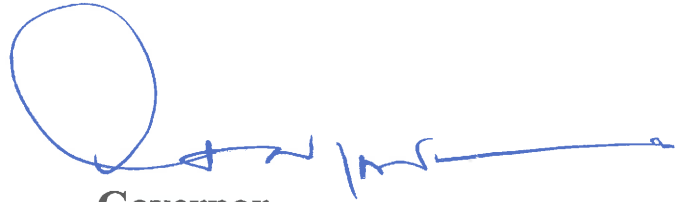


COUNTY GOVERNMENT OF GARISSA

**HIS EXCELLENCY THE GOVERNOR
HON NATHIF JAMA ADEN**

I grant the Municipality Status



Governor

16TH MARCH 2023

**UNDER THE URBAN AREAS AND CITIES ACT 2011,
THE CHARTER OF MASALANI MUNICIPALITY, 2023**

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PREAMBLE

WHEREAS

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

WHEREAS

Article 184 of the Constitution of Kenya 2010 mandated parliament to enact a legislation to provide *inter alia* the criteria for classifying areas as urban areas and cities; establishing the principles of governance and management of urban areas and cities and to provide for participation by residents in the governance of urban areas and cities within 1 year of the promulgation of the Constitution.

WHEREAS

Parliament enacted the Urban Areas and Cities Act in the year 2011 which legislation had an effective date falling after the first elections held under the Constitution of Kenya 2010.

WHEREAS

Section 9 of the Urban Areas and Cities Act empowers the County Governor, on the resolution of the County Assembly, to confer on a qualifying Town, the status of a MUNICIPALITY by grant of a Charter in the prescribed form.

WHEREAS

The Urban Areas and Cities Act does not have the prescribed form of a MUNICIPAL Charter.

WHEREAS

No regulations have been promulgated under the Urban Areas and Cities Act providing the prescribed form of a MUNICIPAL Charter under the Urban Areas and Cities Act.

WHEREAS

Section 72 of the Interpretations and General Provisions Act allows for substantial conformity of any instruments required to be in a prescribed form under any statute in Kenya.

WHEREAS

The County Assembly of Garissa duly approved the request by the County Executive Committee for grant of this Charter to the now Municipality of Masalani

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Garissa County **HEREBY GRANTS** the Municipality of Masalani this Municipal Charter on this 16th Day of March 2023

.....
HON. NATHIF JAMA ADAM

THE COUNTY GOVERNOR OF GARISSA COUNTY

SEAL OF THE COUNTY GOVERNMENT OF GARISSA

1. INCORPORATION, NAME AND BOUNDARIES

1.1. INCORPORATION AND NAME

1.1.1. This Charter is the Municipal Charter of the Municipality of Masalani, within Garissa County, Kenya.

1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager or Acting Municipal Manager.

1.2. BOUNDARIES

1.2.1. The boundaries of the **Town** of Masalani as now existing, shall be the Boundaries of the Municipality of Masalani.

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

2.1.1. The Municipality of Masalani shall have all the powers, general and special, governmental or proprietary, expressed or implied, which may be possessed or assumed by Municipalities under the Urban Areas and Cities Act, the County Government Act, and the County legislation.

2.1.2. No enumeration of specific powers in this Charter shall be held to be exclusive. All such powers shall be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner as Municipal Board of the Municipality may determine, or, unless a contrary intent appears in this Charter or in the by-laws and resolutions of the Municipal Board of the Municipality, in such manner as may be provided by the Garissa County laws and by-laws.

2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality of Masalani are to: -

- (i) Provide for efficient and accountable management of the affairs of the Municipality.
- (ii) Provide for a governance mechanism that will enable the inhabitants of the Municipality to:
 - a. Participate in determining the social services and regulatory framework which will best satisfy their needs and expectations.
 - b. Verify whether public resources and authority are utilized or exercised, as the case may be, to their satisfaction.
 - c. Enjoy efficiency in service delivery.
- (iii) Vigorously pursue the developmental opportunities which are available in the Municipality and to institute such measures as are necessary for achieving public order and the provisions of civic amenities, so as to enhance the quality of life of the inhabitants of the Municipality.
- (iv) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- (v) Promote social cohesiveness and a sense of civic duty and responsibility among the inhabitants and stakeholders in the Municipality in order to facilitate collective action and commitment towards achieving the goal of a harmonious and stable community.
- (vi) Providing for services, laws and other matters for Municipality's benefit.
- (vii) Fostering the economic, social and environmental well-being of its community

2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. The Municipality of Masalani shall, within the boundaries of the Municipality, perform the following functions:

- (a) Promotion, regulation and provision of refuse collection and solid waste management services;
- (b) Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);

- (c) Construction and maintenance of urban roads and associated infrastructure;
- (d) Construction and maintenance of storm drainage and flood controls;
- (e) Construction and maintenance of walkways and other non-motorized transport infrastructure;
- (f) Construction and maintenance of recreational parks and green spaces;
- (g) Construction and maintenance of street lighting;
- (h) Construction, maintenance and regulation of traffic controls and parking facilities;
- (i) Construction and maintenance of bus stands and taxi stands;
- (j) Regulation of outdoor advertising;
- (k) Construction, maintenance and regulation of Municipal infrastructure, markets and abattoirs;
- (l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promotion, regulation and provision of Municipal sports and cultural activities;
- (n) Promotion, regulation and provision of animal control and welfare;
- (o) Development and enforcement of Municipal plans and development controls;
- (p) Municipal administration services (including construction and maintenance of administrative offices);
- (q) Promoting and undertaking infrastructural development and services within Municipality.
- (r) Any other functions as may be delegated by the County Government in line with the provisions of the Urban Areas and Cities Act 2011 and other applicable laws.

3. THE MUNICIPAL BOARD OF THE MUNICIPALITY

3.1. Establishment of the Municipal Board

3.1.1. There shall be a Municipal Board of the Municipality of Masalani.

3.1.2. The Municipal Board of the Municipality shall be a body corporate with perpetual succession under a common seal and shall in its own corporate name, be capable of:

- (a) Suing and being sued.
- (b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) Borrowing money or making investments within the limits imposed by the law.
- (d) Entering into contracts; and
- (e) Doing or performing all other acts or things for proper performance of its functions in accordance with the urban areas and Cities Act or any other written law which may lawfully be done or performed by a corporate body.

3.1.3. There shall be a principal and agency relationship between the Municipal Board of the Municipality and the County Government as provided under section 11 of the Urban Areas and Cities Act 2011.

3.2. Powers and Functions of the Municipal Board of the Municipality

3.2.1. The Municipal Board of the Municipality shall have all the powers and perform all functions vested in Municipal Boards of Municipality entities under the Urban Areas and Cities Act, 2011 (Amended in 2019), the County Government Act, 2012 and County legislations.

3.2.2. Except as this Charter otherwise provides, all powers of the Municipality shall be vested in the Board of the Municipality.

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

3.2.4. Subject to the Constitution and any other written law, the BOARD of the MUNICIPALITY shall, within the boundaries of the Municipality of Masalani: -

- (a) Exercise executive authority as delegated by the County Executive Committee of the county of Garissa
- (b) ensure provision of services to its residents;
- (c) impose such fees, levies and charges as may be authorized by the County Government for delivery of services by the Municipality;
- (d) promote constitutional values and principles;
- (e) ensure the implementation and compliance with policies formulated by both the National and County Government;
- (f) make By-laws or make recommendations to the County Executive Committee on issues to be included in County legislation.
- (g) ensure participation of the residents in decision making, its activities and programmes; and
- (h) Exercise such other powers as may be delegated by the County Executive Committee of the County of Garissa.

3.2.5. Notwithstanding any other provision of law or this Charter, the Board of the Municipality shall exercise such executive authority as may be delegated by the County Executive Committee for the necessary performance of its functions.

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

- (a) oversee the affairs of the Municipality;
- (b) develop or adopt policies, plans, strategies and programmes and set targets for service delivery;
- (c) formulate and implement an integrated development plan;
- (d) control land, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centers, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations

Within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Garissa;

- (e) promoting and undertaking infrastructural development and services within the Municipality as delegated by the County Government of Garissa;
- (f) developing and managing schemes, including site development in collaboration with the relevant national and county agencies;
- (g) maintaining a comprehensive database and information system of the administration;
- (h) administering and regulating its internal affairs;
- (i) implementing applicable national and county legislation;
- (j) entering into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions According to section 33 of the urban Areas and cities Act.
- (k) monitoring and, where appropriate, regulating Municipal services where those services are provided by service providers other than the Board of the Municipality;
- (l) preparing and submitting its annual budget estimates to the relevant County Treasury, by relevant county government department for consideration and submission to the county assembly for approval as part of the annual County Appropriation Bill;
- (m) collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Garissa
- (n) settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Garissa
- (o) monitoring the impact and effectiveness of any services, policies, programs or plans;
- (p) establishing, implementing and monitoring performance management systems;
- (q) promoting a safe and healthy environment;
- (r) facilitating and regulating public transport
- (s) performing such other functions as delegated by the County Government of Garissa;

3.3. Composition and Term of the Municipal Board of the Municipality

3.3.1. A Board of a municipality shall be composed of nine (9) members appointed by the county governor with the approval of the county assembly, as provided for in the Urban Areas and Cities (Amendment) Act, 2019.

3.3.2. The members of the board appointed under subsection (1) shall be constituted as follows-

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

3.3.3 The four (4) members of the board of a municipality specified under subsection 3.3.2 (c) shall be nominated by -

- a) An umbrella body representing professional association in the area.
- b) An association representing the private sector in the area.
- c) A cluster representing registered associations of the informal sector in the area.
- d) A cluster representing registered neighborhood associations in the area;

3.3.4. The county governor shall, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

3.3.5. The term of the members of the Municipal Board of the Municipality shall be five (5) years and on a part-time basis.

3.4 Eligibility for Appointment as Member of the Municipal Board of the Municipality

3.4.1. The eligibility for appointment and term of Board of the Municipality shall be as provided in the Urban Areas and Cities (Amendment) Act, 2019, each member of Board of the Municipality shall have the following qualifications:

- (a) In case of the Chairperson holds a minimum of a degree while for any other member Holds a least a minimum of a diploma from an institution recognized in Kenya;
- (b) Has a distinguished career in a medium level management position in either the private or public sector;
- (c) In case of the chairperson shall Hold at least ten years' post-qualification professional experience; and for any other member of the Board Shall Hold at Least Five years' post-qualification professional experience
- (d) Satisfies the requirements of chapter six of the constitution.
- (e) Is ordinary residents or has a permanent dwelling in the municipality; and
- (f) Carries on business in the municipality or has lived in the municipality for at least five years.

3.5. Chairperson of the Municipal Board

3.5.1. At the first regular meeting of The Board of the Municipality, members of the Municipal Board of the Municipality shall elect from amongst themselves, a chairperson of the Municipal Board of the Municipality.

3.5.2. The chairperson of the Municipal Board shall hold office for a term of five (5) years.

3.6. Powers and Functions of the Chairperson

3.6.1. The Chairperson of the Municipal Board of the Municipality shall have the following powers and shall perform the functions set out below:

- (a) the chairperson shall be the head of the Municipal Board of the Municipality;
- (b) chairing the meetings of the Municipal Board of the Municipality; And
- (c) Perform such other duties as may be delegated by the Municipal Board of the Municipality.

3.7. Vice-Chairperson of the Municipal Board of the Municipality

3.7.1. At the first regular meeting of the Municipal Board of the Municipality, members of the Municipal Board of the Municipality shall elect from amongst themselves, a vice-chairperson of the Municipal Board of the Municipality.

3.7.2. The Chairperson and the Vice-Chairperson of the Board of the Municipality shall at all times be of different gender.

3.7.3. The Vice-Chairperson shall, in the absence of the Chairperson, perform the functions of the Chairperson and shall perform such other functions as may be delegated by the Chairperson.

3.8. Removal of the Chairperson and Vice-Chairperson

3.8.1. The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by:

- (a) By the Governor
- (b) By the Board, supported by the vote of at least two-thirds of the Members of the board
- (c) upon petition by a resident of the Municipality to the County Assembly where the petition has been received considered and its merit affirmed

3.8.2. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under 3.8.1 above may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

3.8.3. Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of Municipal Board of the Municipality may be filled in the manner provided under Article 3.6 and 3.7 respectively.

3.9. Secretary of the Municipal Board of the Municipality

3.9.1. The Municipal Manager or a person acting in his or her capacity shall be the secretary of the board. The secretary of the board shall not have a voting right in case of the need for casting of a vote during board's conduct of business or meetings.

3.9.2 Where the secretary of the Municipal Board of the Municipality is absent from any meeting, the members of the Municipal Board of the Municipality shall appoint a secretary of the BOARD from amongst themselves for purposes of that meeting.

3.10. Committees of the Board of the Municipality

3.10.1. The Board of the Municipality may:

- (a) establish such committees for any general or special purpose which, in its opinion, would regulate or manage its affairs more efficiently and as may be necessary for the performance of its functions under the urban areas and cities act;
- (b) delegate to such committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of the Board of the Municipality; and
- (c) Include persons who are not members of the Municipal Board in any committee.

3.10.2. The committees of the Board of the Municipality to which members of the Board of Municipality delegate any of their powers and functions must follow procedures which are based as a far as they are applicable on those provision of this Charter which govern the taking of decisions and performance of functions by the Municipal Board of the Municipality.

3.11. Remuneration of the Members of the Board of the Municipality

3.11.1. The Board of the Municipality shall not be entitled to a salary.

3.11.2. However, members of the Municipal Board of the Municipality shall be paid such allowances as the County Executive committee shall, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission, determine.

3.12. Removal of Members of the Board of the Municipality

3.12.1. A member of the Board of the Municipality shall cease to hold office if the member:

- (a) is unable to perform the functions of the office by reason of mental or physical deformity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the County Governor;
- (e) without reasonable cause, the member is absent from three consecutive meetings of the Board or committee of Board of the Municipality within one financial year;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) fails to declare his or her interest in any matter being considered or to be considered by the BOARD or board committees.
- (i) engages in any gross misconduct; or
- (j) dies.

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

- (a) the County Governor;
- (b) a resolution of the Municipal Board of the Municipality supported by at least two-thirds of the members of the Municipal Board of the Municipality; or
- (c) Petition by the residents of the Municipality to the County Assembly where the petition has been received, considered and its merit affirmed.

3.12.3. The procedure for the removal or petition for removal of a member of the Board of the Municipality under 3.11.1 above shall be provided by Regulation under the Urban Areas and Cities Act and in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

3.12.4. Any vacancy arising out of the removal of a member of the Board of the Municipality may be filled in the manner provided under Article 3.3 above.

3.13. Meetings of the Municipal Board of the Municipality

3.13.1. The Municipal Board of the Municipality shall hold its sittings to transact the business of the Municipal Board once every three months.

3.13.2. Notwithstanding Article 3.12.1, the Chairperson of the Board of the Municipality may, and upon request in writing by at least one-third of the members of the Board of the Municipality shall, convene a special meeting to transact any urgent business of the Board of the Municipality.

3.13.3. All regular meetings of the Board of the Municipality called for the purpose of transacting public business, where a majority of the members elected are present, shall be open to the public.

3.13.4. The Board shall have the privilege of holding executive sessions from which the public is excluded, however, no by-laws, resolution, rule or regulation shall be finally adopted at such an executive session.

3.14. Quorum

3.14.1. A majority of the members of the Board of the Municipality is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Board of the Municipality Rules.

3.14.2 A member of the Board of the Municipality who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Board of the Municipality, shall not be counted as participating in the discussions or decision-making, and is not entitled to vote on or agree to the subject or transaction relating to it.

3.15. Rules of the Municipal Board

3.15.1. The Board of the Municipality shall by resolution adopt rules to govern their code of conduct and its meetings.

3.16. Record of Information of the Municipal Board

3.16.1. The minutes and other information of the Board of the Municipality shall be kept by the secretary of the Board of the Municipality.

3.16.2 The Board shall furnish with the County Executive Committee or any other Person the County Executive Committee may designate with Certified Copies of the records of their proceedings, meetings and or documents as the County Executive Committee may require in line with Section 51 of the Urban Areas and Cities Act 2011

3.16.3. Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Urban Areas and Cities Act 2011.

3.17. **CITIZEN FORA**

3.17.1. The Municipal Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality in the management and administration of the Municipality as provided for in the Constitution of Kenya 2010 and other relevant Laws.

3.17.2. All recommendations from the Citizen Fora of the Municipality of Masalani shall be forwarded to the Board of the Municipality for resolution.

3.17.3. All recommendations on issues raised in the Citizen Fora and addressed by the Board of the Municipality shall be forwarded to the MUNICIPAL Manager for implementation.

4. LEGISLATIVE AUTHORITY

4.1. **BY-LAWS**

4.1.1. The legislative authority is vested in the county Assembly. However, the board of the Municipality may make by-laws and Forward recommendations to the county executive committee on issues to be included in county legislation.

4.2. **PASSING OF BY-LAWS**

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

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

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

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

4.2.5. Any such amendment, as contemplated in section 4.2.3 shall be applicable at least six months after being passed as per article 4.2.1

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

4.2.7 The By-laws shall then be submitted to the County Assembly for Consideration and approval.

4.2.8 The County Assembly shall deal with the by-laws as provided for under the Statutory Instruments Act of 2013.

4.2.9 The by-laws shall then be published in the Kenya Gazette.

4.3. Effective Date of By -Laws

4.3.1. By-laws shall take effect after publication in the Kenya Gazette

5. ADMINISTRATIVE AUTHORITY

5.1. Resolutions

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

5.2. Approval of Resolutions

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

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

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

5.2.4 The resolution of the Board shall then be submitted to the County Assembly for Consideration and approval as provided for under the Statutory Instruments Act of 2013.

5.3. Effective Date of Resolutions

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

6. THE MUNICIPAL MANAGER

6.1. Office of the Municipal Manager

6.1.1. There is established the office of the Municipal Manager.

6.1.2. The Municipal Manager shall be the administrative head of the Municipality of Masalani

6.2. Appointment and Term

6.2.1. The Municipal Manager shall be competitively recruited and appointed by the County Public Service board established under section 57 of the County Governments Acts 2012.

6.2.2 The Municipal Manager shall hold office for a term of five years.

6.3. Qualifications

6.3.1. Subject to article 232 of the Constitution, a person shall qualify to be appointed as city or municipal manager if the person:

- (a) Be a citizen of Kenya
- (b) Hold a degree from a university recognized in Kenya or its equivalent; and
- (c) Have proven experience of not less than ten years in administration or management either in public or private sector.

6.3.2. In appointing a Manager, under subsection (6.3.1) the County Public Service board shall ensure:

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

6.4. Functions and Powers of the Municipal Manager

6.4.1. The Municipal Manager shall implement the decisions and functions of the Municipal Board of the Municipality and shall be answerable to the Municipal Board.

6.4.2. The municipal manager shall perform the following functions:

- (a) Act on behalf of the Municipal Board of the Municipality-
 - (i) In ensuring the execution of the directives of the Municipal Board of the Municipality;
- (b) Prepare and present for approval of the BOARD of the Municipality, an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Municipal Board and forward the Estimates to the County Treasury for Consideration and advice.

- (c) Be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
- (d) Cause to be prepared, transmitted to the Board of the Municipality, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality.
- (e) Shall be the secretary and an ex-officio member of the Municipal Board.
- (f) Act as an ex-officio member of all committees of the Board of the Municipality; and
- (g) Such other functions as the Board may, by order, confer upon the Municipal Manager.

6.4.3. The Municipal Manager shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the Municipality. The Municipal Manager shall have the power and shall be required to:

- (a) Exercise supervision over all departments and agencies of the Municipality and provide for the coordination of their activities;
- (b) Enforce the provisions of this Charter, relevant county legislation, and all applicable laws;
- (c) Exercise powers granted to the Municipal Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers, employees, and members of committees of the Boards of the Municipality;
- (d) Exercise such other powers Vested to the Accounting officer of an Urban Area or the Municipal Manger as may be prescribed by this Charter, by-laws and other applicable laws.

6.4.4. The Municipal Manager must:

- (a) Attend all Board of the Municipality meetings unless excused by the chairperson of the Board or the Municipal Board of the Municipality;
- (b) make reports and recommendations to the Municipal Board of the Municipality about the needs of the Municipality after Conducting Public Participation and Consultative forums;
- (c) administer and enforce all Municipality by-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;

- (d) With approval of the board, organize Municipality departments and administrative structure;
- (e) prepare and administer the annual Municipality budget;
- (f) administer Municipality utilities and property;
- (g) encourage and support regional and intergovernmental cooperation;
- (h) promote cooperation among the Board of the Municipality, staff and citizens in developing Municipality policies and building a sense of community;
- (i) perform other duties as directed by the Board of the Municipality;
- (j) Delegate duties, but remain responsible for acts of all subordinates.

6.4.5. The Municipal Manager shall have no authority over the Board of the Municipality.

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

6.5. Remuneration

6.5.1. The County Public Service board shall set the compensation and determine the conditions of employment of the Municipal Manager as advised by the Salaries and Remuneration Commission

6.6. Removal of the Municipal Manager

6.6.1. The Municipal Manager may be removed from office by

- (a) The County Governor,
- (b) upon a resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- (c) A Petition to the County Assembly by the residents of the Municipality where the petition has been received, considered and its merit affirmed

6.6.2. The Municipal Manager shall cease to hold office upon the lapse of the employment term or if he/she:

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the County Public Service Board and the Governor
- (e) without reasonable cause, is absent from three consecutive meetings of the Board of the Municipality;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) engages in any gross misconduct; or
- (i) dies.

6.6.3. The procedure for the removal of the Municipal Manager may be provided by the Regulations made under the County Government Act (No. 17 of 2012) and in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

6.6.4. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 6.2 above.

6.7 ACTING MUNICIPAL MANAGER

6.7.1 When the Municipal Manager is temporarily disabled from Acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Public Service Board shall appoint a qualified person to be an Acting Municipal Manager in line with the provisions of section 59 1 (b) of the County Government Act 2012.

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

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

7. MUNICIPALITY FINANCES AND FINANCIAL MANAGEMENT

7.1. Sources of the Municipality's Funds and Revenue

7.1.1. The Board of the Municipality shall derive its revenue and funds from:

- (a) monies allocated by the county assembly for the purposes of the management and service delivery of the Municipal Board;
- (b) monies or assets that may accrue to the Municipal Board in the course of the exercise of its powers or the performance of its functions;
- (c) all monies or grants from any other legitimate source provided or donated to the Municipal Board;
- (d) revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by Municipality for the purpose of defraying its costs for providing services; as determined under the Finance Act of the Garissa County Assembly;
- (e) investment income;
- (f) all monies or grants from any other legitimate source provided or donated to the Board; and
- (g) Borrowing as provided for under section 140 and 177 of the PFM Act.

7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

7.2.1 The Municipality Accounting Officer shall be the Municipal Manager and shall be designated by the County Executive Committee Member for Finance in the manner provided for under Section 148 of the Public Finance Management Act.

7.3. FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER

7.3.1 The Municipality Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act.

7.3.2. Without prejudice to the foregoing, the Municipality accounting officer shall be responsible for managing the finances of the Municipality.

7.4. FINANCIAL YEAR

7.4.1. The Municipality shall operate on an annual budget.

7.4.2. The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth June in each year.

7.5. Budget

7.5.1. The budget of the Board of the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act.

7.6. MANAGEMENT OF MUNICIPALITY FINANCES

7.6.1. The Municipal Board of the Municipality shall, with the approval of the County Executive committee member for finance, open and maintain a bank account in the name of the Municipality.

7.6.2. All monies received by the Board of the Municipality shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.

7.6.3 The board shall, within three months of its inception, establish relevant financial administrative policies to ensure efficient and effective municipal operations.

7.6.4 The Municipal manager shall submit an annual financial Management and administration report of the municipality to the County Assembly for consideration as provided for under Section 170 (b) of the public Finance Management Act.

7.6.5 The County Assembly shall where necessary, summon the Board Members and or Municipal Manager to appear before relevant Committee of the Assembly to respond to any matter related to their mandate and functions .

7.7. Borrowing by the Municipality

7.7.1. The Board of the Municipality may only borrow from: -

- (a) from the County Government in line with Section 177 (2) of the PFM Act
- (b) through the County Government in line with section 140 of the PFM Act
- (c) by way of a bank overdraft, provided that such borrowing or obtaining of bank overdraft shall be approved by the County Assembly and subject to such terms as may be imposed by the County Assembly or such terms as provided by law.

7.8. Audit

7.8.1. The audit of the Board of the Municipality shall be as provided for under Section 46 and 47 of the Urban Areas and Cities Act 2011 and the provisions of the Public Audit Act 2015

8. MUNICIPALITY PERSONNEL

8.1. Municipality Personnel

8.1.1. The Board of the Municipality may, subject to the approval by the County Public Service Board, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or any other laws.

8.2. Management of Municipal Personnel

8.2.1. Employees of the Municipality shall be under the general guidance and supervision of the Municipal Manager

8.3. Retirement Benefits

8.3.1. The officers Board and staff of Masalani Municipality shall be covered by an existing retirement and pension schemes applicable to the employees of the County Government of Garissa.

8.4. Compensation of Municipal Personnel

8.4.1. The compensation of all employees of the Municipality shall be set by the County Public Service board upon the advice of the Salaries and Remuneration Commission.

9. MUNICIPALITY PROPERTY

9.1. Acquisition, Possession and Disposal

9.1.1. The Board of the Municipality is a body corporate and may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Municipality in line with the Public procurement and Asset Disposal Act

9.1.2. All Town property and funds of every kind belonging to or in the possession of the Town (by whatever prior name known) at the time this Charter becomes effective are vested in the Municipality, subject to the terms and conditions thereof.

9.2. Compulsory Acquisition

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

9.2.2. The provisions of the Land Act shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

Municipality Buildings

1. The Board of the Municipality may acquire, obtain by lease or rent, purchase, construct, rate, and maintain all buildings and structures it deems necessary for the operation of the municipality.

Protection of Municipality Property

1. The Board of the Municipality may do whatever necessary to protect Municipality property to keep all Municipality property in good condition.

GENERAL PROVISIONS

Oath of Office

1.1. Before entering upon the duties of their offices, the Municipal Manager, the Chairperson Vice-Chairperson and the members of the Municipal Board, and all other persons elected or appointed to any office of profit or trust in the Municipality, as determined by Municipal Board, I take and subscribe to the following oath or affirmation:

.....], being called on to exercise the functions of [.....] of the Municipality of Masalani, wear/solemnly affirm that that I will at all times be faithful to the Republic of Kenya; that I will obey, protect and uphold this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Masalani, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [.....] of the Municipality of Masalani or otherwise under the law. So help me God.

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

10.2. Amendments to the Charter

10.2.1. The County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter

10.2.2. The County Governor shall cause a copy of the Amended Charter to be laid before the County Assembly within 30 days of its amendment for approval before the amendments take effect

10.3. SEPARABILITY

10.3.1. If, at any time, any provision of this Charter is or becomes illegal, invalid or unenforceable in any respect under Kenyan law, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision will in any way be affected or impaired.

11. TRANSITIONAL PROVISIONS

11.1.2 Effective Date of Charter

11.1.1. The provisions of this Charter shall be in effect from and after publication in the Kenya Gazette.

11.2. Rights and Privileges Preserved

11.2.1. Nothing in the Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are Town Officials, Officers or Employees at the time of its adoption.

11.3. Departments

11.3.1. All Town Departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this Charter becomes effective until changed by the Municipal Manager with the approval of the Board of the Municipality.