



**GOVERNMENT OF MAKUENI COUNTY**

**THE MUNICIPAL CHARTER**

**FOR**

**EMALI- SULTAN HAMUD MUNICIPALITY**

**NOVEMBER, 2022**

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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 (amended, 2019) 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.

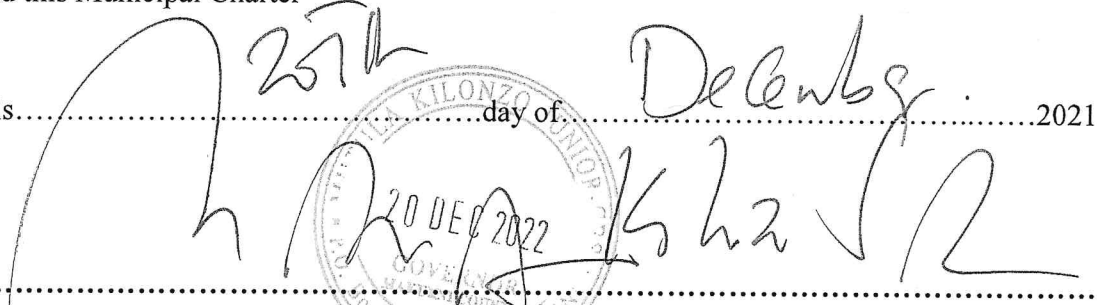


**WHEREAS**

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.

**NOW THEREFORE IN EXERCISE** of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, (No. 13 of 2011 amended 2019) 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 Makueni County **HEREBY GRANTS** the Municipality of Emali – Sultan Hamud this Municipal Charter

On this 25<sup>th</sup> day of December 2021



**H.E HON. MUTULA KILONZO JR. CBS**  
**GOVERNOR, MAKUENI COUNTY**

**GOVERNMENT OF MAKUENI COUNTY SEAL**

## 1. INCORPORATION, NAME AND BOUNDARIES

### 1.1. INCORPORATION AND NAME

1.1.1. This Charter shall be referred to as the Emali – Sultan Hamud Municipality Charter.

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 Municipality of Emali- Sultan Hamud as now existing or as may subsequently be altered shall be the boundaries of the Municipality of Emali- Sultan Hamud. The Emali- Sultan Hamud Municipality will include the entire Kasikeu, Mbitini and Emali/Mulala Wards and a sections of Nguu/Masumba and Nzaui Kilili Kalamba ward; and shall be defined to include the sub-locations therein. The municipality covers approximately 678 Square Kilometres.

1.2.2 The Municipality will include the entire Kasikeu Ward, which has the following urban centres; Sultan – Hamud, Nguuni, Kamuuani, Muua, Kaseve, Ngokomi, Kalimbini, Kwandolo, Soweto, Musaani, Kwa Muteta, Kandolo, Yale, Ndumbini, Ikuutani, Ngandani, Mbiini, Kiluluini, Kwa katia, Masaani, Wathini, Enguli, Kwandiki, Mbyani, Muangini and any other urban centre within the ward.

1.2.3 The Municipality will include the entire Mbitini ward, which has the following urban centres; Kiuani, Matiku, Ndauni, Mbuthani, Kavuthu, Mbulutini, Kathikwani, Kwa kiwu, Mungyani, Mwanyani, Kwangiti, Ikuyuni, Midway, Kyumbani, Kamuthiani, Mutyambui, Barazani, Katheka, Manooni, Kyemundu, Kwa Mutula and any other urban centre within the ward.

1.2.4 The Municipality will include entire Emali/Mulala Ward: which has the following urban centres; Emali, Kongo, Kwa Kyambo, Kwa Kivoko, Katiini, Kosovo, Katune, Ndiuni, Katingani, Kwa Ndeke, Tutini, Kwa kakulu, Mwasangombe, Ndungune, Kathome/Kwa shitua, Mwanyani, Kisaani/Nduundune, Kativa/Muvuo, Ngomongo, Kwakotoe, Kitivani, Uvilisyani, Mulala, Kitisaa and any other urban centre within the ward.

1.2.5 The Municipality will include part of Nguu/Masumba Ward: which has the following urban centres; Thithi, Makasa, Utini, Ndunguni, Kikumini, Ndulu, Mithumoni and any other urban centre within the ward.



1.2.6 The Municipality will include part of Nzaui Kili Kalamba Ward; which has the following urban centres: Matiliku, Kawala, Ndumoni, Kukui, Maumi, Mulangoni, Kiliani, Kwambiti, Ndovea, Jasho, Kyeeko, Ngaa, and Kwabambu,

12.7 The Municipality will include the following sub-location as categorized in each ward;

<b>Ward</b>	<b>Sub-location</b>
<b>Kasikeu</b>	Kwale
	Uvaleni
	Wathini
	Kiou
	Sultan hamud
	Muani
	Kasikeu
	Mumela
	Katani
	Mumbwani
	Mungyani
<b>Mbitini</b>	Kithumani
	Mutiswa
	Manooni
	Yumbani
	Mwasangombe
	Kyemundu
	Mbeletu
	Kaliini
	Masue
	Kavuthu
	Matiku
Emali/Mulala	Mutyambua
	Vulueni
	Ngetha
	Maatha
	Tutini
	Iteta
	Katune
	Kwa Kakulu
	Emali
Nguu/Masumba	Kikumini
	Ndunguni
	Makasa
	Thithi
	Mithumoni
	Kawala



Ward	Sub-location
NZaii Kilili Kalamba	Matiliku
	Nzeeni
	Kithumba

### 1.2.7 The Municipality demographic analyses

#### Demographic Analyses

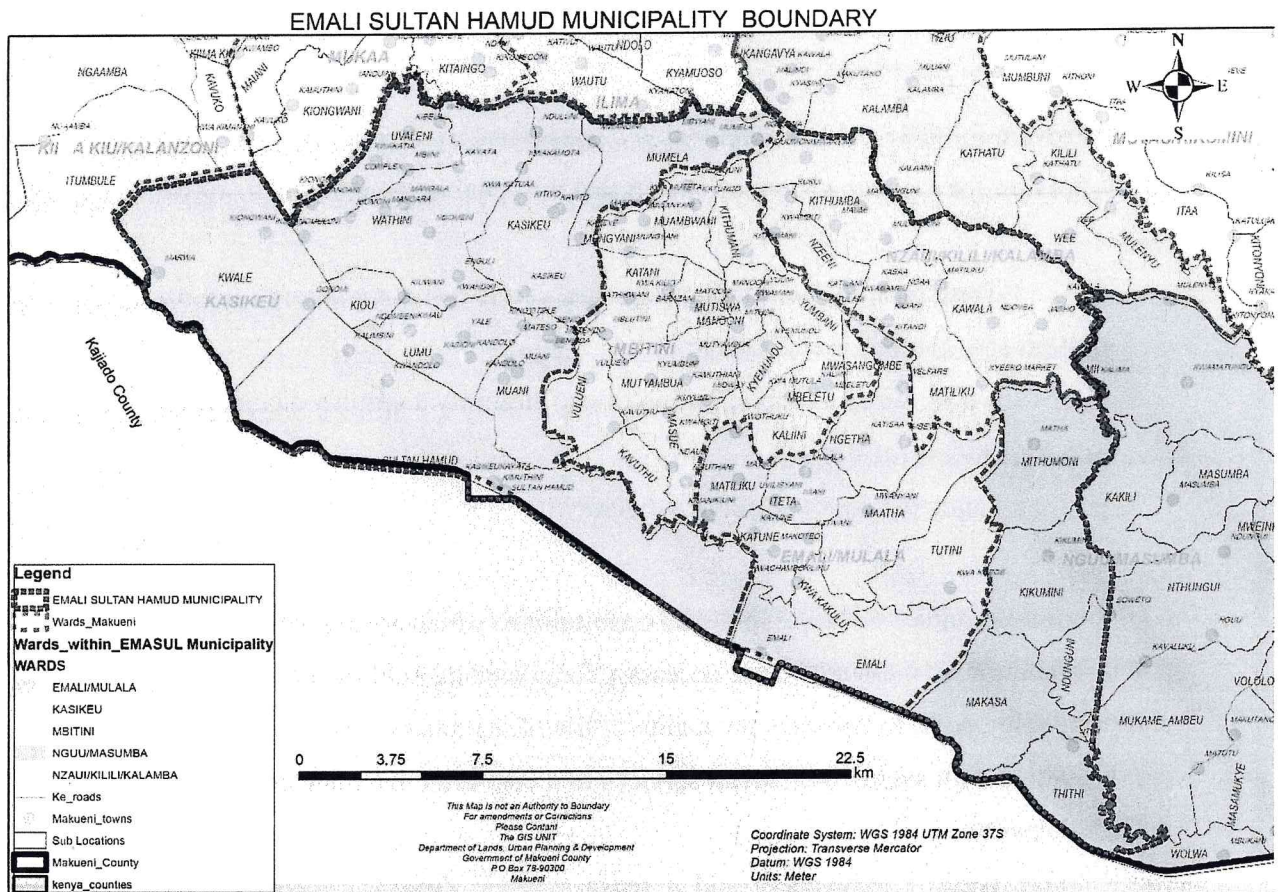
As per the 2019 Kenya Population and Housing Census, the proposed municipality had a population of **108,552** as of 2019. The population growth rate of the entire County is estimated to be 1.3 %. Using the estimated population growth rate, Emali- Sultan Hamud Municipality has a projected population of **111,288** as of 2021.

#### Municipality Projected Population Analyses by sub-locations

	Administrative units	Base population	Projected population
	Sub-locations	2019	2021
<b>Kasikeu Ward – Mbooni West</b>			
1.	Kwale	2962	3040
2.	Uvaleni	3673	3770
3.	Wathini	6161	6323
4.	Kiou	2129	2185
5.	Sultan hamud	6195	6358
6.	Muani	3931	4035
7.	Kasikeu	4379	4494
8.	Mumela	3393	3482
9.	Mumbwani	784	805
10.	Mungyani	2014	2067
<b>Sub-Total</b>		<b>35621</b>	<b>36559</b>
<b>Mbitini Ward</b>			
11.	Kithumani	1326	1361
12.	Mutiswa	2744	2816
13.	Manooni	1231	1263
14.	Yumbani	1648	1691
15.	Mwasangombe	851	873
16.	Kyemundu	1154	1184
17.	Mbeletu	1292	1326
18.	Kaliini	2275	2335
19.	Masue	3474	3566
20.	Kavuthu	1750	1796
21.	Matiku	2781	2854
22.	Vulueni	2486	2551

23.	Katani	1946	1997
<b>Sub-Total</b>		<b>24958</b>	<b>25613</b>
<b>Emali/Mulala Ward</b>			
24.	Mutyambua	1908	1958
25.	Ngetha	3159	3242
26.	Maatha	3068	3149
27.	Tutini	2520	2586
28.	Iteta	2399	2462
29.	Katune	3001	3080
30.	Kwa Kakulu	683	701
31.	Emali	11790	12101
<b>Sub-total</b>		<b>28528</b>	<b>29279</b>
<b>Nguu/Masumba Ward</b>			
32.	Kikumini	1843	1892
33.	Ndunguni	1191	1222
34.	Makasa	923	947
35.	Thithi	1980	2032
36.	Mithumoni	2272	2332
<b>Sub-total</b>		<b>8209</b>	<b>8425</b>
<b>Nzaui Kilili Kalamba</b>			
37.	Matiliku	3644	3695
38.	Kawala	2686	2727
39.	Kithumba	3101	3152
40.	Nzeeni	1805	1838
<b>Sub-total</b>		<b>11236</b>	<b>11412</b>
<b>Municipality Population</b>		<b>108,552</b>	<b>111,288</b>

The proposed municipality is as shown in the map below:



## 2. POWERS, OBJECTS, AND FUNCTIONS OF THE MUNICIPALITY

### 2.1. POWERS OF THE MUNICIPALITY

2.1.1. The Municipality of Emali-Sultan Hamud 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 any other relevant laws.

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 Board of the Municipality may determine, or, unless a contrary intent appears in this Charter or in the Resolutions of the Board of the Municipality, in such manner as may be provided by the County Laws and Regulations.

### 2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality of Emali-Sultan Hamud 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.

- (i) 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.
- (ii) Provide a high standard of social services in a cost-effective manner to the inhabitants of the Municipality.
- (iii) 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.
- (iv) Providing for services on all matters for Municipality's benefit.
- (v) Fostering the economic, social and environmental well-being of its community.

### 2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. The Municipality of Emali-Sultan Hamud shall, within the boundaries of the Municipality, perform the following functions:

- i. Promotion of Urban Planning, Design and aesthetics;
- ii. Promotion of decent and affordable housing;
- iii. Promotion, regulation and provision of refuse collection and solid waste management services;
- iv. Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- v. Construction and maintenance of urban roads and associated infrastructure;
- vi. Construction and maintenance of storm drainage and flood controls;



- vii. Construction and maintenance of walkways and other non-motorized transport infrastructure;
- viii. Construction and maintenance of recreational parks and green spaces;
- ix. Construction and maintenance of street lighting;
- x. Construction, maintenance and regulation of traffic controls and parking facilities;
- xi. Construction and maintenance of bus stations and taxi stands;
- xii. Regulation of outdoor advertising;
- xiii. Construction, maintenance and regulation of municipal markets and abattoirs;
- xiv. Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- xv. Promotion, regulation and provision of municipal sports and cultural activities;
- xvi. Promotion, regulation and provision of animal control and welfare;
- xvii. Development and enforcement of municipal plans and development controls;
- xviii. Municipal administration services (including construction and maintenance of administrative offices);
- xix. Promoting and undertaking infrastructural development and services within municipality;
- xx. Controlling and abating of nuisance from public or private property;
- xxi. Provide for the destruction and/or removal of any public hazards which may become dangerous or detrimental to the public;
- xxii. Any other functions as may be delegated by the County Executive Committee

### 3. THE BOARD OF THE MUNICIPALITY

#### 3.1. ESTABLISHMENT OF THE BOARD

3.1.1. There shall be a Board of the Municipality of Emali- Sultan Hamud

3.1.2. The Board of the Municipality shall be a corporate body with perpetual succession and 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 law;
- d. Entering into contracts; and
- e. Doing or performing all other activities or things for the 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 body corporate.

3.1.3. There shall be a principal and agency relationship between the Board of the Municipality and the County Government of Makueni.

### 3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

3.2.1. The Board of the Municipality shall have all the powers and perform all functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.

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 Emali-Sultan Hamud:

- (a) Exercise executive authority as delegated by the County Executive Committee of the County of Makueni
- (b) Ensure provision of services to its residents
- (c) Impose such fees, levies, and charges as may be authorised 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 affecting the Municipality formulated by both the National and County Government
- (f) Make By-laws or make recommendations for issues to be included in By-laws
- (g) Ensure participation of the residents in decision-making, its activities, and programmes.
- (h) Exercise such other powers as may be delegated by the County Executive Committee.



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 centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Makueni;
- (e) Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Makueni;
- (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 or the discharge of its functions;
- (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 County Treasury 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 Makueni;

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line extending to the right.

- (n) Settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Makueni;
- (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; and
- (s) Performing such other functions as delegated by the County Government of Makueni.

### 3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY

3.3.1. The composition, eligibility for appointment and term of Board of the Municipality shall be as provided in the Urban Areas and Cities (Amendment) Act, 2019.

3.3.2 The Board of the Municipality shall be composed of nine (9) members. The members of the board shall be constituted as follows—

3.3.3. The county executive member for the time being responsible for cities and urban areas or his representative;

3.3.4 The chief officer responsible for urban development;

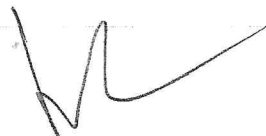
3.3.5 The municipal manager appointed under section 6 who shall be the secretary of the board and an ex officio member of the board.

3.3.6. Three (3) members who shall be appointed by the county governor, with the approval of the county assembly;

3.3.7 Four members (4) who shall be nominated by an association and appointed by the county governor, with the approval of the county assembly. The Four members shall be nominated by:

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

3.3.8. The representative bodies in 3.3.4 (a-d) shall each nominate three (3) members to the Board and the Governor shall appoint one person to represent each body with the approval of the County Assembly.





3.3.9. In appointing members of the Board of the Municipality, the Governor shall ensure gender equity, representation of persons with disability, youth and marginalised groups.

3.3.10. The term of the members of the Board of the Municipality shall be five (5) years on a part-time basis and shall be eligible for renewal for a further one term.

#### 3.4. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD OF THE MUNICIPALITY

3.4.1. Each member of the Board of the Municipality shall have the following qualifications:

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

#### 3.5. CHAIRPERSON OF THE BOARD

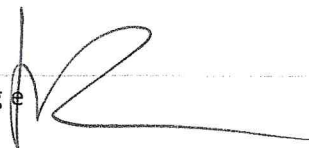
3.5.1. The chairperson shall be elected by the members of the board from among themselves during the first meeting of the board.

3.5.2. The Chairperson of the Board shall hold office for five (5) years on a part-time basis and shall be eligible for re-appointment for a further one term.

#### 3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON

3.6.1. The Chairperson of the 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 Board of the Municipality;
- (b) Chairing the meetings of the Board of the Municipality, and;
- (c) Perform such other duties as may be delegated by the Board of the Municipality.



### 3.7. VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY

3.7.1. At the first regular meeting of the Board of the Municipality, members of the Board of the Municipality shall elect from amongst themselves, a Vice-Chairperson of the 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:

- i. A majority decision of the members of Board of the Municipality at a duly convened meeting where quorum is present; or
- ii. Upon petition by the residents of the Municipality to the Governor and the Governor decides upon hearing

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 Board of the Municipality may be filled in the manner provided under Article 3.6 and 3.7 respectively.

### 3.9. SECRETARY OF THE BOARD OF THE MUNICIPALITY

3.9.1. The Municipal Manager shall be the Secretary to the Municipal Board and an ex-officio Member of the Board.

3.9.2 Where the Secretary of the Board of the Municipality is absent from any meeting, the members of the 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 Board in any Committee.

3.10.2. The Committees of the Board of the Municipality to which members of the Board of the Municipality delegate any of their powers and functions must follow procedures which are based as far as they are applicable on those provisions of this Charter which govern the taking of decisions and performance of functions by the 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 Board of the Municipality shall be paid such allowances as the County Executive Committee shall 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 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 Governor;
- (e) Without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the 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 Board of the Municipality may be removed from office by;

(a) The Governor;

(b) 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) Upon petition by the residents of the Municipality to the Governor and the Governor decides upon hearing.

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.

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.

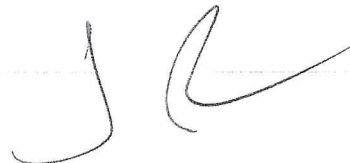
### 3.13. MEETINGS OF THE BOARD OF THE MUNICIPALITY

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

3.13.2. Notwithstanding Article 3.13.1, 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 to 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 BOARD

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

### 3.16. RECORD OF INFORMATION OF THE 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. 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.

### 3.17. CITIZEN FORA

3.17.1. The Board of the Municipality shall ensure for the participation of the residents of the Municipality of Emali- Sultan Hamud in the management and administration of the Municipality.

3.17.2. All recommendations from the Citizen Fora of the Municipality of Emali-Sultan Hamud 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.

3.17.3 The Citizen Fora shall be convened in accordance with the County Government laws on public participation.

#### 4. LEGISLATIVE AUTHORITY

##### 4.1. BY-LAWS

4.1.1. The Board of the Municipality shall exercise its legislative authority by passing Municipality By-laws.

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

##### 4.3. EFFECTIVE DATE OF BY-LAWS

4.3.1. By-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.

4.3.2. A By-law may take effect as soon as adopted or another date less than 30 days after adoption if it contains an emergency clause.

#### 5. ADMINISTRATIVE AUTHORITY

##### 5.1. RESOLUTIONS

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

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## 5.2. APPROVAL OF RESOLUTIONS

5.2.1. Approval of a resolution or any other Board administrative decision requires approval by the 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 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 Board minutes.

## 5.3. EFFECTIVE DATE OF RESOLUTIONS

5.3.1. Resolutions and other administrative decisions take effect on the date of approval, or on a later day 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 Emali-Sultan Hamud.

### 6.2. APPOINTMENT AND TERM

6.2.1. The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.

6.2.2. The Municipal Manager may be appointed for a definite or an indefinite term.



### 6.3. QUALIFICATIONS

6.3.1. The Municipal Manager shall:

- (a) Be a citizen of Kenya
- (b) Hold a degree from a university recognized in Kenya or its equivalent
- (c) Have served and had proven experience in administration or management either in public or private sector for a term of at least five years.

6.3.2. In appointing the Municipal Manager, the County Public Service Board shall ensure:

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

6.3.3. The Municipal Manager need not be resident within the Municipality.

### 6.4. FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER

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

6.4.2. The Municipal Manager shall perform the following functions:

- (a) Act on behalf of the Board of the Municipality-
  - i. In ensuring the execution of the directives of the Board of the Municipality;
  - ii. During all intervals between meetings of the Board of the Municipality;
- (a) 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 Board;
- (b) 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;
- (c) 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.
- (d) Act as an ex-officio member of all committees of the Board of the Municipality; and
- (e) 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, Municipal By-laws, 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 Board of the Municipality;
- (d) Exercise such other powers as may be prescribed by this Charter, by-laws and 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 Board of the Municipality;
- b) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
- c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- d) On approval by the Board of the Municipality, liaise with the County Public Service Board for the staffing needs, appointment, and removal of Municipality employees in accordance with the County Governments Act;
- e) With the approval of the Board of the Municipality, organise Municipality departments and administrative structure;
- f) In consultation with the Board prepare and administer the annual Municipality budget;
- g) Administer Municipality utilities and property;
- 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 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 and other staff of the Municipality in line with the guidelines 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;

- i. The Governor;
- ii. A resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- iii. Upon petition by the residents of the Municipality to the Governor and the Governor decides upon hearing

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 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 Governor shall appoint a qualified person to be an Acting Municipal Manager on the recommendation of the Board.

6.7.2. The Governor shall appoint an interim Municipal Manager to act in the interim before the recruitment of the first Manager as per this Charter.

6.7.3. The Governor shall inform the County Public Service Board of such appointment within seven (7) days.

6.7.4. 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 the approval of the Board of the Municipality.

6.7.5. 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. MUNICIPAL 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 Board;
- (b) Monies or assets that may accrue to the 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 Board;
- (d) Revenue arising from rates, fees, levies, charges and other revenue-raising measures which are retained by Municipality for the purpose of defraying its costs for providing services;
- (e) Investment income; and

(f) Borrowing in line with the Public Finance Management Act.

## 7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

7.2.1. The Municipality Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner provided 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 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.

## 7.7. BORROWING BY THE MUNICIPALITY

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

(a) From the County Government;

(b) Through the Government; or

(c) By way of a bank overdraft 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 under Section 46 and 47 of the Urban Areas and Cities Act.

## 7.9. REVENUE RETURNS TO THE COUNTY RECEIVER OF REVENUE

7.9.1. The Municipal Manager shall, through the board of Municipality, undertake periodic revenue returns to the County Receiver of Revenue on quarterly basis.

## 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 law.

### 8.2. MANAGEMENT OF MUNICIPAL PERSONNEL

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

### 8.3. RETIREMENT SYSTEM

8.3.1. The Board of the Municipality may with the approval of the County Public Service Board, do all things necessary to include its officers and employees, or any of them within any retirement system or pension system under the terms applicable, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Board of the Municipality.

### 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.

9.1.2. The County Executive Committee shall determine the assets and staff to be transferred to the Municipality with the approval of the County Assembly



## 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 in charge of 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.

## 9.3. MUNICIPAL BUILDINGS

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

## 9.4. MUNICIPAL ASSET REGISTER

9.4.1. The Municipal Manager shall maintain a Municipal asset register of all movable and immovable property at the time belonging to the Municipality.

9.4.2. The register shall be current, accurate and available to the Board.

## 9.5. PROTECTION OF MUNICIPALITY PROPERTY

9.5.1. The Board of the Municipality may do whatever may be necessary to protect municipal property and to keep all municipal property in good condition.

## 10.0. MUNICIPAL PLANNING AND ZONING

### **10.1. Planning**

10.1.1. The Municipal Manager shall establish a functional unit responsible for municipal planning and control of development within the Municipality.

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## 11. GENERAL PROVISIONS

### 11.1. OATH OF OFFICE

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

*“I, [...], being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of the Municipality of Emali-Sultan Hamud, do swear/solemnly affirm that that I will at all times be faithful to the Republic of Kenya; that I will obey, respect 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 Emali-Sultan Hamud, 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 [Municipal Manager/Chairperson, etc.] of the Municipality of Emali-Sultan Hamud or otherwise under the law. (In the case of an oath— So help me God.”*

11.1.2. The Municipal Manager shall take and subscribe to this oath or affirmation before the Governor or before the deputy Governor. All other persons taking and subscribing to the oath shall do so before the Municipal Manager.

### 11.2. AMENDMENTS TO THE CHARTER

11.2.1. The Governor may at any time, after consultation with the Board of the Municipality, propose amendments to any provision of this Charter.

11.2.2. The Governor shall cause the proposed amendments of the Charter to be laid before the County Assembly for approval.



### 11.3. 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 anyway be affected or impaired.

### 12. TRANSITIONAL PROVISIONS

#### 12.1. EFFECTIVE DATE OF CHARTER

11.1.1. The provisions of this Charter shall be in effect from and after the date of conferment by the Governor.

#### 12.2. PERSONNEL

To operationalize this Charter, the County Public Service Board in consultation with the Municipality Board, may second on interim capacity officers currently in service of the County Government to serve in relevant capacities within the Municipality

#### 12.3. DEPARTMENTS

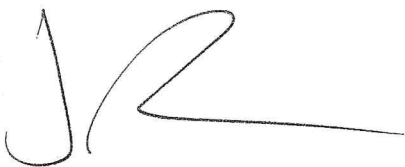
12.3.1. County Departments performing functions of the Municipality within the jurisdiction of the Municipality shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this Charter becomes effective until changed by the Municipal Manager with the approval of the Board of the Municipality.



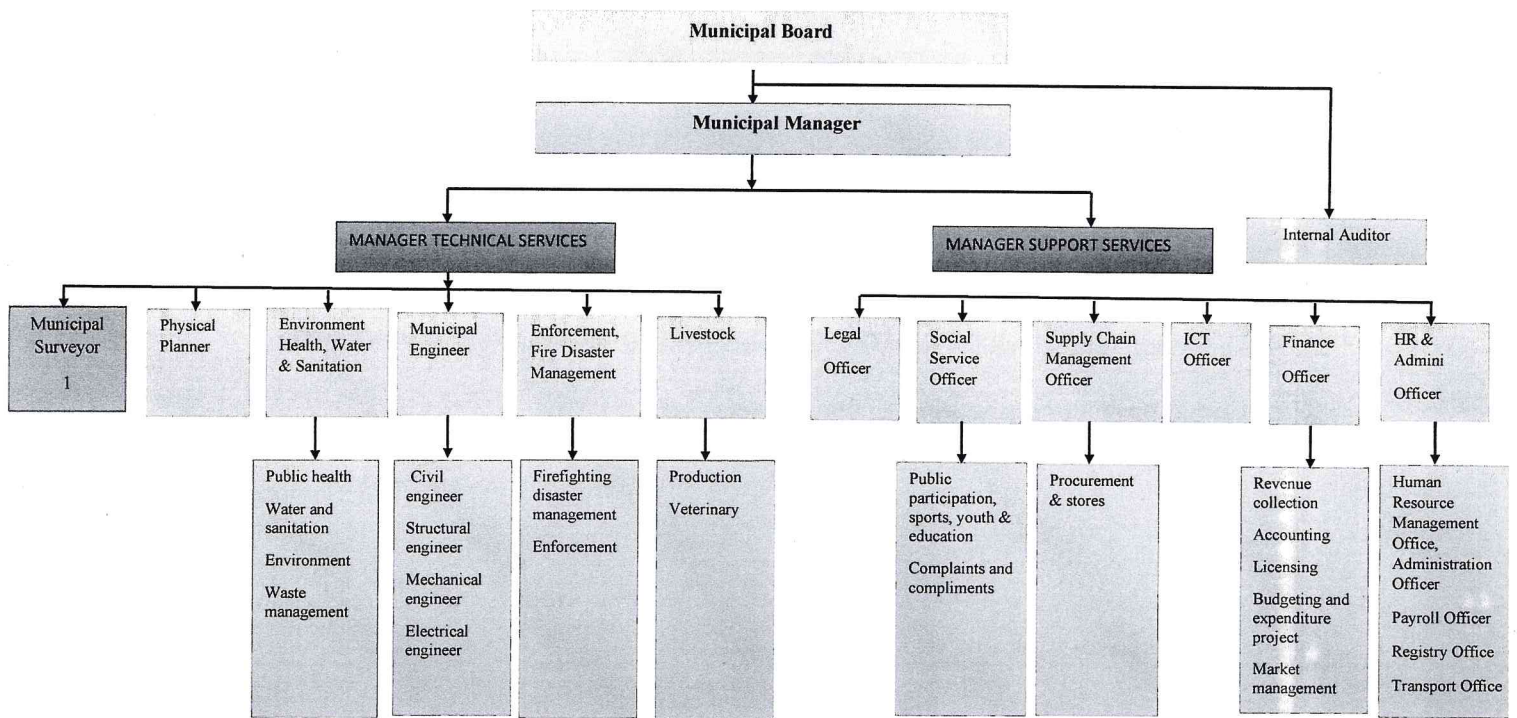
#### 12.4. COUNTY PROPERTY WITHIN THE MUNICIPALITY

12.4.1. For the purposes of transfer of existing County property to the newly created Municipality of Emali-Sultan Hamud, the County Governor shall constitute an ad hoc committee, chaired by County Executive Committee Member for Finance and for which the County Secretary shall be the secretary, to:

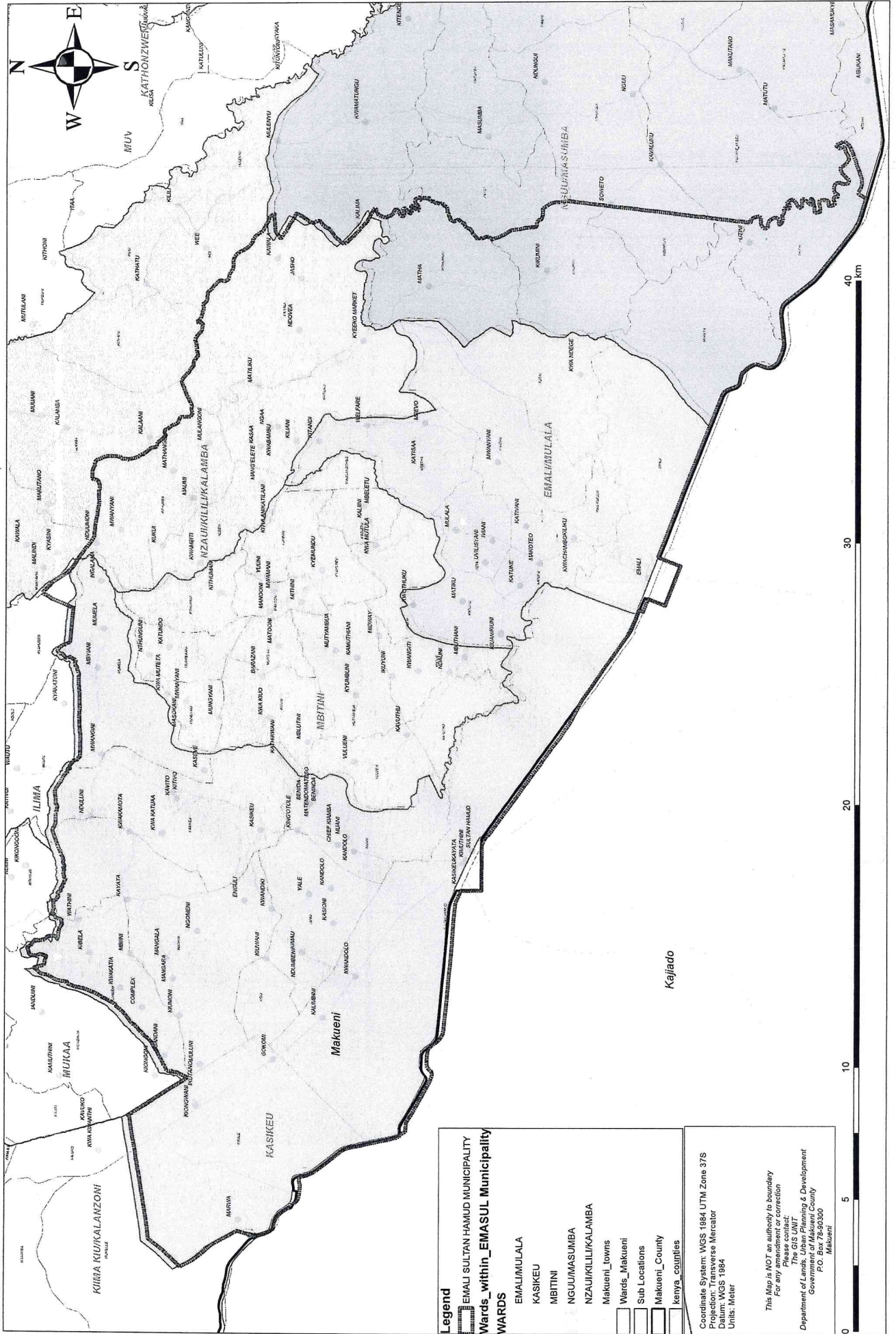
- i. Prepare and validate an inventory of all existing property and liabilities of County Government within the Municipality
- ii. Provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transition period.
- iii. Develop the criteria as may be necessary to determine the transfer of assets from the County Government to the Municipalities, including:
  - a. Such criteria as may be necessary to guide the transfer of functions from the County Governments.
  - b. Determine criteria for municipality for transfer of the assets, liabilities and staff of the County Government to the Municipality Authorities.
- iv. Make recommendations for the effective management of assets by the municipality.
- v. Make any other recommendation as may be necessary.



12.5. PROPOSED MUNICIPALITY ORGANOGRAM



# EMALI SULTAN HAMUD MUNICIPAL BOUNDARY



**Legend**

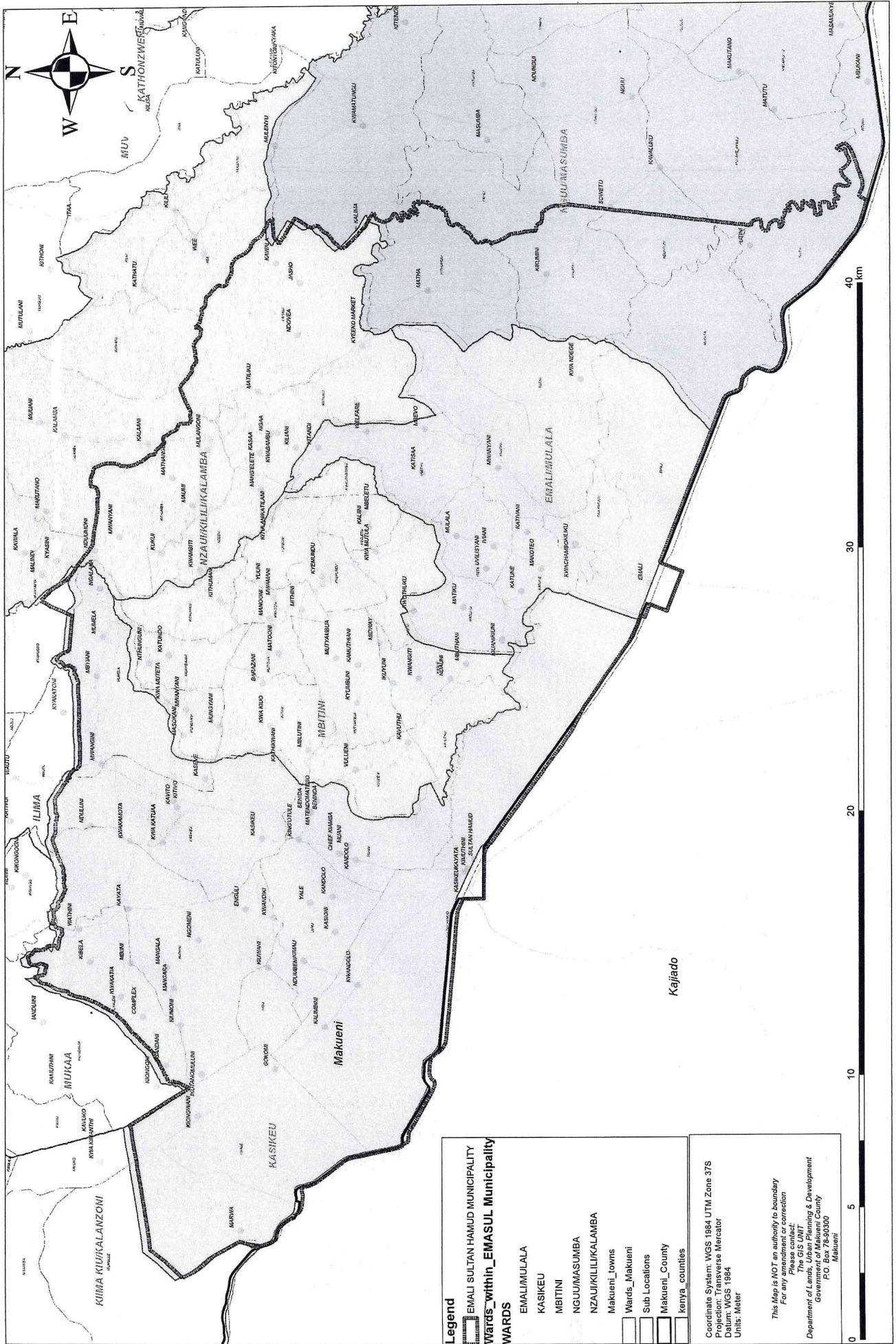
- EMALI SULTAN HAMUD MUNICIPALITY
- Wards\_within\_EMASUL Municipality
- WARDS**
- EMALIMULALA
- KASIKEU
- MBITINI
- NGUUMASUMBA
- NZAUJKILIKALAMBA
- Makueni\_lowins
- Wards\_Makueni
- Sub Locations
- Makueni\_County
- Kenya\_counties

Coordinate System: WGS 1984 UTM Zone 37S  
 Projection: Transverse Mercator  
 Datum: WGS 1984  
 Units: Meter

*This Map is NOT an authority to boundary  
 For any correction  
 Please contact:  
 The GIS UNIT  
 Department of Lands, Urban Planning & Development  
 Government of Makueni County  
 P.O. Box 78,003,04  
 Makueni*

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# EMALI SULTAN HAMUD MUNICIPAL BOUNDARY



**Legend**

EMALI SULTAN HAMUD MUNICIPALITY  
**Wards\_within\_EMASUL Municipality**

**WARDS**

- EMALI/MULALA
- KASIKEU
- MBITINI
- NGUUMASUMBA
- NZAUJKILILIKALAMBA
- Makueni\_towns
- Wards\_Makueni
- Sub Locations
- Makueni\_County
- kenya\_counties

Coordinate System: WGS 1984 UTM Zone 37S  
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 The GIS UNIT  
 Department of Lands, Urban Planning & Development  
 Government of Makueni County  
 P.O. Box 78-90300  
 Makueni*

*JL*