SPECIAL ISSUE

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REPUBLIC OF KENYA

NAKURU COUNTY GAZETTE SUPPLEMENT

BILLS, 2015

NAIROBI, 6th March, 2015

CONTENT

Bill for Introduction into the Nakuru County Assembly—

The Nakuru County Urban Agriculture Promotion and Regulation Bill, 2015.................................................................................................................. 1
THE NAKURU COUNTY URBAN AGRICULTURE PROMOTION AND REGULATION BILL, 2015

A Bill for

AN ACT of Nakuru County Assembly to promote and regulate agriculture within urban areas in Nakuru County; and for connected purposes.

ENACTED by the Nakuru County Assembly, as follows—

Short Title and Commencement

1. This Act may be cited as the Nakuru County Urban Agriculture Promotion and Regulation Act, 2015 and shall come into operation on such date as the Governor may, by notice in the Nakuru County Gazette, proclaim.

Interpretation

2. In this Act—

“county” means the County Government of Nakuru;

“companion animal” includes a pet or an animal that is kept for guide or guard purposes by a person living with a disability or any person with a need for such guarding or guidance;

“deserving” residents include but are not limited to people living with HIV and AIDS, orphaned and vulnerable children, the elderly, the indigent and the destitute people within and ordinarily resident within the County;

“irrigation” for the purposes of this Act refers to the watering of crops on land that is more than 200 square metres in extent.;

“livestock” means domestic animals such as cattle, sheep, goats, pigs or horses raised for home use or for profit especially on a farm.

“pet” means an animal that is kept in the home for companion purposes and not for its meat or any other product that it may produce.

“poultry” means domesticated fowls such as chickens, turkeys,
ducks, guinea fowl, pheasant, ostriches, pigeons or geese kept primarily for meat and eggs.

“resident” means a person who is ordinarily resident within the County of Nakuru.

“urban agriculture” means farming within or just outside the boundaries of the County;

“urban farmer” means any person who practices farming within or immediately beyond the boundaries of the County;

Application of these Act

3. (1) Except where it is expressly provided to the contrary, this Act shall be construed as being in addition to and not in substitution of any other law which is not in conflict or inconsistent with these Act.

(2) If any other law is in conflict or inconsistent with this Act, this Act shall prevail on matters relating to protection of the environment and maintenance of public health standards.

PART I—PURPOSE, DUTIES AND RESPONSIBILITIES

Purposes of Urban Agriculture

4. Urban agriculture shall be permissible within the County for the purposes of providing household food security, alleviating poverty, creating employment, establishing and sustaining agricultural businesses within the municipal area through the provision of raw materials for industry, for urban greening and beautification, for wastewater recycling or for any other purpose that is not inconsistent with the provisions of this Act.

Rights and Responsibilities of urban farmers

5. (1) Any person who is a resident of the County may carry out urban agricultural activities within the County subject to appropriate authorization from the County Government.

(2) In practising urban agriculture, urban farmers shall ensure that their activities do not—
Duties of the County Government

6. The County Government shall endeavour to promote, regulate and control urban agriculture.

7. The County Government shall try by all means to consider gender, disability and the vulnerability of any groups in the administration of urban agricultural activities and in particular in relation to allocation of resources and support schemes for urban agriculture.

PART II—MARKETING AND PROCESSING OF URBAN AGRICULTURAL PRODUCE

Marketing and processing of urban agricultural produce

8. Urban farmers in the County shall be responsible for the marketing of their produce in a healthy and hygienic manner which is environmentally sustainable with strict observance of the provisions of the Public Health Act, Cap 242 and the Environmental Management and Co-ordination Act (EMCA) No. 8 of 1999.

9. In marketing their produce, urban farmers shall observe and comply with produce specific marketing and trade laws including but not limited to the Agriculture Act, Cap 318.

10. In order to promote urban agriculture, the County Government may promote the consumption and use of agricultural commodities within the County by doing one or more of the following—

   (a) Encouraging value addition of agricultural produce from within the County through the allocation of land for leasing or purchasing to be used for the processing of agricultural produce;
(b) Exempting urban farmers from the County from paying taxes that are payable by farmers from outside the County for selling, marketing and transporting their produce in, within and through the County;

(c) Supporting the setting up of urban farmer markets;

(d) Supporting quality control of agricultural produce from within the County and encouraging labelling of local produce.

11. The County Government may promote the participation of urban farmers and urban agro-based industries at international and national agricultural or industrial exhibitions including but not limited to the Nakuru County annual Agricultural Show.

PART IV—AVAILABILITY OF INPUTS

Water availability and provision

12. The County Government may provide water for urban agricultural purposes when water is available and County Government has the means to do so, including water for irrigation, watering of animals and processing of urban agricultural produce; provided that—

(a) Any person who wishes to use the County Government’s treated water for irrigation purposes shall seek permission from the County Government and shall only commence using the water upon receiving such written permission.

(b) Farmers may use partially treated water that meets World Health Organization standards for irrigation of non-tuber vegetables and crops.

(c) The use of raw sewage for irrigation purposes in the pursuit of urban agriculture is prohibited and any person who uses such water for irrigation purposes shall upon conviction be liable to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding
twelve months, or both.

13. In addition the County Government or any other person intending to use partially treated water for irrigation purposes shall comply with the requirements of the Environmental Management and Co-ordination (Waste Management) Regulations, 2006.

Availability of seed, fertilisers, chemicals and other inputs

14. The County Government may upon request assist urban farmers in acquiring seed, fertilisers, chemicals and other agricultural inputs.

15. Unless otherwise stated, any person who is assisted by the County Government in the acquisition of inputs in terms of Section 14 above shall pay for the inputs and any costs that may be incurred by the County Government in the acquisition of the inputs.

PART V—ENVIRONMENTAL PROTECTION AND MANAGEMENT

Environmental Protection and Management

16. No person shall cause environmental damage, pollution or degradation in the process of carrying out urban farming within the County.

17. Any person who keeps livestock within the County shall take measures to ensure that—

(a) The keeping and grazing of livestock shall not cause damage to natural grass and vegetative cover so as to prevent such grass or vegetative cover from regenerating;

(b) The keeping and grazing of livestock does not cause damage to the natural soil and vegetative cover so as to cause soil erosion;

(c) Every livestock farmer shall ensure that any livestock that is kept on any piece of land does not exceed the carrying capacity of that piece of land;

(d) Every livestock farmer shall ensure that disposal of animal waste shall not cause environmental pollution.
18. Any person who is engaged in cultivation of crops within the County shall take measures to ensure that—

(a) The cultivation of crops does not cause environmental degradation.

(b) The use of chemicals and fertilisers does not cause pollution of ground water sources or surface water sources including dams, rivers, wells, aquifers or any other water source or damage to soils, grass, trees, plants or any other vegetative cover

(c) The cultivation on or close to ecologically sensitive areas including the banks of any naturally defined stream or river, wetland, aquifer or any natural watercourse provided that such person makes a written application to and obtains written authority from the County Government.

19. Any person who causes pollution or environmental degradation shall be liable upon conviction, to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than eighteen months or to both such fine and imprisonment.

20. In addition to any penalty that may be imposed in terms of Section 19 above, any person who causes pollution or environmental degradation shall meet the costs of remedying such pollution or environmental degradation and any resultant adverse health effects, as well as the cost of preventing, controlling or minimising further pollution, environmental damage or adverse health effects.

PART VI—TYPES OF URBAN AGRICULTURAL ACTIVITIES

Keeping of livestock

21. Any person may keep livestock within the municipal area provided that—

(a) They have obtained the necessary permission from the County Government to keep the livestock and in giving such permission, the County Government shall give such conditions as may be necessary to avoid nuisances,
environmental damage and protect the health of the public within the County.

(b) In giving permission to keep livestock, the County Government shall in addition to any other considerations take cognisance of and comply with the provisions of the Public Health Act, Cap. 242.

Keeping of poultry

22. Any person may keep thirty or less heads of poultry within the County without seeking permission from the County Government.

23. Any person who intends to keep more than thirty heads of poultry shall make a written application to the County Government and may only keep more than thirty heads of poultry upon receiving written authority from County Government.

24. In granting such permission in terms of Section 29 above, the County Government shall in addition to any other considerations, take into account the numbers of poultry heads that may be kept on any piece of land in relation to the size and location of that piece of land, the prevention of nuisance and the protection of public health.

Keeping of companion animals and pets

25. Any person may keep a companion animal or pet within the confines of his or her private dwelling premises.

26. It shall be the duty of the person who keeps a companion animal or pet to keep it free of any animal diseases or vermin and to ensure that the companion animal or pet is vaccinated against all animal diseases for which vaccinations are required.

27. No companion animal or pet shall be allowed to roam or move around unaccompanied or without proper leash or control outside the dwelling premises on which it is ordinarily kept.

28. Any pet or companion animal that is found roaming unaccompanied shall be impounded by County Government or any authorised person and shall be taken to an impounding facility where the County Government shall keep the companion animal or pet in terms of its pound regulations.
29. Where the owner of the impounded companion animal or pet is located, he or she shall pay all the costs incurred by the County Government or any other relevant authority or person carrying out his or her duties in terms of this Act in handling the companion animal or pet.

Keeping of Bees

30. Any person may keep bees within the County provided that any person who intends to keep bees shall make a written application to the County Government and may only proceed to keep the bees upon receiving written permission from the County Government.

Cultivation of Lands

31. Any person may cultivate, excavate, dig or clear land for urban agricultural purposes and may plant any crops for either commercial, aesthetic, leisure, environmental management, subsistence or any other purposes that are consistent with the provisions of this Act on such land provided that they have obtained written permission from the County Government and complied with the provisions of the Public Health Act and the Environmental Management and Co-ordination Act.

32. Any person who wishes to cultivate his or her own privately owned land shall not cause soil erosion, environmental degradation, water pollution or leave the land in an unkempt or unsightly condition.

33. The burning of any agricultural residue without permission from the County Government and the National Environment Council created in terms of the Environmental Management and Co-ordination Act shall be prohibited and any person who contravenes this section shall, upon conviction, be liable to imprisonment for a term not exceeding twenty four months, or to a fine of not more than five hundred thousand shillings, or both.

PART VI—OFFENCES

34. Any person who contravenes any provision of this Act commits an offence and shall be liable to upon conviction, to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than twenty four months or to both fine and imprisonment.
MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the connected purposes promotion and regulation of agriculture within urban areas in Nakuru County and for connected purposes.

The Bill provides for the following preliminary provisions; short title and commencement, application of Act and interpretation.

The substantive provisions of the Bill contains: purposes of the act; rights and responsibilities of urban farmers; duties of county government; marketing and processing of urban agricultural produce; water availability and provision; availability of seeds, fertilizers, chemicals and inputs; environmental protection and management; keeping of livestock; keeping of poultry; keeping of companion animals and pets; keeping of bees; cultivation of lands; and offences.

Dated the 17th February, 2015.

JOSEPH MWANGI WAITHAKA,
Member of County Assembly,
Chairperson, Agriculture Committee.