unelected officials shall not acquire elected authority.
4. A published transition plan shall protect continuity of essential services.

Article 55 — First local elections

1. The National Electoral Commission shall conduct first council elections under this Act and electoral law applicable to local government as soon as practical and not later than eighteen months after commencement.
2. Interim councils may advise but shall not enact permanent bylaws, incur long-term debt or dispose of major assets.
3. Voter and civic education shall precede elections.
4. Delay beyond the statutory period requires an Assembly Act and public reasons.

Article 56 — Capacity and equalization transition

1. National institutions shall provide training, systems and technical support without political control.

2. Functions may transfer in phases based on published capacity criteria.
3. Residents shall not lose essential services because a local authority initially lacks capacity.
4. Transfer shall include resources reasonably corresponding to responsibility.

Article 57 — Review of prior instruments

1. The Advocate General shall review all provincial or zoba, county or sub-zoba, city, town and village instruments within twelve months.
2. Recommendations shall identify repeal, consolidation, temporary savings and constitutional defects.
3. Unpublished coercive directions have no legal effect.
4. Authentic historical laws shall not be silently altered.

Article 58 — Regulations

1. The President may issue regulations on boundaries procedure, administration, service standards, transfers, financial systems and transition.
2. Regulations shall follow consultation with the Civil Service Administration Commission where constitutionally required.
3. They shall not alter elected powers, impose taxes, create offences or authorize expropriation beyond an Assembly Act.
4. Draft regulations of general importance shall be published for consultation.

Article 59 — Repeal and savings

1. Prior local-government instruments are repealed only when identified by verified number, year and title in the statute-law revision schedule.
2. Lawful contracts, employment rights, proceedings and property interests continue subject to this Act.
3. One-party control, indefinite unelected rule, unpublished taxation and unreviewable intervention are not preserved.
4. Transitional subordinate instruments expire within eighteen months unless lawfully remade.

Article 60 — Commencement

1. This Act enters into force ninety days after publication in the Gazette.
2. Articles 4, 10, 27, 37, 43, 46, 49 and 53 apply immediately.
3. The President shall publish an implementation timetable within sixty days.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA