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NAKURU COUNTY BILLS, 2023

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2023**

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**THE NAKURU COUNTY VALUATION AND RATING BILL,
2023**

A Bill for

AN ACT of the County Assembly of Nakuru to provide for the valuation of property for the purposes of property rates, and the imposition, payment and collection of property rates in the Nakuru County Government so as to give effect to Article 209(3) (a) of the Constitution of Kenya, 2010 and for connected purposes therewith an incidental thereto

ENACTED by the County Assembly of Nakuru as follows—

PART I—PRELIMINARY MATTERS

Short title

1. This Act may be cited as the Nakuru County Valuation and Rating Act, 2023.

Application of the Act

2. Unless otherwise stated in this Act or other written law, this Act shall apply to all rateable property in the County.

Interpretation

3. In this Act, unless the context otherwise requires –
"annual rental value " means the amount of annual rental value arrived at based on the ;

- (a) Actual annual rent releasable on the rateable property; or
- (b) Annual equivalent of comparable rents or annual rent paid on leased land or would be payable were the land to be leased in the open market;

“area rate” includes a flat rate, graduated rate or differential rate adopted by the county government for purposes of this Act;

“Chief Officer” means the Chief Officer for the time being responsible for matters related to valuation and rating of property;

“contribution in lieu of rates” means the amount of rates payable to a county government by the National Government in respect of all public land held by the National Government within the county;

“County” means Nakuru County;

“County Executive Committee member” means the county executive committee member for the time being responsible for matters relating to valuation and rating of property;

“County government” means the County Government of Nakuru;

“County Valuer” for purposes of this act means a person(s) appointed under section 6 of the Act;

“discount” means any amount of property rates, deducted from what is required to be paid;

“exclusion” means public property to which imposition of rates and valuation for rating is exempted

“exemption” in relation to rating, means specified land use that is not rateable by a county government under this Act;

“*Gazette*” means the Kenya Gazette or the County Gazette;

“improvements”, in relation to land, means all work or material used on, in or under a parcel of land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase or decrease the value of the land, but does not include machinery, which is not fixed onto the land, or can be dismounted or removed from the land;

“improved site value” means the value of a vacant parcel of land including any improvements thereon;

“land” has the meaning assigned to it under Article 260 of the Constitution and, in relation to rateable property includes improvements made thereon, therein or thereunder;

“occupier” includes any person in actual occupation of rateable property without regard to the title under which he occupies;

“property rate” means the actual amount of money payable by a rateable owner as tax on their property based on the valuation roll and any other form of rating specified in this Act;

“public land” has the meaning assigned to it under Article 62 of the Constitution;

“rateable property” means property on which a county government may levy a rate, but does not include property fully excluded and exempted from the levying of rates;

“rateable owner” means any person or entity occupying or in possession of –

(a) a registered freehold;

(b) a registered leasehold for a term not less than twenty- five years;

(c) is a lessee of public land, under a registered lease of such property holding under a lease, or is a person having an interest in such property otherwise than as a lessee entitling him to possession of such property for a definite term of less than twenty-five years;

(d) in the case of land for which a land registration number or deed plan has been issued under the Survey Act , the person to whom that number or deed plan has been issued; or

(e) in the case of any other property, a person who is, or reasonably appears to be the lawful possessor or occupier of the property or the person who has a legitimate claim to ownership of the property.

“rating area” means all areas within the county ;

“rate struck” means the percentage of tax rate levied on the assessed value or rateable value of property to be determined from time to time by a county government;

“rateable value” means the net value of the rateable property, if the property is sold or leased on the open market at the time of valuation;

"receiver of revenue" means the person who is designated as the receiver of revenue for the Nakuru County Government in respect of taxation under section 157 of the Public Finance Management Act, 2012;

“remission” means partial or total discharge of payment of rates due including interest and penalties;

“supplementary valuation roll” means a roll prepared in accordance with section 16 of the 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 14 is to come into force, as may be determined by resolution of a County Executive Committee and approved by the County Assembly to be the date at which all valuations shall be deemed to have been made for the purposes of such valuation roll and of every supplementary valuation roll prepared during the continuance in force of the valuation roll;

“Tribunal” means a Valuation Tribunal established under section 45 of the Act;

“unimproved site value” means the value of vacant land but does not include the value of any improvements;

“valuation roll” means a roll prepared in accordance with section 14;

“waiver” means total or partial discharge from paying the amount of interest and penalties due on property rate;

Purpose and objects of Act

4. The object and purpose of this Act is to –
 - a) provide a legal framework for implementation of Article 209 (3) (a) of the Constitution;
 - b) set out mechanisms for taxation of property within the County;
 - c) ensure that rates imposed by the county Government are made in a transparent and consultative manner;
 - d) establish a mechanism to sustainably raise revenue in the County to enable the County Government to deliver services in an effective and efficient manner

Guiding principles

5. The county Government shall in implementing the provisions of this act –
 - a) adhere to the National Values and principles of governance set out under Article 10 of the constitution;

- b) ensure conformity to the values and principles of public service set out under Article 232 of the constitution; and
- c) conform to the principles of public finance set out under Article 210 of the constitution.
- d) conduct effective public participation and create public awareness of the importance of imposition of rates and, its impact on delivery of services within the county;
- e) determine the criteria to be applied that property rating is fair, objective, reasonable and just by-
 - (i) applying different forms of rating for different categories of rateable properties;
 - (ii) identifying exemptions for certain uses of rateable properties from payment of rates;
 - (iii) specifying circumstances applicable when considering interest on defaulters, discount, remission, and waiver; and
 - (iv) increasing rates tax bases.
- f) provide criteria for the determination of –
 - (i) categories of rateable properties for purposes of levying of different rates; and
 - (ii) exempt rateable property uses.
- g) taking into account the effect of imposition of rates on specific group of persons within the county;
- h) taking into account the effect of tax rates on public property held on behalf by the National Government on all public rateable property within the county; and

- i) ensuring prudent and responsible use of funds collected for the purposes of this Act to enhance service delivery in the county.

PART II – ADMINISTRATION

Appointment of County Valuers

6. The County Government shall appoint a County Valuer(s) to value land for the purpose of preparing valuation roll or supplementary valuation roll and other duties incidental to implementation of this Act.

Criteria for appointment as a County Valuer

7. (1) A person shall not be appointed as a County Valuer under this Act unless the person –

- a) is registered with the Valuers Registration Board as stipulated in the Valuers Act;
- b) has a minimum of seven years' experience in valuation from their date of registration by the Valuers Registration Board.

(2) Notwithstanding the generality of sub-section (1) the department may in accordance with the provisions of the Public Procurement and Assets Disposal Act, 2015 contract the services of a private valuer(s) who meets the criteria provided under subsection (1).

Duties of County valuer

8. (1) The County Valuer shall undertake the following duties—

- a) value all rateable property within the County;
- b) prepare the valuation roll of all the rateable properties in the County;
- c) prepare the supplementary valuation roll of all the rateable properties in the County;
- d) amend the valuation and supplementary valuation roll;

- e) monitor the collection of information from owners of rateable properties and other persons for purposes of valuation;
- f) provide a comprehensive valuation report with maps and plans and any other required documentation to the county government;
- g) upon request, advising the executive member on the appropriate methods of rating or the implementation of the valuation roll applicable under this Act;
- h) carry out any other function assigned by the Chief Officer for the better carrying out of this Act.

(2) The Chief Officer may in writing, delegate any of the functions under this section to a registered valuer.

(3) The valuer shall in gathering the data mentioned in subsection (1) (b) and (c) adhere to the guiding principles and obligations of processing personal data as stipulated in the Data Protection Act, 2019.

County valuer

9. (1) The valuer shall, on production of written authority signed by the Chief Officer have powers to –

- a) enter, inspect and obtain information on any land for purposes of preparing draft valuation or supplementary valuation rolls
- b) value land for the purposes of rating,
- c) prepare the valuation roll,
- d) alter or amend the valuation roll in accordance with this Act or any written law,

e) carry out any function as will be necessary to give effect to the purpose of this Act

(2) The Chief Officer may in writing, delegate any of the functions under this section to a registered valuer.

Conduct of a County valuer

10. (1) A valuer

(a) shall disclose any personal or any other interest that the valuer, or his/her spouse, parent, child, partner or business associate, may have in any property in the county;

(b) shall not use his or her position as a valuer for private gain or to improperly benefit another person; and

(c) shall not perform the valuation of a property in which the valuer, or his/her spouse, parent, child, partner or business associate, has a personal and/or other interest.

(2) A valuer who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding Kenya shillings two hundred thousand or to imprisonment for a term not exceeding two years, or to both.

PART III – VALUATION

Basis of valuation

11. (1) The value of land for purposes of preparing a valuation roll or supplementary valuation roll shall be market value of the rateable property without any encumbrances therein which might be expected to be realized at the time of valuation if offered for

sale on such reasonable terms and conditions as a bonafide seller might be expected to impose.

(2) In determining the value as provided for under subsection (1), the County Valuer shall have regard to –

(a) land of similar class, character or position, and to other comparative factors;

(b) any restrictions imposed on the land;

(c) the use of the land, under any written law, or approved by the County government being restrictions which either increase or decrease the value of the land.

(3) In arriving at the value of land under this section, the County Valuer may adopt any suitable method of valuation.

(4) When a valuation roll or supplementary valuation roll includes the value of the unimproved land, the value of any improvements and the value of the land, then the value of improvements shall in no case exceed the amount found by deducting the value of the unimproved land from the value of the land.

Exempt properties

12. (1) No valuation for 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) cemeteries, crematoria and burial or burning grounds;

(c) hospitals or other institutions for the treatment of the sick;

(d) educational institutions (including public schools within the meaning of the Basic Education Act, 2013 (No.14 of 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;

(g) National Parks and National Reserves within the meaning of the Wildlife (Conservation and Management) Act (Cap. 376).

(h) Any other property owned by such a person contained in this Act and any other written law who is exempt from payment of property tax:

Provided that nothing in this subsection shall apply to land used for profit or for residential purposes other than those specified in paragraphs (a) and (d) of this subsection.

(2) For the purpose of this section, the County Executive Committee Member shall make regulations determining the principles upon which any land shall be deemed to be used for any of the purposes specified.

Excluded Public Areas

13. (1) A valuation for the purpose of imposing a rate shall not be made where the exclusive or dominant use of any public land is for one or more of the following purposes —

(a) museums, art galleries and ancient monuments;

(b) botanical gardens and arboreta;

(c) veterinary quarantine areas;

(d) Railway tracks, including tracks in sidings and shunting yards and signal boxes, water towers and other such buildings or structures essential to the operation of railway tracks, but excluding areas used for passenger or goods stations, offices, workshops, servicing areas, sheds and depots;

(e) roads and streets which are used as such by the public for vehicular traffic or pedestrian access, whether as of right or not;

(f) parks and open areas managed and controlled by the County Government for the use of the public;

(g) aerodromes excluding the areas referred to in subsection (2) except to the extent that the property is used for any residential purpose;

(h) passenger reception or the handling or storage of goods;

(i) the offices of airline companies or agencies, immigration and customs offices and premises;

(j) restaurants, lounges, bars, shops, hangars, workshops, posts and telecommunications installations;

(k) stores, police stations, animal holding grounds, freight sheds and dumps.

(2) For avoidance of doubt, if the exclusive or dominant use of any public land is for a commercial purpose, the public land is not excluded public property.

(3) In accordance with the procedures prescribed by the regulations, public land or a part of public land may be classified as excluded public property.

(4) For purposes of this section, the CECM shall make regulations determining the principles upon which any land shall be deemed to be used for any of the purposes specified.

Preparation of a valuation roll

14. (1) The County Valuer shall from time to time but at least once in every five years, cause a valuation to be done within the County for every rateable property in respect of which a rate is to be paid or imposed and the values entered into the valuation roll.

(2) The County Executive Committee Member may in writing extend the life of a valuation roll for an additional year if satisfied that exceptional circumstances exist so as to justify extension.

Amendment of valuation roll

15. (1) The County Executive Committee Member shall on his/her own initiative or at the request of any person , from time

to time cause the valuation roll to be amended to reflect changes to the particulars of properties included in the valuation roll.

(2) The changes in subsection (1) shall be for any of the following purposes –

(a) to correct a clerical error not affecting valuation;

(b) to correct any error in the name or address of the rateable owner;

(c) to record any change in the name or address of the rateable owner;

(d) to correct any error in the description (including the situation, but not the area) of a rateable property; and

(e) to correct the description of the situation of any rateable property in consequence of the naming or renaming of a street or from a similar cause.

(3) This section shall not apply to changes required to be made by a supplementary valuation roll.

Supplementary valuation roll

16. (1) The County Executive Committee Member shall cause a supplementary valuation roll to be prepared as often as may be necessary and (unless no alterations or additions to the valuation roll are required), at least once in each of the years following the year of valuation.

(2) The supplementary valuation roll shall include permitted amendments, alterations and additions to the valuation roll.

(3) A supplementary valuation roll shall be made in respect of a rateable property, if –

(a) any rateable property is omitted from the valuation roll;

(b) it relates to any new rateable property;

(c) any rateable property is subdivided or consolidated with other rateable property since preparation of the valuation roll;

(d) a change of user has been effected on the property; or

(e) the market value of the rateable property has substantially increased or decreased for any reason after the last general valuation, other than a substantial increase or decrease attributable to economic circumstances, and includes such valuation in a supplementary roll.

(4) Supplementary valuation of a property shall reflect the market value of the property determined in accordance with the market conditions that applied as at the date of valuation determined for purposes of the last valuation roll.

(5) For the purpose of collecting property rates, a supplementary valuation roll shall apply from the first day of January of the year following the date of completion of the supplementary valuation roll and continues to apply for the duration of the current valuation roll.

Contents of Valuation Roll

17. The County Executive Committee Member shall cause to be prepared a valuation roll and supplementary valuation roll in such a manner as to determine in respect of every rateable property the following particulars –

- (a) the registered or other description of the property sufficient to identify the property;
- (b) the physical address of the land valued, including the main access road;
- (c) the name and address of the rateable owner;
- (d) the use and permitted use of the property;
- (e) the value of the land;
- (f) the value of unimproved land;
- (g) the assessment for improvement rate;
- (h) subject to any other law, such additional particulars as may be determined.

Power of entry and inspection

18. (1) For the purposes of preparing a valuation roll or supplementary valuation roll, the County Valuer shall on the production of written authority signed by the Chief Officer, have power to –

- a) enter into or upon any rateable property at all reasonable time between 8 o'clock in the forenoon and 5 o'clock in the afternoon for purposes of inspecting any land within the area

of the County Government in respect of which a rate on the value of the land is, or is to be imposed;

(b) inquire from an occupier of a rateable property questions on matters that may be necessary to enable the valuer to correctly value that property; and

(c) scrutinize any data, information, records, title deed or instrument in possession of a public officer, owner or any person with interest in the land or property.

(2) A person who willfully hinders or obstructs a County Valuer in the exercise of the powers conferred on him under this section shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

(3) The County Valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars regarding that land as may be necessary to enable preparation of a valuation roll or supplementary valuation roll accurately;

(4) Any rateable owner or occupier who neglects to furnish the particulars within fourteen days after being called upon to do so shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings, and any person who furnishes to any County Valuer a false statement of value or of any other particulars aforesaid shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings.

(5) No person convicted of an offence under this section shall thereby become exempt from liability to supply any particulars lawfully demanded by the County Valuer.

Deposit and Inspection of draft valuation roll and supplementary valuation rolls

19. (1) The County Valuer shall upon satisfaction that the valuations required to be undertaken for the purposes of the valuation roll or supplementary valuation roll have been made and that the valuations are of an acceptable quality, sign the roll, insert the date of completion and transmit the roll to the County Executive Committee Member.

(2) The County Executive Committee Member shall upon receipt of the valuation roll or supplementary valuation roll lay the roll before the County Executive Committee.

(3) The roll shall thereafter be available at the office of the County Executive Committee Member for public inspection, and any person may, during ordinary business hours, inspect it and take copies of extracts from it subject to payment of a prescribed fee.

(4) The County Executive Committee Member after receipt of the draft valuation or supplementary valuation roll and with the concurrence of the County Executive Committee shall as soon as practicable cause to be published a notice in the Gazette and a newspaper of nationwide circulation containing the following information —

(a) notification that a valuation roll or supplementary valuation roll has been completed and is open for public inspection;

(b) when the inspection period starts and ends;

(c) where the roll may be inspected; and

(d) period for lodging an objection under the Act.

(5) The inspection period shall be for a period of not less than thirty days starting from the date of publication in the Gazette.

(6) The County Executive Committee Member may cause the period for inspection to be extended by notice in the Gazette and in a newspaper of nationwide circulation where satisfied that it is necessary to do so.

(7) In addition to the notice given under subsection (3), the County Executive Committee Member may advertise the availability of the valuation roll or supplementary valuation roll in any other appropriate manner.

(8) Without prejudice to the foregoing provisions, within twenty-one days after publishing the notice provided for in sub section (2), the valuer shall cause to be sent to every rateable owner of a rateable property comprised in the roll a notice of the valuation thereof inserted in the roll, whether or not the new valuation makes any change.

PART IV - RATING

Duty to impose rates

20. (1) The County government shall impose property rate on all rateable property in the County for each year, apart from –
- (a) exempted rateable property;
 - (b) excluded property; and
 - (c) public land in respect of which contribution in lieu of rates is payable under this Act.
- (2) The County government shall ensure that expenditure of the revenue collected under subsection (1) conforms to –
- (a) the principles of public finance set out in Chapter Twelve of the Constitution of Kenya;
 - (b) the national values and principles set out in Article 232 of the Constitution; and
 - (c) the fiscal responsibility principles provided in section 107 of the Public Finance Management Act, 2012.

Obligations of a rateable owner

- 21.(1) A rateable owner shall-
- (a) upon request by the County Executive Committee member or a designate of the County Executive Committee member appointed in writing, provide accurate, reliable, and adequate information on the rateable property for purposes of valuation;
 - (b) promptly pay land rates as they fall due; and
 - (c) where rateable property is jointly owned, jointly and severally with the other registered proprietors be liable to pay rates when they fall due.

Forms of rating

22.(1) For purposes of levying property rates under this Act, a county government may adopt any of the following forms of rating

- (a) annual rental value rating;
- (b) area rating;
- (c) unimproved site value rating; or
- (d) a site value rating in combination with an improvement rating.

(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 sub-section shall, at the same time, be adopted in respect of that area.

(3) The provisions on valuation under this Act shall apply in regard to any form of rating adopted under this Act.

Alternative methods of rating

23.(1) Subject to subsection (2), a county government may adopt one or more of the following alternative methods of rating for purposes of levying rates –

- (a) a flat rate upon an area of land;
- (b) a graduated rate upon area of land according to acreage; or
- (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 for which it is reserved.

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

Notice of rating

24. (1) Prior to the adoption of any form of rating, the County Executive Committee member shall, issue a notice of not less than sixty days inviting comments from the members of public in respect to the method of rating proposed to be adopted.

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

- a) be published in the *Gazette* and in at least two newspapers of wide national and county circulation;
- b) be circulated through electronic media including widely known local television stations, local radio broadcasting and road shows to inform the public of the proposed property rating for purposes of determining the rates payable;
- c) contain such other information including-
 - (i) brief explanation of property rating;
 - (ii) the commencement date of the rating process;
 - (iii) process to be undertaken during the exercise and the stages involved;
 - (iv) who shall be conducting the exercise;
 - (v) the methods of rating proposed to be adopted and areas to be rated; and
 - (vi) avenues to raise objections or seek clarifications on rating and the procedure to be followed.

3) A notice under this section shall be published in English and Swahili languages and, where appropriate, a local dialect.

Annual rental value rating

25. (1) The county government shall consider the annual rental value in establishing the value of the rateable property with regard to area rating.

(2) Subject to subsection (1) the county government shall consider the various categories of properties for purposes of payment of rates including-

- a) residential properties;
- b) commercial properties;
- c) mineral lands that do not fall under industrial lands;
- d) agricultural properties; or
- e) any other category of properties as may be prescribed by legislation enacted by the county.

Publication of rating area

26. Where the county government adopts any form of rating for purposes of rating in the county, the County Executive Committee member shall publish a notice in the *Gazette* demarcating on a county spatial plan showing different forms of rating to be applied in different areas.

Setting of rate struck

27. (1) The County Executive Committee member responsible for finance shall set up the rates struck in the Finance Act of the relevant financial year for consideration, approval and passing by the County Assembly.

(2) In setting up the rate struck, the County Executive Committee member shall take into consideration the values and use of rateable property and prevailing economic situation.

3) The County Executive Committee member shall provide grounds and circumstances informing the determination of the rate struck for the applicable financial year.

Notice of rate

28. (1) Every rate levied by the county government under this Act shall become due for the financial year for which it is levied.

(2) Where any rate is due for payment, the rate shall become payable on such day in the same financial year as may be appointed by the County Executive Committee member.

(3) Where the County Executive Committee member appoints the day for payment of rates and the amount of rate payable, the County Executive Committee member shall publish a notice in the *Gazette* to that effect at least sixty days prior to the due date.

(4) For the purposes of this Act, the valuation roll or any supplementary valuation roll in force on the day on which any rate is payable shall be conclusive evidence of all matters included in such roll.

Amount of rates payable

29. (1) The County Executive Committee Member shall prescribe the amount of rate payable each year as shall be published in the Nakuru County Finance Act for the respective year.

(2) If the County Executive Committee Member does not determine the amount of a rate payable for a particular year, the amount of the rate payable for that year is deemed to be the amount of the rate that was payable for the immediately preceding year.

Due date for rates

30. (1) A rate becomes due on the 1st of January or such other prescribed date each year.

(2) The County Executive Committee member responsible for finance shall by notice published in a newspaper specify the date on which a rate becomes payable.

(3) Notice of at least thirty days shall be given of the payment date published under subsection (2).

(4) For the purposes of this Act, the valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

PART IV - PAYMENT AND ENFORCEMENT OF RATES**Payment of rates**

31. (1) The rateable owner of any rateable property shall be liable for payment of the rate amount on such a date as the rate shall be imposed.

(2) If the owners of the rateable property are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(3) If the rateable owner of the rateable property is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for payment of the rate.

(4) Rates that remain unpaid after the day on which they become payable shall attract simple interest at the rate of one percent per month or at such other rate as the County Executive Committee Member for Finance may

in the Finance Act prescribe and for the purpose of this section a part of a month shall be counted as a month.

(5) The County Executive Committee Member for Finance may enter into an agreement authorizing one or more persons or entities to collect rates on behalf of the County Government on such terms and conditions as shall be set out in the agreement.

(6) For the avoidance of doubt, the payment of a rate for a rateable property by a person does not confer ownership of the property.

Contribution in lieu of rates

32. (1) Subject to subsection (2), a contribution in lieu of rates is payable for the year following commencement of this Act and all subsequent years.

(2) A contribution in lieu of rates is not payable for public land that is-

(a) excluded public property; or

(b) exempt rateable property

(3) A contribution in lieu of rates for each year becomes due on first day of January of that year and is payable on or before the thirty first day of March of that year.

Collection of rates

33. (1) Rates shall be paid to the receiver of revenue or any other person authorized to collect rates by the Department responsible for Finance.

(2) Where the County Executive Committee member issues a notice under section 28, it shall be the duty of every rateable person to pay the rates—

(a) at the authorized bank account;

(b) by electronic transfer of funds or such similar means as may be approved by the receiver of revenue;

- (c) at the offices of the Department of Finance: or
- (d) at any other place approved by the County Executive Committee member responsible for Finance.

(3) The receiver of revenue shall issue a receipt to the payee for every payment of rates

Waiver, remission, reduction, deferment, discount on payment of rates

34. Any waiver, remission, reduction, deferment or postponement of payments of rates and penalty interest, including any payments by instalments must be approved by the County Executive Committee Member for Finance.

Enforcement on payment of rates

35. (1) Where a rateable owner fails to pay the rates due when they become payable, the County valuer shall send a demand for the unpaid rates to the rateable owner.

(2) A rateable owner shall be required to make payments to the County Government within fourteen days after receipt of the demand.

(3) When a person, who having been served with a demand under subsection (1), defaults in payment of the rates and accrued penalty interest, the County Executive Committee Member for Finance may recover the outstanding rates and interest as a civil debt in a court of competent jurisdiction.

Recovery of rates

36. (1) A written notice shall be served to a rateable owner where rates remain unpaid after a demand was previously issued to the rateable owner by the County Valuer to –

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

- (b) the rateable owner.
- (2) A notice issued under subsection (1) shall state –
 - (a) the amount payable including any penalty interest;
 - (b) All future payments of rent by the person paying rent be made directly to the County Government until the amount payable together with any accrued interest is paid in full.
- (3) A copy of the demand notice under subsection (1) shall be affixed in a conspicuous place on the rateable property
- (4) A tenant who pays rent to the county Government under this section shall not be liable to pay to the rateable owner any amount paid to the county Government .
- (5) The County Valuer shall issue a discharge note to the tenant and the rateable owner after the tenant has completed payment of rates under this section.

Certificate of clearance of rates

37. Any registration of an instrument referred to under section 38 of the Land registration Act, 2012 relating to property in the County is subject to the County Government issuing a certificate of clearance or a written statement certifying all outstanding rates and penalties have been paid in accordance with this Act.

PART V OBJECTIONS REVIEWS AND APPEALS

Application of Part

38. This Part applies to objections against valuations of rateable properties made by valuer(s) for the purposes of a valuation roll or supplementary valuation roll.

Objections to valuations

39. (1) The following persons may object against any matter contained in, or omitted from, a valuation roll or supplementary valuation roll in relation to the valuation of a rateable property —

(a) an owner of the rateable property; or

(b) any other person who has a legal or equitable interest in the rateable property.

(2) An objection shall—

(a) be in relation to a particular property and not against a valuation roll or supplementary valuation roll;

(b) be made within the objection period;

(c) be in the prescribed form as provided under the third schedule and set out the grounds of the objection, being grounds that are relevant to the valuation of the property;

(d) be accompanied by the prescribed fee of Kshs Twenty Thousand (20,000) ; and

(e) be lodged with the County Executive Committee Member.

(3) Upon receipt of an objection under subsection (1), the County Executive Committee Member, shall , within 7 days, forward the objection to the County valuer.

(4) The making of an objection by a person does not affect the liability of that person or any other person for the payment of rates.

(5) An objector may withdraw an objection in writing to the County Executive Committee Member.

Consideration of objections

40. (1) The valuer who made the valuation against which an objection has been made shall consider the objection and decide whether to allow or disallow the objection.

(2) The valuer shall make his or her decision having regard to the facts and any submissions received from any objector and the owner of the property if the owner is not an objector.

(3) The valuer shall make his or her decision within—

(a) 45 days after receiving the objection if the objection relates to a general valuation of a property; or

(b) 30 days after receiving the objection if the objection relates to a supplementary valuation of a property.

(4) The valuer shall prepare written reasons for his or her decision.

(5) The valuer may request additional information from an objector and the objector shall as far as practicable comply with the request, and the time taken by the objector to provide this information does not form part of the period referred to in paragraph (3)(a) or (b).

Notification of decision on objections

41. (1) A valuer shall, within 7 days after making his or her decision on an objection under section 40, give written notice of the following matters —

(a) his or her decision and the written reasons for the decision;

(b) any adjustments to be made to the valuation roll or supplementary valuation roll in respect of the property concerned;

(c) whether a mandatory review by a Valuation Tribunal under section 42 applies to the decision;

(d) the right of appeal to a Valuation Tribunal and how to exercise that right.

(2) The notice referred to in subsection (1) shall be given to—

(a) any objector; and

(b) the owner of the property if the owner is not the objector.

Mandatory review

42. (1) For avoidance of doubt this section applies in instances where the valuer determines that the matter warrants the mandatory review by the valuation tribunal as provided for under **section 41(1) (c)**.

(2) Within 7 days after making his or her decision on an objection, the valuer shall submit the decision and the written reasons for the decision and all relevant documentation to the County Executive Committee Member and the Valuation Tribunal.

(3) Within 30 days after a Valuation Tribunal receives the decision and documentation under subsection (2), the chairperson of the Valuation Tribunal shall convene a meeting of the Tribunal for the purposes of hearing and determining a mandatory review.

(4) A mandatory review does not affect the liability of any person for the payment of rates.

Right of Appeal

43. (1) Subject to subsection (2), any or all of following persons may appeal to the valuation tribunal against a decision of a valuer under section 39 on an objection—

(a) any objector;

(b) the owner of the property concerned; or

- (c) any other person with a legal or equitable interest in that property.
- (2) An appeal does not lie in a mandatory review matter pending before the Tribunal .
- (3) An appeal shall—
 - (a) be in the prescribed form as provided for under the fourth schedule and set out the grounds of the appeal;
 - (b) be lodged within 30 days after the date of the notice of the objection decision referred to in section 40; and
 - (c) be accompanied by the prescribed fee (if any).
- (4) Within 30 days after receiving an appeal, the valuation tribunal shall, convene a meeting for purposes of hearing and determining the appeal.
- (5) The making of an appeal does not affect the liability of any person for the payment of rates.
- (6) An appellant may withdraw an appeal by notice in writing to the Valuation Tribunal.

Notice of mandatory review or appeal

44. (1) At least 7 days before the convening of a Valuation Tribunal to hear and determine a mandatory review or an appeal, the secretary of the Tribunal shall publish in a newspaper a notice setting out the date of the hearing, and the place and time of the hearing; and send notices to the following;
- (a) the County valuer;
 - (b) the owner of the property concerned;
 - (c) in the case of an appeal, the appellant;
 - (d) any objector if the objector is not referred to in paragraph (b) or (c).

PART VI—VALUATION TRIBUNAL

Establishment of Valuation Tribunal

45. (1) There is established the Valuation Tribunal consisting of the following whom shall be appointed through a competitive process by the County Executive Committee member with the approval of the county assembly-

(a) an advocate of Ten years standing who shall be the chairperson of the Tribunal;

(b) Two persons registered and licensed valuers under the Valuers Act 1985 CAP. 532 with at least seven years' experience. appointed by the CEC

(c) two persons registered and licensed to practice as a surveyor with at least seven years' experience.

(2) one person registered and licensed under the institute of certified secretaries with at least seven years' experience who shall be the secretary.

Term of office

46. A member of the Tribunal shall hold office for a term of five years on a part time basis.

Vacation of office

47. (1) A member of the Valuation Tribunal shall cease to hold if he or she—

(a) dies;

(b) is unable to perform the functions of the office by reason of mental or physical infirmity;

(c) is declared or becomes bankrupt, or insolvent;

(d) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;

(e) resigns in writing to the County Executive Committee Member;

(f) is found guilty of professional misconduct by the relevant professional body;

(g) is disqualified from holding a public office under the constitution;

In any particular case, the member fails to declare his /her interest in any matter being considered or to be considered by the tribunal; and

(h) engages in any gross misconduct.

Powers of Valuation Tribunal

48. (1) A Valuation Tribunal may for the purposes of hearing and determining a mandatory review or an appeal do any or all of the following

(a) enforce the attendance of witnesses and examining them on oath , affirmation or otherwise; and

(b) compel the production of documents,

(c) assess the rates due on any land either, on the application of any interested person or on its own motion;

(d) investigate any complaint relating to valuation for rating of rateable property; and

(e) determine any dispute relating to matters of rating.

2) A person appearing before the Tribunal, whether summoned or not, may be accompanied by a representative or an advocate at their expense.

3) The Tribunal may review its judgment and orders, on its own motion or upon application by an aggrieved party.

Penalty for failure to comply with Tribunal's lawful order

49. (1) A decision of the Tribunal shall be enforced in the same manner as a decision of a Court.

(2) A person who fails to comply with a lawful order or decision of the Tribunal commits an offence and, shall upon

conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Arrangement of business

50. (1) The Chairperson of the Tribunal shall be responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal.

(2) Without prejudice to the generality of subsection (1), the Chairperson may give directions relating to the –

- a) organization of the business of the Tribunal;
- b) places which the tribunal may sit for purposes of conduct of the business of the Tribunal; and
- c) procedure of the Tribunal at a particular place.

Disclosure of interest

51. (1) A member of the Tribunal who has an interest in any matter, whether direct or indirect, which may conflict with the proper performance of the member's functions, shall –

- a) disclose the interest to the parties to the proceedings prior to commencement of the meeting; and
- b) not be present during any deliberations on the matter by the Tribunal or take part in a decision of the Tribunal on the matter.

Technical advice

52. (1) The Tribunal may seek technical advice from persons whose specialized knowledge or experience may assist the Tribunal in its proceedings.

(2) Where the Tribunal seeks technical advice from any person under this section, the person shall disclose any interest they may have in the matter or

any subsequent interest acquired relating to the matter in question to the Tribunal.

Appeals from the tribunal

53. An appeal from the decision of a tribunal shall be to Environment and Land Court.

Orders as to costs

54. In making a determination, the tribunal may issue an order with regard to costs.

PART VI – MISCELLANEOUS

Notices

55. (1) Any notice, demand or other document required to be served under this Act may be served –

- a) by delivering it to the person to or on whom it is to be sent or served.
- 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;
- 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.
- e) by email; or
- f) by use of short message services or by any method which may be prescribed.

2) Any notice, demand or other document required to be served on the rateable owner under this Act, may be addressed by the description rateable owner, without further name or description.

3) Where any notice, demand or other document required or authorized to be served under or for purposes of 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 effected at the time at which a letter would be delivered in the ordinary course of the post.

The Nakuru County Valuation and Rating Bill, 2019
**PART VII – PROVISIONS ON DELEGATED
LEGISLATION**

Regulations

56. (1) The County Executive committee member may make Regulations generally for the better carrying into effect the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the County Executive committee member may make Regulations on –

- (a) provide guidelines on the extent to which any rateable property may be deemed to be used for public purposes under this section;
- (b) prescribe the criteria for determining the circumstances in which any land shall be deemed to be *bona fide* intended to be used for any of the purposes specified in this section; and
- (c) prescribe the extent to which land not specified under this section may be subject to assessment and valuation for purposes of rating.
- (d) valuation of inter-county rateable properties; and
- (e) tax rates to ensure its compliance with Article 209 (5) of the Constitution.
- (f) the use of appropriate technology in the implementation of this Act;
- (g) circumstances under which discounts, waivers and remissions may apply;
- (h) determining the principles upon which any land shall be deemed to be used for any of the purposes specified

- (i) procedures when considering auction of rateable property;
- (j) procedure on issuance of agency notices;
- (k) county services to be denied upon default;
- (l) procedure on transmission and tabling of the prepared draft valuation roll and draft supplementary valuation roll; and
- (m) setting of rate struck.

Savings and transition

57. (1) Any existing valuation rolls prepared before commencement of this Act shall be deemed to have been prepared under this Act

(2) Where existing valuation rolls do not conform with the provisions of this Act, the county government shall within twenty-four months of the commencement of this Act bring them into conformity.

MEMORANDUM OF OBJECTS AND REASONS

The Constitution of Kenya empowers County Governments to collect revenue from members of the public within the county. The revenue collected is used in service delivery to the citizenry of the county. Some of these revenue sources include land rates which are paid by property owners within the County.

The Bill seeks to provide buoyant source of revenue for the county government. The revenue is necessary to enable the county government perform the functions assigned under the Fourth Schedule to the Constitution and enable the county government realize its development agenda.

The Bill also provides for establishment of the Rating Tribunal responsible for resolution of disputes relating to property rating.

Part I (Clause 1-5) of the Bill contains the preliminary provisions

Part II (Clause 6-10) of the Bill contains provisions on the administration, appointment of county valuers their qualifications duties and conduct.

Part III (Clause 11-19) of the Bill contains provisions on valuation. Basis of valuation, exempt properties, excluded public areas preparation of valuation and supplementary valuation rolls amendment of valuation rolls, contents power of entry and inspection, deposit and inspection of draft valuation and supplementary valuation rolls

Part IV (Clause 20-30) of the Bill contains provisions on rating. The part gives the general basis of duties to impose rates, obligations of a rateable owner, forms of rating, alternative methods of rating annual; rental value rating, publication of rating area setting of rate struck notice of rate amount of rates payable and due date for rates.

Part V (Clause 31-37) of the Bill contains provisions on payments and enforcement of rates, contribution in lieu of rates, waiver remission reduction deferment discount on payment of rates; recovery of rates certificate of clearance of rates .

This part seeks to establish a Tribunal with part time members, the jurisdiction of the Tribunal is specified under clause 39. The part also provides for the conduct of proceedings, quorum, disclosure of interest, powers of the tribunal, tenure, remuneration, staff of the tribunal, vacancy, how to produce evidence, penalty for failure to comply with tribunal's lawful order and appeal mechanisms from the Tribunal.

Part VI (Clause 38-44) of the Bill contains provisions on objections reviews and appeals application of part, objections to valuations, consideration of objections, notification of decision on objections, mandatory review, right of appeal and notice of mandatory review or appeal.

Part VII (Clause 45-54) of the Bill contains provisions on establishment of valuation tribunal, term of office, vacation of office, powers of valuation tribunal, penalty for failure to comply with tribunal's lawful order, arrangement of business, disclosure of interest, technical advice, appeals from the tribunal and orders as to costs.

Part VIII (Clause 55) of the Bill contains miscellaneous provisions providing for notices.

Part IX (Clause 56-57) of the Bill contains proposed regulations and savings and transitions of any written county laws relating to valuation and rating.

Statement on delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative power to the County Executive Committee member to make regulations. The Bill does not limit any fundamental rights or freedoms.

PETER MWAMBA KAJWANG,
Member of the County Assembly

FIRST SCHEDULE

FORM 1

**APPLICATION FOR REMISSION OF THE WHOLE/PART OF
THE RATE PAYABLE BY THE OWNER OF A RATEABLE
PROPERTY.**

COUNTY GOVERNMENT

DATE

FINANCIAL YEAR

NAME OF RATEABLE OWNER

PARCEL NUMBER

Reasons for application of remission
Attachments of any evidence is required*
OFFICIAL REMARKS

SECOND SCHEDULE

FORM 2

CONTRIBUTION IN LIEU OF RATES CLAIM FORM

COUNTY GOVERNMENT.....

DATE

FINANCIAL YEAR

Form of Rating/Rating Area.	Acreage (ha)	Total value of rated land	Rate struck (%)	Area Rate (Kshs.)	Total Rates due.
<i>Valuation Roll</i>					
<i>Area Rate</i>					
<i>Annual Rental value rate</i>					
<i>Forest land</i>					
Attachments required*					
OFFICIAL REMARKS					

THIRD SCHEDULE

FORM 3

RATES OBJECTION FORM (Section 39 (2) (c)

TO THE COUNTY EXECUTIVE COMMITTEE MEMBER

NOTICE OF OBJECTION UNDER SECTION 34 (2) OF NAKURU COUNTY VALUATION AND RATING BILL 2023

PART I: DETAILS OF PROPERTY AS SET OUT IN THE DRAFT VALUATION ROLL

- 1. SERIAL NO.....
- 2. LOCALITY/SITUATION.....
- 3. LAND PARCEL/PLOT NO
- 4. NAME OF REGISTERED OWNER.....
- 5. AREA (HA).....
- 6. VALUE IN KSHS.....

PART II: DETAILS OF OBJECTOR

- 1. FULL NAMES OF OBJECTOR.....
- 2. CURRENT POSTAL ADDRESS
- 3. CURRENT TELEPHONE CONTACTS/EMAIL.....
-
- 4. IS THE OBJECTOR IS THE REGISTERED RATEABLE OWNER? ANSWER YES OR NO.....

IF NOT WHAT IS THE RELATIONSHIP TO THE RATEABLE OWNER? (ATTACH PROPER DOCUMENTS OF PROOF TO RELATIONSHIP)

.....

- 5. SIGNATURE.....

DATE.....

Note – clear copy of identification incase of owner or certified copy of registration in case of legal person to be attached.



PART III: DETAILS OF THE OBJECTION

- 1.....
- 2.....
- 3.....

NOTE: ATTACH A SEPARATE SHEET OF PAPER FOR ADDITIONAL GROUNDS OF OBJECTIONS IF NECESSARY

PART IV: DETAILS OF PAYMENT

NOTE: THIS PART TO BE FILLED BY COUNTY GOVERNMENT OFFICER, A FEE OF SHILLINGS (AS DETERMINED IN THE FINANCE ACT) IS PAYABLE TO COUNTY FOR EACH SEPARATE ENTRY IN OR OMISSION FROM VALUATION ROLL AGAINST WHICH OBJECTION IS LODGED.

- 1. NUMBER OF OBJECTIONS ON THIS PROPERTY.....
- 2. FEE AMOUNT PAID.....
- 3. RECEIPT NUMBER
- 4. DATE OF RECEIPT

PART V: ACKNOWLEDGEMENT OF THE RECEIPT OF OBJECTION(S)

BY MY SIGNATURE AFFIXED BELOW, I ACKNOWLEDGE HAVING RECEIVED THE OBJECTION(S) IN RESPECT OF PLOT NUMBER.....FOR NECESSARY ACTIONS.

- REMARKS.....
- DATE.....
- BY COUNTY GOVERNMENT OF.....

FOURTH SCHEDULE

FORM 4

RATES APPEAL FORM (Section 43 (3) (a)

TO THE COUNTY EXECUTIVE COMMITTEE MEMBER

DRAFT PRIVATE LAND VALUATION ROLL (YEAR) – NOTICE OF APPEAL UNDER SECTION 43 (3) OF NAKURU COUNTY VALUATION AND RATING ACT 2023

PART I: DETAILS OF PROPERTY AS SET OUT IN THE DRAFT VALUATION ROLL

- 7. SERIAL NO.....
- 8. LOCALITY/SITUATION.....
- 9. LAND PARCEL/PLOT NO
- 10. NAME OF REGISTERED OWNER.....
- 11. AREA (HA).....
- 12. VALUE IN KSHS.....

PART II: DETAILS OF APPELLANT

- 6. FULL NAMES OF APPELLANT.....
- 7. CURRENT POSTAL ADDRESS
- 8. CURRENT TELEPHONE CONTACTS/EMAIL.....
-
- 9. IS THE APPELLANT IS THE REGISTERED RATEABLE OWNER? ANSWER YES OR NO.....

IF NOT WHAT IS THE RELATIONSHIP TO THE RATEABLE OWNER? (ATTACH PROPER DOCUMENTS OF PROOF TO RELATIONSHIP)

.....

10. SIGNATURE.....

DATE.....

Note – clear copy of identification incase of owner or certified copy of registration in case of legal person to be attached.

PART III: DETAILS OF THE APPEAL

- 1.....
- 2.....
- 3.....

NOTE: ATTACH A SEPARATE SHEET OF PAPER FOR ADDITIONAL GROUNDS OF OBJECTIONS IF NECESSARY

PART IV: DETAILS OF PAYMENT

NOTE: THIS PART TO BE FILLED BY COUNTY GOVERNMENT OFFICER, A FEE OF SHILLINGS (AS DETERMINED BY COUNTY) IS PAYABLE TO COUNTY FOR EACH SEPARATE ENTRY IN OR OMISSION FROM VALUATION ROLL AGAINST WHICH APPEAL IS LODGED.

- 5. NUMBER OF APPEALS ON THIS PROPERTY.....
- 6. FEE AMOUNT PAID.....
- 7. RECEIPT NUMBER
- 8. DATE OF RECEIPT

PART V: ACKNOWLEDGEMENT OF THE RECEIPT OF APPEAL(S)

BY MY SIGNATURE AFFIXED BELOW, I ACKNOWLEDGE HAVING RECEIVED THE APPEAL(S) IN RESPECT OF PLOT NUMBER.....FOR NECESSARY ACTIONS.

- REMARKS.....
- DATE.....
- BY COUNTY GOVERNMENT OF.....