

**THE NYANDARUA COUNTY RATING BILL, 2015**

**ARRANGEMENT OF CLAUSES**

**Clauses**

**PART 1      PRELIMINARY**

1. Short title
2. Interpretation
3. Purpose of the Act

**PART II      IMPLEMENTATION**

4. Valuers
5. Valuation Roll
6. Liability to pay rates
7. Rateable Land
8. Non-rateable land
9. Forms of rating

**PART III    RATING**

10. Alternative methods of area rating
11. Levying of rates
12. Site value and improvement rates
13. Supplementary rate
14. Uniformity of rate
15. Equitable distribution of rates
16. Due date for rates
17. Payment of rates and interest
18. Discount rates

**PART III ENFORCEMENT**

19. Waiver of interest
20. Statement of payment of rates and other charges
21. Exemption from, and remission of rates
22. Contribution in lieu of rates
23. Publication and service of notices etc.
24. Enforcement of payment of rates
25. Recovery of rates from tenants or occupiers

**PART IV GENERAL PROVISIONS**

26. Regulations
27. Savings

## NYANDARUA COUNTY RATING BILL, 2015

### A Bill for—

**AN ACT** of the Nyandarua County Assembly to give effect to Article 209 (3) of the Constitution, to provide for the imposition of property rates on land in the County and for connected purposes

**ENACTED** by the Nyandarua County Assembly as follows—

### PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Nyandarua County Rating Act, 2015.

Interpretation

2. In this Act, unless the context otherwise requires—

“agricultural rental value rate” has the means assigned to it in accordance with paragraph 1 of Schedule 2;

“rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 1;

“Executive Member” means the County Executive Committee Member responsible for matter of rating;

“county revenue collector” has the meaning given by the County Revenue Administration law;

“financial year” means a period of twelve months starting on 1 July;

“improvement rate” has the meaning assigned to it in paragraph 2 of Schedule 3;

“land” has the meaning assigned to it as per the constitution of Kenya 2010

“prescribed” means prescribed by the Regulations made under this Act;

“rate” means a rate imposed under this Act;

“rateable owner” has the meaning assigned to it by section 7 of the Valuation for Rating Act;

“rateable property” has the same meaning as in the Valuation for Rating Act;

“rating ” means—

- (a) any assessment for which a form or method of rating is or may be adopted; or
- (b) any assessment for which a rate is or may be imposed;

“site value rate” has the meaning assigned to it in clause 1 of Schedule 3;

“supplementary valuation roll” means any supplementary valuation roll prepared under the Valuation for Rating Act; and

“valuation roll” means any valuation roll prepared under the Valuation for Rating Act

Purpose of the Act.

**3.** The object of this Act is—

- (a) to provide the County Government with powers to set, assess and collect rates pursuant to Article 209(3) of the Constitution;
- (b) to ensure that rates imposed by the County Government reflect decisions made in a transparent and consultative manner;
- (c) to provide for process and information to ensure rate tax payers can identify and understand their liability for rates; to establish clarity, certainty and sustainability in rating matters.

## PART II – IMPLEMENTATION

Appointment of Valuer

**4.** The County Executive Committee member shall appoint one or more Valuers in the meaning of valuers Act Cap 532 as provided by the Public Procurement Act

Valuation Roll

**5.** The county Assembly shall from time to time, but at least once in every ten years or such longer period as the County Executive Committee Member may approve, cause a valuation to be made of every rateable property within the area of the county in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll as per the meaning in the Valuation for Rating Act Cap 266.

Liability to pay

**6.** (1) The ratepayer for a rating area is liable to pay the rates that are

- rates due on the area.
- (2) A person other than the ratepayer may become liable to pay the rates, if that person—
- (a) is mortgagee;
  - (b) has purchased the property from the owner;
  - (c) holds the property in trust;
- or any other circumstances as may be prescribed.
- Rateable land. **7.** The County Executive Committee in charge of land shall initiate imposition of rates on land subject to approval by County Assembly as per existing laws and the constitution.
- Non-rateable land. **8.** The County Executive Committee member responsible for Finance may, by a notice in the Gazette, exempt certain category of land from the application of this Act
- Forms of rating **9.** (1) For the purposes of levying land rates under this Act, the Executive Committee Member shall, subject to the approval by the County Executive Committee adopt any of the following forms of rating;
- a) An area rate in accordance with section 8 of this Act;
  - b) An agricultural rental value rate; or
  - c) A site value rate or a site value rate in combination with an improvement rate in accordance with section 9 of this Act
- (2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area.
- (3) The Executive Committee Member shall, upon the approval of the applicable form of rating in respect to a rating area under subsection (1), publish a notice to the effect of the approval in at least two daily newspaper with the wide circulation in the country and in the Kenya Gazette.
- (4) The form of rating adopted under this Act shall be based on valuation roll prepared under the law relating to valuation of property for the purpose of rating.

### PART III RATING

- Alternative method of rating **10.** (1) Subject to subsection (2), the County Executive Committee Member may, with the approval of the County Executive Committee, adopt one or more of the following methods of rating;
- a) a flat rate upon the area of land;
  - b) a graduated rate upon the area of land;
  - c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;

d) an industrial rate upon the area of land used for other than agricultural or residential purposes; a residential rate upon the area of land used for residential purposes.

(2) A rate levied under this section shall be referred to as an area rate.

(3) The Executive Member may adopt different methods of area rating for different parts of the county and may from time to time vary the method or methods adopted, and may adopt in relation in any rating area the methods of area rating referred to in subsection (1) in the following manner;

(a) (a) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;

(b) method (d) or method (e) or both in addition to method (a) or method (b), but not in addition to method (c); or

(c) method (f) shall not be combined with any other method of area rating

Levying of rates

**11.** (1) There shall be levied rates on any rateable property under this Act which shall be based on the valuation Roll prepared under the law relating to valuation of property for the purpose of rating

(2) A rateable owner shall be responsible for paying the rates levied under this Act.

(3) The applicable rates in respect of the rateable properties shall be in accordance with the schedule of rates prepared under this Act.

(4) The Executive Member shall, within six months after the preparation of each Valuation Roll prepare the schedule under subsection (3) which shall be a Schedule under this Act.

(5) The Executive Member shall involve the rateable owners in preparation of the schedule of rates under subsection (4) and shall take into consideration the views of the rateable owners.

(6) The Executive Member shall submit the schedule of rates prepared under subsection (4) to the county executive committee for consideration and adaptation before submission to the County Assembly for approval.

Site value and improvement rates

**12.** A site value rate may be levied in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an “improvement rate”):

Provided that;

(i) Any site value rate shall not, without the approval of the county assembly, exceed four per centum of the unimproved value of land; and

(ii) Any rate higher than four per centum must be approved by County Executive Committee and County Assembly before imposition.

Supplementary rate

**13.** The Executive Committee Member on advice by technical officers may levy a supplementary rate for any financial year if it deems it

necessary to do so.

Provided that where a site value rate or an improvement rate is levied no such supplement rates which, when added to the rate or rates previously levied in the same financial year, would exceed either of the limits laid down in the provision to subsection (1) and (2) of section 9 with the approval of the county assembly

Uniformity of rate      **14.** Any site value rate or improvement rate levied under this Act shall be a flat rate of 4% per annum of the rateable value of each rateable property in the county.'

Equitable distribution of rates      **15.** The Department shall, while adopting any method of rating under this Act ensures that the rates are equitably distributed across all rating areas.

Due date for rates      **16.** (1) Any rate levied under this Act shall become due on the first day of January and shall become payable not later than March of the same year.  
(2) The Department shall publish a notice one month before to all rateable owners on the date the rates become payable and the amount of rate payable.

Payment of rates and interest      **17.** (1) When the Department has issued notice under section 13, it shall be the duty of the person liable to pay the rates to pay the amount of such rate within the stipulated time.  
  
(2) Any rates that remain unpaid within the stipulated time shall attract a charge of simple interest at the rate of three per centum per month.  
(3) Notwithstanding subsection (2), the interest charged shall not exceed the principal amount of the rate owing.

Discount of rates      **18.** The Executive Member may allow a discount of not more than five per cent of the amount payable on any rate paid on or before the day.

#### **PART IV ENFORCEMENT**

Waiver of interest      **19.** The County Executive Member may issue a circular, subject to approval by County Executive Committee, on the waiver of interest or rates stipulating stating the period which should not be more than three months.

Statement of payment of rates and other charges.

**20.** The Department shall upon request by rateable owner provide a statement of payment of rates which shall include any other relevant charges such as sewerage, sanitary and refuse removal charges chargeable to the property.

Exemption from, and remission of rates

**21.** Amendment of applicable rates shall not be changed for altered unless valuation roll has been finalised and adopted by County Assembly

Contribution in lieu of rates

**22.** (1) There shall be paid to the county government and annual contribution in lieu of any rates levied under this Act by:-

a) the national government in respect of public land held by national government; and

b) the community in respect of land vested in the Community

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with this Act.

Publication and service of notice

**23.** (1) Except where otherwise provided under this Act, any notice required to be published under this Act shall be published in two or more newspapers with a wider circulation in the county.

(2) Any notice, demand or other document required or authorized to be sent or served under or for the purposes of this Act may be sent or served either:-

a) By delivering it to the person or on whom it is to be sent or served; or

b) By leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or

c) By ordinary or registered post; or

d) By delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property; or

e) By any method which may be prescribed.

(3) Where any notice demand or other document required to be served under this Act has been sent by ordinary or registered post, delivery or service thereof shall, unless the contrary is proved, be deemed to have been affected at the time at which a letter would be delivered in the ordinary course of the post.

Enforcement of the payment of rates

**24.** (1) Any rates due, together with interest thereon calculated in accordance with section 13, shall be a charge against the land on which the rate was levied

(2) Where a rateable owner fails to pay the rates due when they



become payable, the Department may send a reminder for the unpaid rates to the rateable owner in the prescribed form to be served not later than 30<sup>th</sup> May of the same year

(3) Where the title to property described under section subsection (1) is registered under any law relating to the registration of title to land, the Department may deliver a notification of the charge described under subsection (1) in the prescribed form to the County Registrar who shall register charge notified under subsection (2) against the title to that land and the charge shall take priority in accordance with such law.

(4) A person who having been served with a reminder under subsection (1), makes default payment of the rates, the Department or the designated agency of the county government may institute civil suit for recovery of the amount owed and the person sued shall be responsible for the costs of the suit

Recovery of rates from tenants or occupiers.

**25.** (1) Where any rates remain unpaid after the demand is sent to rateable owner under section 20, the Department or such agency designated by the county government may serve a written notice in the prescribed form:-

- (i) to any person paying rent in respect of any land on which such rates was levied; and
- (ii) to the rateable owner.

(2) A notice issued under subsection (1) shall:-

- (i) State the amount payable to the county government; and
- (ii) require or direct that all future payments of rent to be made directly to the county government until such amounts payable have been fully paid;

and such notice shall serve to transfer to the county government the right to recover and receive such monies.

(3) A tenant who pays the rent to the county government under this section shall not be liable to pay to the rateable owner the amount paid to the county government.

(4) The Department or the agency designated by the county government shall issue a discharge note to the tenant and the rateable owner after the tenant has completed paying rates payable under this section.

## **PART V – GENERAL PROVISIONS**

Regulations

**26.** (1) The Executive Member may make Regulations generally for the better carrying out of the object of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may:-

- a) prescribe the forms of applications and notices; and
- b) prescribe fees payable under this Act.

Savings

27. Any rate paid or payable to the county government prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.

### **MEMORANDUM OF OBJECTS AND REASONS**

This Bill provides for legal framework for the rating processing by the county government.

The Bill seeks to promote transparency and efficiency in the land rating process. The Bill has been prepared in accordance with the national standards and policies related to rating.

**Part I** of the Bill deals with preliminary matters. The part sets out the purpose of the Bill which includes ensuring effective, efficient and transparent administration of imposing rating on land, ensuring equity and fairness on the rating process.

**Part II** of the Bill provides for administration framework. It provides for the functions of the Department which is responsible for dealing with relevant matters related to land as well as the staff of the Department.

**Part III** of the Bill provides for the rating process. It provides for the levying of rates, the forms of rating, the methods of area rating, the process of collecting the rate, payment of rates.

**Part IV** of the Bill provides for general provisions which include the powers of the Executive to make Regulations as well as the transition mechanisms..

**Dated the 2<sup>nd</sup> April, 2015.**

### **First Schedule— Rate**

1. An rate is imposed on an of land, and the County Assembly may for an rate adopt one or more of the following methods of rating:

- (a) a flat rate upon the of land;
- (b) a graduated rate upon the of land;

- (c) a differential flat rate or a differential graduated rate upon the of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (d) an industrial rate upon the of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the of land used for residential purposes;
- (f) such other method of rating upon the of land or buildings or other immovable property as the county assembly may approve; and
- (g) the county assembly may adopt different forms of rating for different rating s.

**Second Schedule—Agricultural rental value rate**

Agricultural rental value rate.

1. An agricultural rental value rate is a rate imposed on the annual value of agricultural land.

Definitions.

2. In this Schedule, “agricultural land” and “annual value” have the same meaning as in the Valuation for Rating Act (Cap 266)

**Third Schedule—A site value rate or an improvement rate**

Site value rate.

1. A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll.

Improvement rate.

2. An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

Application of Valuation for Rating Act.

3. If a site value rate or an improvement rate is adopted, the Valuation for Rating Act (Cap 266) including relevant definitions applies to the form of rating so adopted.

**Fourth Schedule—Wording to impose a rate Section 5**

Imposition of rate.

1. A rate is imposed on all rateable property in the county for the calendar year starting on 1 January 20 [ ] and the amount of the rate is [.....] per cent of the [unimproved] value of the rateable property.