SPECIAL ISSUE

Murang’a County Gazette Supplement No. 2 (Bills No. 1)

RANG’A COUNTY ASSEMBLY

5 MAY 2015

Tel: 060-3126

REPUBLIC OF KENYA

MURANG’A COUNTY GAZETTE SUPPLEMENT

BILLS, 2015

NAIROBI, 4th May, 2015

CONTENT

Bill for Introduction into the Murang’a County Assembly —

Page

The Murang’a County Revenue Administration Bill, 2015 ...................... 1
THE MURANG’A COUNTY REVENUE ADMINISTRATION BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

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

PART—ADMINISTRATION

4—Establishment of the Revenue Unit.
5—Chief revenue officer.

PART III—REVENUE ADMINISTRATION

6—Values.
7—County revenue.
8—Receivers of Revenue.
9—Collectors of revenue.
10—Revenue collection.
11—Powers of the revenue officers.
12—Service level agreement.
13—Records.
14—Assessment.
15—Refund of tax.
16—Registration of taxpayers.
17—Compliance.
18—Public education.
19—Information technology.
20—Revenue Complaints Committee.
21—Functions of the Complaints Committee.
22—Rules of procedure.
23—Complaints.
24—Maintenance of records by tax payer.
25—Tax waivers and variations.
26—Report on waivers and variations of taxes.
27—Reporting.

PART IV—ENFORCEMENT

28—Authorised officers.
29—Powers of authorized officers.
30—Seizure of goods.
31—Order of restoration.
32—Forfeiture.

PART V—GENERAL PROVISIONS

33—Regulations.
THE MURANG’A COUNTY REVENUE ADMINISTRATION BILL, 2015

A Bill for
AN ACT of County Assembly of Murang’a to provide for the collection, receipt and administration of county revenue and for connected purposes
ENACTED by the County Assembly of Murang’a, as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Murang’a County Revenue Administration Act, 2015.

Interpretation

2. In this Act, unless the context otherwise requires—
“authorized officer” means a person appointed under section 28;
“Chief Revenue Officer” means a person appointed under section 5;
“complaints committee” means the Revenue Complaints Committee established under section 20
“Executive Member” means the County Executive Committee Member for the time being responsible for finance;
“revenue” means rates, charges, levies, fees, rents, royalties and any monies payable to the county government as revenue under any written law;
“Revenue Unit” means the County Revenue Unit established under section 4;
“tax payer” unless the context otherwise provides, means a person who is obligated under any county or national law to pay to the county any rates, fees, rents, royalties or levies or charges that are prescribed under any county law to be a tax.

Purpose of the Act

3. The purpose of this Act is to provide for the establishment of legal and institutional framework for revenue administration in order to ensure effectiveness, efficiency and transparency in revenue administration.

PART II—ADMINISTRATION

Establishment of the Revenue Unit

4. (1) There is established a unit in the county department responsible for finance to be known as the County Revenue Unit.

(2) The Revenue Unit shall be under the general direction of the Executive Member and responsible for—
(a) collecting and receiving revenue on behalf of the county;
(b) assessing the tax payable to the county government where applicable;
(c) advising the Executive Member on all matters related to collection and administration of revenue; and
(d) doing or performing all other acts or things for the proper performance of its functions under this Act.

(3) The Revenue Unit shall account for revenue collected to the Executive Member.

(4) The Revenue Unit shall serve under the general direction of the Executive Member.

(5) The Executive Member shall, in accordance with section 157 of the Public Finance Management Act, 2012 appoint such revenue officers to serve under the Revenue Unit, provided that such officers shall be county public officers appointed by the County Public Service Board.

(6) The Executive Member shall issue a certificate of appointment to any officer appointed under this Act.

**Chief Revenue Officer**

5. (1) There shall be the chief revenue officer who shall be appointed by the County Public Service Board in consultation with the Executive Member on such terms and conditions as the County Public Service Board may determine.

(2) The chief revenue officer shall be the head of the Revenue Unit.

(3) To qualify for appointment as a chief revenue officer, a person shall—
(a) possess a degree in finance, accounting, economics, business, law or related field from a recognized university;
(b) have had experience in management for a period of not less than five years; and
(c) satisfies the conditions of chapter six of the Constitution.

**PART III— REVENUE ADMINISTRATION**

**Values**

6. The Revenue Unit shall carry out its functions in a manner that upholds the following values—
(a) human dignity;
(b) rule of law;
(c) non- discrimination;
(d) transparency;
(e) fairness;
(f) justice; and
(g) equality and equity.

**County Revenue**

7. (1) The County Executive Committee shall identify and prescribe the county laws applicable for the purposes of determining the revenue receivable or collectable under this Act.

(2) All revenue received or collected under this Act or under any law prescribed under subsection (1) shall be paid into the County Revenue Fund.

** Receivers of Revenue **

8. (1) The Executive Member may, in accordance with the Public Finance Management Act, 2012 designate such persons to be receivers of county revenue for the purposes of receiving revenue on behalf of the county government.

** Collectors of Revenue **

9. (1) The Executive Member may, in consultation with chief revenue officer, authorize such other public officers to be collectors of revenue on behalf of the county government.

(2) Subject to the approval by the County Executive Committee, the Executive Member may appoint a person or an entity to be an agent for the purposes of collecting revenue or part of the revenue payable to the county government.

(3) A person or an entity authorized or appointed to collect revenue under this section shall account for the revenue collected as may be specified by the Executive Member.

** Revenue Collection **

10. (1) The Revenue Unit or a receiver of revenue appointed under this Act may appoint such persons to collect county revenue on behalf of the Revenue Unit or a revenue receiver.

(2) A person appointed to collect revenue under this section shall account for the revenue collected as may be specified by the Executive Member.

(3) Notwithstanding subsection (2), a revenue collector shall—

(a) issue an official receipt on all payments received;

(b) remitted to the county government; and
(c) bank all money received on the same day unless where it is not practicable in which case the money shall be banked on the following working day.

(4) A person shall not receive or collect any money on behalf of the County unless authorised under this Act or under any other written law.

(5) A person who contravenes the subsection (4) commits an offence and shall be liable to a fine not exceeding fifty thousand shilling or to imprisonment of three months or to both.

**Powers of the Revenue Officers**

11. A revenue officer appointed under this Act shall have powers under the general direction of the chief revenue officer to—

(a) assess any tax payable to the county government by any person in accordance with the county laws or any written law;

(b) receive or collect on behalf of the county government and tax payable by any person;

(c) enter any premises for the purposes of implementing this Act or a law related to county revenue collection;

(d) inspect any premises or information for the purposes of implementing this Act; and

(e) do such other things as may be prescribed.

**Service Level Agreement**

12. (1) Subject to the approval by the County Executive Committee, the county government may enter into a service level agreement with an agent for the collection of county revenue under this Act.

(2) A service level agreement entered into under this section shall be in accordance with the requirements of this Act, the Public Finance Management Act, 2012 and any other written law.

(3) The service level agreement shall stipulate the amount payable as agency commission, which shall be approved by the County Executive Committee:

Provided that—

(a) no service level agreement shall provide for deduction of agency fee before the remittance of the fee collected; and

(b) the agency commission shall not exceed five percent of the total amount collected.
(4) An agent appointed under this section shall remit money collected to the Revenue Unit without deduction of the commission.

(5) The Revenue Unit shall pay an agent appointed under this section the commission stipulated in the service level agreement.

Records

13. (1) The Revenue Unit, a receiver of revenue, a revenue collector or an agent appointed to collect revenue on behalf of the county government shall maintain such records related to revenue administration as may be prescribed.

(2) A person or an entity described under subsection (1) shall submit monthly reports to the Executive Member in relation to the revenue received or collected.

Assessment

14. (1) The Revenue Unit may make assessment of tax or interest owed by a taxpayer.

(2) An assessment under subsection (1) shall not alter the due date of payment of the fees, charges or rate as determined under the relevant law.

(3) The Revenue Unit shall cause the notice of the assessment under subsection (1) to be served on the person assessed and it shall state the amount of fees, charges or rates payable and the date taxpayer is expected to pay.

Refund of Tax

15. (1) Where a person pays more tax than the amount required or pays a tax erroneously, the Revenue Unit may, with the approval of the Executive Member refund the amount paid in excess or erroneously paid or offset against future payments of tax.

(2) A person who has paid the tax as described under subsection (1) may apply for refund or offsetting of the tax giving sufficient reasons for making such a payment.

(3) The Revenue Unit shall, where it is satisfied that the application meets the requirements of this section refund the amount due or offset the amount against future payments.

Registration of Taxpayers

16. (1) The Revenue Unit shall, where appropriate register all taxpayers in the prescribed manner.

(2) A taxpayer registered under this section shall be assigned a tax identification number.
(3) The Revenue Unit shall maintain a register of county taxpayers, which shall be available for inspection by any member of public during government office hours.

(4) The register prepared under subsection (3) shall be in the prescribed form.

**Compliance**

17. The Revenue Unit shall—

(a) institute measures to ensure compliance with this Act; and

(b) promote and encourage voluntary compliance by tax payers.

**Public Education**

18. The Revenue Unit shall provide public education and awareness to all tax payers as well as members of the public.

**Information Technology**

19. (1) The Revenue Unit shall, where appropriate adopt such information technology as deemed necessary for the purposes of ensuring effective and efficient tax administration.

(2) The Executive Member shall ensure that any county department or an agent responsible for collecting revenue on behalf of the county government adopts appropriate information technology measures.

**Revenue Complaints Committee**

20. (1) There is established a Committee to be known as County Revenue Complaints Committee.

(2) The Complaints Committee shall consist of—

(a) the chairperson appointed by the Executive Member with the approval by the County Executive Committee;

(b) one officer in the county treasury designated by the Chief Officer responsible for finance who shall be the secretary;

(c) one officer in the department responsible for trade designated by the Chief Officer responsible for trade;

(d) one representative of the business community in the county appointed by the Executive Member with the approval by the County Executive Committee; and

(e) one professional appointed by the Executive Member with the approval by the County Executive Committee.
(3) A person shall not be appointed as a chairperson or a member under subsection (2) (e) unless the person —
(a) possess at least a degree from a recognized university;
(b) is qualified and experienced in matters related to finance, taxation, accounting, economics or a related business field; and
(c) is a resident in the county.

(4) A person shall not be appointed as a member under subsection (2) (d) unless the person—
(a) possess at least a diploma from a recognized institution;
(b) operates a business which is a going concern and which is compliant with requirements related to payment of county taxes; and
(c) is a resident in the county.

(5) A member of the Complaints Committee may—
(a) at any time resign from office by issuing notice in writing to the Executive Member;
(b) be removed from office by the Executive Member, for—
(i) serious violation of the Constitution or any other written law;
(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
(iii) physical or mental incapacity to perform the functions of office;
(iv) incompetence; and
(v) bankruptcy.

Functions of the Complaints Committee

21. The Complaints Committee shall be responsible for receiving and considering complaints lodged by tax payers in relation to the collection and administration of any law related to revenue collection and advising the Executive Member and the County Executive Committee on necessary measures to be adopted in order to remedy the matters related to the complaints.

Rules of Procedure

22. The Executive Member shall prescribe the rules of procedure of the Complaints Committee.

Complaints

23. (1) A person aggrieved by the decision of the Revenue Unit any person or entity responsible for implementation or enforcement of this Act
or any law related to revenue collection may lodge a complaint to the Complaints Committee.

(2) A complaint under this section shall be in the prescribed form.

(3) A person lodging a complaint with the Complaints Committee may appear in person or be represented by an Advocate of the High Court.

(4) The Complaints Committee shall, upon receiving the complaint consider it and take the appropriate measures as provided under section 21.

Maintenance of Records by Tax Payer

24. (1) A tax payer shall maintain records as are reasonably necessary to determine the tax payer’s liability to pay rates, taxes, fees or charges payable to the county for a period of not less than seven years after the completion of the transactions to which they relate.

(2) The Executive Member shall prescribe the records a taxpayer may be required to maintain.

Tax Waivers and Variations

25. (1) Subject to the approval by the County Executive Committee, the Executive Member may waive or vary a rate, tax, fee or charge that is imposed or payable to the county government under relevant written law.

(2) A person may apply to the Executive Member for a waiver or variation of a tax, rate, fee or charge payable to the county government.

(3) An application made under subsection (2) shall be in the prescribed form.

(4) An application made under subsection (2) shall be in writing and addressed through the Executive Member responsible for the respective law under which a waiver or variation the tax, rate, fee or charge is sought.

(5) Notwithstanding subsection (2), the County Executive Committee may, on its own motion grant a waiver or variation of a tax, rate, fee or charge payable to the county government.

(6) The County Executive Committee may approve waive or vary a tax, rate, fee or charge if it satisfied that—

(a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced;

(b) it is not cost effective to take action to recover the rate, tax, fee or charge;

(c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the county government;
(d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge;

(e) an order of a court is in force that specifies the imposition or payment of a rate, tax, fee or charge at a lower rate or amount than is provided for in the revenue law under which the rate, tax, fee or charge is imposed or payable; or

(f) other compelling circumstances exist which make it expedient to waive or reduce the rate, tax, fee or charge.

(7) The County Executive Committee may approve or reject an application made under subsection (2).

(8) Where the County Executive Committee rejects an application made under subsection (2), it shall give reasons for rejecting the application.

(9) The Executive Member shall, within fourteen days after making a decision under subsection (1) inform the applicant of the outcome of the decision related to the application.

(10) A person or body granted a waiver or variation of a rate, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, tax, fee or charge that is waived or the part of the rate, tax, fee or charge that is varied.

(11) The Executive Member shall maintain a public record of each waiver or variation of rate, tax, fee or charge granted under this Act and the reasons for the waiver or variation.

(12) A State Officer or a county public officer within the meaning of the County Governments Act 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, fee or charge by reason of the office or the nature of work of the officer.

Report on Waivers and Variations of Taxes

26. (1) The Executive Member shall, not later than two months after the end of each financial year submit a report to the County Assembly in respect to all waivers or variations of taxes, rates, fees and changes granted during that year.

(2) The report prepared under subsection (1) shall provide for—

(a) names of the persons benefitting from the waiver or variation;

(b) the amount of tax, fee or charge affected by a waiver or variation;

(c) the year to which the waiver or variation relates;

(d) the reasons for waiver or variation; and

(e) the legislation under which the waiver is authorized.
(3) The County Assembly shall consider the report submitted under subsection (1) and may make such recommendations, as it may deem appropriate.

**Reporting**

27. (1) The chief revenue officer shall prepare and submit to the Executive Member—

(a) monthly and quarterly reports of the operations of the Revenue Unit and the implementation of this Act which shall be transmitted to the County Executive Committee for consideration;

(b) an annual report for each financial year which shall cover among others—

(i) all matters related to the Revenue Unit and the implementation of this Act;

(ii) the operation and administration of all revenue laws;

(iii) the challenges faced in the implementation of this Act and proposed measures and interventions;

(iv) proposed policy and legislative measures to be adopted in order to enhance county revenue and revenue administration; and

(v) any other information as may be required by the Executive Member.

(2) The chief revenue officer shall submit the annual report described under subsection (1) (b) to the Executive Member within three months after the end of each financial year to which the report relates.

(3) The Executive Member shall submit the annual report received under subsection (2) to the County Executive Committee within fourteen days after receipt of the report.

(4) The County Executive Committee shall consider the report submitted under subsection (3) and shall transmit it to the County Assembly for consideration not later than thirty days after its consideration.

**PART IV—ENFORCEMENT**

**Authorized Officers**

28. (1) The Executive Member may appoint or designate such public officers authorized officers in the prescribed manner for the purposes of implementing and enforcing this Act.

(2) The Executive Member shall issue a certificate of appointment to an authorized officer appointed under this Act.
Powers of Authorized Officers

29. (1) An authorized officer appointed under this Act may—

(a) inspect any premises or information;

(b) prosecute a matter related to enforcement of this Act or as may be provided under any county law related to county revenue; and

(c) discharge any duties as may be assigned by the Board.

(2) For an authorized officer to carry out prosecution powers provided under subsection (1) (b), the officer shall be an appointed prosecutor by the Director of Public Prosecutions.

Seizure of Goods

30. (1) Unless as provided in any relevant written law, an authorized officer shall not seize any goods, equipment or property unless where it is necessary for the officer to produce such goods, equipment or property as evidence in Court.

(2) Where an authorized officer deems it appropriate to seize any goods for the purposes of this section, the officer shall only seize a sample of the goods which shall be appropriate exhibit.

(3) Where any goods, equipment or property are seized under subsection (1), the authorized officer shall take inventory of the goods, equipment or property seized which shall be recorded in prescribed seizure form.

(4) The goods, equipment or property seized under this section shall be stored in safe custody accordance with the prescribed procedure.

(5) Any person from whom goods have been seized under this section may, within thirty days after the date of seizure, apply to the Court for an order of restoration.

Order of Restoration

31. The Court may order the goods seized under section 30 to be restored to the applicant if, on hearing the application, the Court is satisfied that—

(a) the applicant is entitled to possession of the good seized; and

(b) the goods seized are not and will not be required as evidence in any proceedings related to enforcement of this Act or a law governing county revenue administration.

Forfeiture

32. (1) Where goods seized under section 30 becomes collectable by the owner, the authorized officer shall issue a notice indicating the place
and time where the goods may be collected and the period within which
the goods must be collected.

(2) Where the goods become collectable under subsection (1), and the
owner does not collect them within the stipulated period, the goods shall
be forfeited to the county government.

(3) The goods forfeited under this section may be sold by way of auction
or disposed as obsolete goods.

(4) An owner of goods forfeited shall not have any claim over the goods
upon the expiry of the period stipulated under subsection (1).

PART V—GENERAL PROVISIONS

Regulations

33. (1) The Executive Member may, make Regulations generally for
the better carrying out of the objects of this Act

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

(a) prescribe the manner of registration of county tax payers;
(b) prescribe the process of appointment of authorized officers and
related matters;
(c) prescribe the procedure for the Complaints Committee;
(d) prescribe the forms applicable under this Act;
(e) prescribing the records related to revenue administration to be
maintained; and
(f) prescribe the records to be maintained by a tax payer.
MEMORANDUM OF OBJECTS AND REASONS

This Bill aims at enhancing county revenue collection and administration through establishing a Revenue Unit and providing for enabling procedures. By establishing the Unit, the Bill seeks to promote efficiency and effectiveness in county revenue administration.

**Part I** of the Bill provides for preliminary provisions.

**Part II** of the Bill establishes the County Revenue Unit to be responsible for collecting county revenue, administering and enforcing county laws related to revenue and assessing and collecting county revenue among others.

**Part III** of the Bill provides for financial provisions, which include preparation of annual estimates, financial reports and auditing.

**Part IV** of the Bill provides for values to be adopted in the implementation of the Act, which include human dignity, rule of law, fairness, transparency and equity. It also provides for the collection and payment of the money into the revenue Fund, service level agreements, assessment of tax payable. The Revenue Unit is also charged with the responsibility of ensuring compliance with the requirements under the Act as well as providing education and awareness and registering taxpayers under the Act. The Part provides the appointment of authorized officers for the purposes of enforcing the Act. The Part also provides for establishment of a revenue complaints committee for handling complaints related to revenue administration.

**Part V** of the Bill provides enforcement provisions.

**Part VI** of the Bill provides for miscellaneous provisions, which include the power of the executive member to make Regulations.

Dated the 13th April, 2015.

JOSEPH KIMANI GITAU,  
*Chairman, Finance and Economic Planning Committee.*