

SPECIAL ISSUE

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**LAMU COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

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**THE COUNTY GOVERNMENT OF LAMU VALUATION AND RATING
BILL, 2015**

A Bill for

**AN ACT of the County Assembly of Lamu to provide for the imposition of rates
on land and buildings in the County and for connected purposes.**

ENACTED by County Assembly of Lamu as follows —

PART I — PRELIMINARY

Short Title and Commencement.

1. (1) This Act may be cited as the Lamu County Valuation and Rating Act, 2015.

(2) The Act shall come into operation on the date that, the Executive Committee Member responsible for finance may appoint and publish in the *Kenya Gazette*.

Interpretation.

2. In this Act unless the context otherwise requires —

“Agricultural land” means all land which is used for the purpose of agriculture, not being land which, under any law relating to physical planning, is proposed for use for the purposes other than agriculture;

“Agricultural rental value rate” means a rate levied on the annual value of the agricultural land;

“Area rate” means in relation to any method of rating or rate adopted or levied under this Act, the area in respect of which such method of rating or rate may be adopted or levied;

“Calendar year” means a period of twelve months starting from 1st January and ending on 31st December;

“Chief officer” means the chief officer responsible for lands;

“County receiver of revenue” means the chief officer for finance appointed in writing by the County Executive Committee Member responsible for finance in accordance with Section 157 of the Public Finance Management Act.

“Department” means the county department responsible for lands as established by the County Executive Committee;

“Improvement rate” in relation to land it means the residual amount found by deducting the value of the unimproved land from the value of the land;

“Land” includes any improvements on, in or above the land;

“Prescribed” means stipulated by this Act and the rules 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 (Cap 266) of the laws of Kenya;

“Rateable property” has the meaning assigned to it in the Valuation for Rating Act (Cap 266) of the laws of Kenya;

“Rating area” means in relation to any method of rating or rate adopted or levied under this Act, the area in respect of which, such method of rating or rate may be adopted or levied;

“Rating authority” means the County Government of Lamu;

“Site value rate” is a rate imposed on the value of unimproved land as appearing in the valuation roll or supplementary valuation roll;

“Supplementary valuation roll” means any supplementary valuation roll prepared under Section 5 (2) of this Act;

“Time for valuation” means such date, within a period of twenty four months preceding the commencement of the financial year in respect of which a valuation roll prepared under Section 4 is to come to force;

“Valuation roll” means any valuation roll prepared under Section 4 of this Act;

“Value of land” and “value of unimproved land” shall be construed by reference to Section 7;

“Valuer” means any person or authority prescribed by or under any law for carrying out valuation of land for the purpose of imposing rates on land so valued;

Purpose of the Act.

3. The purpose of the Act is to provide for valuation of property by preparation of the county valuation roll and imposition of rates as a means of revenue collection.

PART II — VALUATION

Preparation of valuation roll.

4. (1) The department shall from time to time, but at least once in every ten years cause a valuation roll to be made of every rateable property within the county in respect of which a rate on the value of land is, or is to be imposed, and the value to be entered in a valuation roll.

(2) No valuation for the purposes of any rate shall be made in respect of any land which is used, or, is *bona fide* intended to be used within a reasonable time, directly and exclusively for any of the following purposes —

- (a) Public religious worship;
- (b) Crematoria or Cemeteries and/or burial grounds;
- (c) Hospitals or other institutions for the treatment of the sick;
- (d) Educational institutions (including public schools within the meaning of the Education Act, 2013) whether or not wholly supported by endowments or voluntary contributions, and including the residence of students provided directly by educational institutions or forming part of, or being ancillary to, educational institutions;
- (e) Charitable institutions, museums and libraries;
- (f) Outdoor sports; and
- (g) National parks and national reserves within the Wildlife (Conservation and Management Act, Cap 276);

(3) Provided that nothing in sub-section (1) above applies to land used for profit or for residential purposes other than those specified in paragraph (a) and (d) thereof.

(4) For the purposes of this Section the County Executive Committee Member responsible for lands shall make rules determining the principles which any land shall be deemed to be used for any of the purposes specified in sub-section (1).

Amendment of valuation roll.

5. (1) The department may, either on its own initiative or at the request of any person amend the valuation roll in relation to —

- (a) Any rateable property omitted on the valuation roll;
- (b) Any new rateable property;
- (c) Any rateable property which is sub-divided or consolidated with other rateable property; or
- (d) Any rateable property which, from any cause particular to such rateable property arising since the time of valuation, has materially increased or decreased in value.

(2) The supplementary valuation roll prepared under sub-section (1) shall be presented to the County Executive Committee for approval within 21 days from the date of amendment.

(3) The supplementary valuation roll shall be prepared at least once a year following the year of valuation unless no alteration or additions to the valuation roll are required.

(4) Where part of any rateable property not separately valued in a valuation roll may be subject to a special rate under this Act, the department may cause an apportionment of the value of that property as between the part which may be subject to a special rate and the part to be included in a supplementary valuation roll.

Power of entry and inspection.

6. (1) A valuer, authorized by the Chief Officer in writing may for the purpose of preparing a valuation roll, enter any premises, land or property for which a rate maybe imposed; and/or Inspect any premises, land or property or scrutinize any data, information, records, title deed or instrument in possession of any public officer or any person with interest in the land or property.

(2) A person who willfully hinders or obstructs the valuer in the exercise of the powers conferred under sub-section (1) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term of not more than one year or to both.

(3) The Chief Officer or authorized valuer, may by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars in regard to that land as may be necessary to enable the valuer prepare a draft valuation roll or supplementary valuation roll accurately.

(4) A rateable owner or occupier of land who —

- (a) Neglects to furnish the particulars required under Section 3 within fourteen days on being called upon to do so, commits an offence and is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for not more than one year or to both;
- (b) Furnishes false statements of value or any other particulars shall be guilty of an offence and be liable to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one year or to both.

(5) A conviction under sub-section 4 shall not be construed as an exemption to provide the required particulars.

Contents of valuation roll.

7. The valuation roll shall consists of —

- (a) The land registration or allotment number, situation and area of land valued;
- (b) The name and address of the rateable owner;
- (c) The value of the land;
- (d) The value of unimproved land;
- (e) The assessment for improvement rate; and
- (f) Agriculture rental value rate.

Basis for valuation.

8. (1) For the purposes of preparing the valuation roll, the value of land shall be the selling price based on market value;

(2) The department shall have regard to other comparative lands in arriving at the value of land under sub-section 1;

(3) The valuer shall apply the suitable method of valuation as approved by the County Executive Committee in preparation of the valuation roll.

Public participation.

9. The department shall involve members of the public when preparing the valuation roll so that the rateable owners and any interested persons are actively consulted and involved throughout the process.

Objections.

10. (1) The Chief Officer shall, after the completion of the valuation roll under Section 4 (1) of this Act and before submission to the County Executive Committee, issue a public notice —

- (a) Informing the rateable owners or any interested persons where the valuation roll can be inspected;
- (b) Inviting any person who has an objection with any issue stipulated under sub-section 2 to lodge the objection with the department.

(2) A rateable owner or any person may lodge an objection in a prescribed form within 21 days after notice to the department on the following grounds —

- (a) The inclusion in or omission of any rateable property from the valuation roll; or
- (b) Any value ascribed in a valuation roll to any rateable property; or
- (c) Any statement made or omitted to be made in respect to any rateable property.

(3) The Chief Officer shall convene an annual committee meeting to consider and advice on the objections.

(4) The committee shall consist of—

- (a) The Chief Officer who shall be the chair person;
- (b) The County Valuer or County Physical Planner;
- (c) An Independent Valuer of not less than five (5) years' experience; and
- (d) Chief Officer, finance.

(5) The objector may be present during the committee meetings.

(6) The committee shall consider the objection and advise the department on the appropriate decision to make in regard to the objection.

(7) Within a period of not more than one month after the receipt of the report in 6 above the department shall communicate the decision to the objector.

Approval of valuation roll.

11. (1) When a valuation roll has been completed, the Chief Officer shall submit the roll to the County Executive Committee Member.

(2) The County Executive Member shall submit the valuation roll within 14 days to the County Executive Committee for consideration and adoption.

(3) The County Executive Committee shall within twenty one days of adoption of the valuation roll transmit it to the County Assembly for consideration and approval.

(4) The County Assembly shall within twenty one days upon receiving the valuation roll under sub-section 3 consider and may approve or reject it.

(5) Where the County Assembly rejects the valuation roll submitted under sub-section 3, it shall make its recommendations to the County Executive Committee Member who shall in consultation with the County Executive Committee consider the proposed recommendations and transmit the amended valuation roll within 14 days to the County Assembly for approval.

Publication of notice.

12. Upon approval of the valuation roll by the County Assembly, the Chief Officer shall publish a notice in the *County Gazette* or *Kenya Gazette* to the effect that the valuation roll has been approved and where it can be inspected.

Coming into force of valuation roll.

13. The valuation roll shall come into force within 14 days upon approval by the County Assembly and shall apply to the year in which it is prepared.

Alteration of valuation roll.

14. The Chief Officer may with the approval of the County Executive Committee Member cause the valuation roll to be altered in order to —

- (a) correct any clerical error not affecting any valuation;
- (b) correct any error as to the name or address of the rateable owner;
- (c) record any change in the name or address of the rateable owner;
- (d) correct any error in the description including the situation but not the area of any rateable property; and
- (e) correct the description of the situation of any rateable property in consequence of the naming or renaming of a street or from any similar cause.

Valuation of public land.

15. Any public land which would, if it were not public land be rateable land shall for the purposes of assessing the Contribution in Lieu of Rates (CILOR) be valued in the same manner as any rateable property in the same area.

PART III — RATING

Levying of rates.

16. (1) Rates shall be imposed by this Act or any other Act as the County Assembly determines.

(2) Without limiting sub-section (1) a rate is levied on rateable property in the county for the calendar year starting on 1st January of each year and the amount of rate is two per centum of the value of the rateable property.

Forms of rating.

17. (1) For the purposes of levying rates, the department shall with the approval of the County Assembly, adopt where appropriate any of the following forms of rating —

- (a) An area rating in accordance with Section 19 of this Act;
- (b) An agricultural rental value rate; or
- (c) A site value rate;
- (d) An improvement value rate.

(2) Where any one of the forms of rating under sub-section 1 has been adopted in respect of any rating area, no other form of rating under this sub-section shall, at the same time, be adopted in respect of that area.

(3) The rates shall apply in the preparation of the valuation roll.

Alternative methods.

18. (1) Subject to sub-section (2) the department shall, with the approval of the County Assembly 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 graduated rate upon the area of land according to the use to which the land is put, or for which it is reserved;
- (d) An industrial rate upon the area of land used for purposes other than agriculture or residential;
- (e) 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.

Uniformity of rates.

19. Any site value rate levied under this Act shall be a rate at a uniform per centum of the rateable value of each rateable property in the county.

Due date for rates.

20. (1) Any rate levied under this Act shall become due on the first day of January and shall become payable not later than the 31st March of the same year.

(2) The department shall publish a notice in the *County Gazette* and/or *Kenya Gazette* of not less than thirty days to all rateable owners when the rates become payable and the amount of rate payable.

Collection of rates.

22. (1) Rates must be paid to the County Receiver of Revenue or County Public Officer appointed in writing by the County Receiver of Revenue to collect rates.

(2) Rates are payable —

- (a) By electronic transfer of funds or such other ways as are approved by the County Receiver of Revenue; or
- (b) At the offices of the rating department or at any other place as is determined by the County Receiver of Revenue;
- (c) By mobile banking approved by the County Receiver of Revenue.

(3) The County Receiver of Revenue or the county public officer appointed under Section 22(1) of this Act, must issue a receipt acknowledging payment of any rate to the person who paid the rates.

Payment of rates and interest.

23. (1) When the department has issued notice under Section 21(2) it shall be the duty of every person liable for such rate to pay the amount 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) The interest rate may be varied by the County Executive Committee member for finance with the approval of the County Executive Committee.

PART IV — ENFORCEMENT

Recovery of Rates.

26. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case may be and any interest on any such unpaid rate or part as provided for in Section 22(2) as recoverable in a court of competent jurisdiction as a debt due and owing to the rating department from the person liable for payment of the rate.

(2) The County Receiver of Revenue may sue for the recovery of the debt for the rating department.

(3) A certificate signed by the County Receiver of Revenue is admissible evidence in a court of law against a rate defaulter if it certifies ---

(a) An amount of rates is or was due and payable on or before a certain date; and

(b) The amount or any part of the amount has not been paid on or before that date.

(4) Any unpaid rates and penalties shall become a charge on the land and can be registered against that land once an order is obtained from the court.

Contribution in Lieu of rates.

27. (1) There shall be paid to the County Government an annual contribution in lieu of rates levied under this Act by ---

(a) The National Government in respect of public land held by the National Government; and

(b) The community in respect of land vested in the community.

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

Recovery of rent from tenants.

28. (1) Where rates remain unpaid after the demand is sent to the rateable owner under Section 25 the department or such agency designated by the Chief Officer, finance in consultation with the County Executive Committee may serve a written notice in the prescribed form ---

(a) to any person paying rent in respect of any land on which any such rates was levied; and

(b) to the rateable owner.

(2) A notice issued under sub-section (1) shall ---

(a) State the amount payable to the department; and

(b) 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.

(3) Such notice shall serve to transfer to the department the right to recover and receive such monies.

(4) A tenant who pays the rates to the department under this Section shall be deemed to have paid equivalent rent to the rateable owner.

(5) The department or the agency designated by the Chief Officer, finance in consultation with the County Executive Committee shall issue a discharge note to the tenant and the rateable owner after the tenant has completed paying the rates payable under this Section.

PART V — GENERAL PROVISIONS

Regulations.

29. (1) The County Executive Committee 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 shall —

- (a) Prescribe the form and content of the valuation roll;
- (b) Prescribe the forms of applications and notices;
- (c) Prescribe the rates payable under this Act; and
- (d) Prescribe fees payable under this Act.

Savings.

30. Any rate paid or payable to the department prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.

Repeals.

31. Any law relating to valuation or rating prior to the commencement of this Act is repealed.

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the legal framework for implementation of article 209 (3) (a) of the Constitution of Kenya, 2010 on matters touching on valuation and rating in Lamu County.

1. Develop a valuation roll.
2. Methods of valuation used in Lamu County.
3. Basis of tax payable in Lamu County.
4. Increase efficiency to reduce leakage of property rates.
5. Ensure accountability and transparency in collection of property rates in Lamu County.

The Bill has been prepared in accordance with national standards and policies related to valuation and rating.

Dated this 13th day of August 2015.

HUSUNI ALAWI HUSUNI, MCA
*Chairperson – Lands, Water, Infrastructure
& Natural Resources Committee*