

SPECIAL ISSUE

Embu County Gazette Supplement No. 3 (Bills No. 3)



REPUBLIC OF KENYA

**EMBU COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 20th February, 2015

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EMBU COUNTY RATING BILL, 2015**A Bill for**

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

ENACTED by the County Assembly of Embu as follows;

PART I—PRELIMINARY

1. This Act may be cited as the Embu County Rating Act 2015 and shall come into operation upon publication in the *gazette*. Short title and commencement

2. In this Act unless the context otherwise requires- Interpretation
 “agricultural rental value rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 2;

“area rate” means a rate imposed on an area of land;

“authorized officer” has the same meaning assigned to it under the Embu County Revenue Administration Act;

“county” means Embu County;

“executive member” means executive committee member for the time being responsible for lands;

“land” has the meaning assigned to it under the Valuation for Rating Act and includes any improvement on, in or under the land;

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

“rate” means a rate imposed under this Act;

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

“rateable property” has the same meaning assigned to it under the Valuation for Rating Act;

“rating area” means:

(a) an area for which a form or method of rating is or may be adopted; or

(b) an area for which a rate is or may be imposed;

“Receiver of Revenue” has the same meaning

assigned to it under the Embu County Revenue Administration Act;

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

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

“year” means a period of 12 months starting on 1st January or such other prescribed date;

“rating authority” means the Embu County Government.

3. This Act applies to all rateable property within Embu County.

Application of the Act

PART II-GENERAL PROVISIONS

4. (1) For the purpose of imposing rates, the County Assembly may adopt one or more of the following forms of rating;

Forms of Rating

- (a) an area rate as provided for in the First Schedule;
- (b) an agricultural rental value rate as provided for in the Second Schedule; or
- (c) a site value rate or an improvement rate as provided for in the Third Schedule.

(2) One or more forms of rating shall be adopted for the purposes of imposing a rate under section 5.

5. (1) A rate is imposed in respect of each year on all rate able property in the county.

Imposition of a Rate

(2) Subject to subsection (3), the form of rating adopted for the purposes of imposing the rate under subsection (1) is a site value rate.

(3) The County Assembly may adopt one or more of the forms of rating referred to in section 4 and may do so under the Act providing for revenue raising measures or such other Act as the County Assembly may determine.

(4) Different forms of rating may be adopted for different areas.

6. The County Assembly may determine the amount of a rate that is payable and may do so under the Act

Amount of Rate payable

providing for Annual County finances or such other Acts as the County Assembly determines.

7. If the County Assembly does not determine the amount of a rate payable for that year, then 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.

Deemed amount of rates

8. (1) A rate becomes due on 1st January in each year.

When Rates become due and payable

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

9. (1) The rate able owner of any land at the date when a rate imposed on that land becomes payable is liable for payment of the amount of the rate.

Liability for payment of rates

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

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

10. (1) Rates shall be paid to the receiver of revenue or any other person authorized by him in writing.

Collection of Rates

(2) The rates shall be payable-

(a) by electronic transfer of funds or such other ways as are approved by the Receiver of revenue; or

(b) at the offices of the Receiver of revenue or other authorized person or at any other place as is determined by the Receiver of revenue.

(3) The Receiver of revenue or an authorized officer shall issue a receipt for the payment of any rates to the person who paid the rates.

11. The county government may charge interest at two per centum per month (2%) of the applicable annual fees for every month in which the fees remain unpaid with effect from 1st March in each year.

Penalty payable on late payment of rates

12. (1) Any rate or any part of a rate that remains

Recovery of rates

unpaid after the day on which the rate became payable, and any interest on any such unpaid rate or part as provided for in section 11, is recoverable in a court of competent jurisdiction as a debt due and owing to the County Government from the person liable for payment of the rate.

(2) The Receiver of Revenue is authorized to sue for and recover the debt for the county government.

(3) A certificate signed by the Receiver of Revenue and certifying that:

- a) an amount of rate is or was due and payable on or before a certain date; and
- b) the amount or a part of the amount has not been paid on or before that date;

is admissible as evidence against the defendant in proceedings under this section, and is prima facie evidence as to the matters certified.

13.(1) Where any rate or any part of a rate remains unpaid after the day on which the rate became payable, the Receiver of revenue may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

Recovery of rates
from persons
paying rent

(2) The written notice-

- a) shall state the amount of such arrears, which may include interest calculated in accordance with section 11; and
- b) shall state that all future payments of rent by the person paying the rent are to be made directly to the receiver of revenue until such arrears and interest have been paid in full.

(3) The notice operates for all purposes to transfer to the receiver of revenue the right to recover, receive and give a discharge for such rent.

14. (1) Any rate due, together with interest calculated in accordance with section 11, is a charge against the property on which the rate was imposed.

Rates chargeable
on property

(2) Where the title to such land is registered under any law relating to the registration of title to land, the Executive Member may deliver a notification of such charge, in the

prescribed form, to the Registrar who shall register it against the title to that land and the charge takes priority in accordance with such law.

15. The receiver of revenue may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for an area of land.

Statement of payment of rates and other charges

16. Documents shall be published, sent or served for the purposes of this Act in accordance with the requirements of the County law governing revenue administration.

Publication and service of documents

17. The Executive Member in charge of Finance may appoint one or more county public officers or other persons to value land for the purposes of preparing a valuation roll or supplementary valuation roll under the Valuation for Rating Act.

Appointment of Valuer

PART III—MISCELLANEOUS

18. (1) The county executive committee member responsible for finance may make rules generally for the better carrying out of the financial provisions and purposes of this Act, and different rules may be made in respect of different forms of rating or different rating areas.

Power to make rules

(2) Without prejudice to the generality subsection (1), rules may be made for the following purposes:

- (a) the collecting of rates;
- (b) prescribing cases in which rates may be reduced or remitted;
- (c) exempting any person or class of persons from the payment of rates or with respect to specified classes or cases;
- (d) prescribing the cases or circumstances in which the county government is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
- (e) prescribing the extent to which any land is to be exempted from the payment of area rates; and
- (f) prescribing fees; and

- (g) Prescribing or prohibiting any other thing required in this Act to be prescribed or prohibited.

19. (1) If, immediately before the coming into operation of this Act, there is under any law, a form or method of rating in force, in respect of any area of the which the County Assembly is empowered to adopt under this Act, that form or method of rating continues to apply in respect of that area as if adopted by the County Assembly, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any rules made under this Act. Savings

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force in respect of such form or method of rating until rules are made under this Act to replace them.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any area in the county are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force until rules are made under this Act to replace them.

(4) A valuation roll or supplementary valuation roll that, would have been in force immediately before the coming into operation of this Act in respect of an area of the county, is deemed to be in force for the purposes of this Act until amended.

FIRST SCHEDULE –Area Rate (Sec 4 (1) (a))**Area rate**

The Executive Member may for an area rate and by regulation 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 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;
- e) a residential rate upon the area of land used for residential purposes;
- f) such other method of rating upon the area of land or buildings or other immovable property as may be necessary.

SECOND SCHEDULE –Agricultural rental value rate (Sec 4 (1) (b))**Agricultural rental value rate**

1. 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 Laws of Kenya.

THIRD SCHEDULE - A site value rate or an improvement rate (Sec 4 (1) (c))*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 laws of Kenya including relevant definitions applies to the form of rating so adopted.

MEMORANDUM OF OBJECTS AND REASONS

Article 209 (3) of the Constitution provides for the imposition of property rates by the county governments.

The Bill gives effect to Article 209 (3) of the Constitution by providing for the imposition and collection of property rates while taking into consideration the Valuation for Rating Act (Cap 266).

The enactment of this Bill into law does not occasion additional expenditure of public funds.

Part I of this Bill provides for preliminaries namely; the short title, commencement and interpretation.

Part II of this Bill Provides for the substantive provisions connected to administration of revenue laws.

Part III of this Bill provides for miscellaneous provisions such as the power of the Executive Member to make Rules and issue guidelines under the Act for purposes of giving full effect to certain provisions of the Act.

HON. KANJOGU NJIRU MUGO,
Chairperson, finance and Economic Planning committee.