HBC 02/8/23 To be scheduled 31/7/23

RECORDS SECTION
COUNTY ASSEMBLY OF BUNGOMA
19 JUL 2023
RECEIVED
P O Box 1886 50200, BUNGOMA

**COUNTY ASSEMBLY OF BUNGOMA**

**Telephone: 055-2030854/020-2030309** **P.O BOX 1886-50200,**
**Email: *bungomacountyassembly@gmail.com***
**BUNGOMA, Kenya.**

COUNTY ASSEMBLY OF BUNGOMA
(LPCS)
19 SEP 2023
NOTICE ISSUED
By: Hon. Tony Barasa

REF: REPORT NO (4) DATE: 18TH JULY 2023

**INTERNAL MEMO**

**FROM: CHAIRPERSON COMMITTEE ON PUBLIC ADMINISTRATION AND ICT**

**TO: CLERK OF ASSEMBLY.**

**DATE: 18TH JULY, 2023**

COUNTY ASSEMBLY OF BUNGOMA
(LPCS)
19 SEP 2023
TABLED
By: Hon. Tony Barasa

**RE: REPORT BY THE SECTORAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON CONSIDERATION OF THE BUNGOMA COUNTY INSPECTORATE, COMPLIANCE AND ENFORCEMENT BILL,2023**

The above subject matter refers.

Forwarded herewith, please find the report by the sectoral committee on Public Administration and ICT on the Bungoma County Inspectorate, Compliance and Enforcement Bill,2023

Kindly facilitate its approval for tabling.

**Hon. Tony Khaoya Barasa,**

**MCA Lwandanyi Ward**

**Chairperson-Committee Public Administration and ICT**

# COUNTY GOVERNMENT OF BUNGOMA

## COUNTY ASSEMBLY OF BUNGOMA

## THIRD ASSEMBLY, SECOND SESSION

# REPORT BY THE SECTORAL COMMITTEE ON PUBLIC ADMINSTRATION AND ICT ON THE CONSIDERATION OF THE BUNGOMA COUNTY INSPECTORATE, COMPLIANCE AND ENFORCEMENT BILL,2023

**Clerks Chambers**
**County Assembly Buildings**
**PO BOX 1886,**
**BUNGOMA, KENYA**

**JUNE, 2023**

Contents

## CHAPTER ONE

### 1.0 PREFACE

**Honorable Speaker,**

The Bungoma County Inspectorate, Compliance and Enforcement Bill,2023; was first read in this House on 27th April, 2023 and consequently committed to the Sectoral Committee on Public Administration & ICT for processing and feedback to the House.
The proposed Bill was prepared pursuant to the provisions of Article 185 (2) of the Constitution of Kenya 2010 that confers powers to make legislation through County Assemblies.

This Bill was subjected to public participation through print media on 9th May, 2023 as per the advertisement in the Daily Nation Newspaper inviting the public to submit memorandum, as attached (annexure 2). The Committee received memoranda by 17th May, 2023 from the following key stakeholders: The Bungoma Hoteliers Association (BUHA) whose valuable input has formed part of this report and annexed herein.

The committee therefore wishes to present this report on the Bungoma County Inspectorate, Compliance and Enforcement Bill,2023; for noting and adoption by this Honorable House.

### 1.1 COMMITTEE MANDATE

**Honorable Speaker,**

The Public Administration & ICT committee was established on 26th October; 2022 in accordance with the Standing Order No.179.

The mandate of the Committee is derived from the Standing Order 217 (5) and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of a Sectoral Committee shall be to;

(a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

(b) Consider quarterly reports of the assigned departments and report to the house within twenty one sitting days upon being laid

(c) Study the programme and policy objectives of departments and the effectiveness of the implementation;

(d) Study and review all county legislation referred to it;

(e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

(f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;

(g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and

(h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

## 1.2. COMMITTEE MEMBERSHIP

**Mr. Speaker,**

The following is the committee membership as currently constituted;

| | | |
|---|---|---|
| 1. | Hon. Tony Barasa | Chair person |
| 2. | Hon. Caleb Wanjala | Vice chair |
| 3. | Hon. Stephen Wamalwa | Member |
| 4. | Hon. Joseph Nyongesa | Member |
| 5. | Hon. Jackson Wambulwa | Member |
| 6. | Hon. Busolo Sudi | Member |
| 7. | Hon. Francis Chemion | Member |
| 8. | Hon. Simotwo Franklin | Member |
| 9. | Hon. Grace Sundukwa | Member |
| 10. | Hon. Cornelius Makhanu | Member |
| 11. | Hon. Timothy Chikati | Member |

12. Hon. Stephen Kaiser Member
13. Hon. Jeremiah Kuloba Member
14. Hon. Florence Juma Member
15. Hon. Brigid Katasi Member

## 1.3 OBJECTIVES AND TERMS OF REFERENCE

At the end of the exercise, the committee was determined to achieve the following objectives;

1. To consider proposals from the public participation fora and other stakeholders;
2. To make recommendations from the proposals received from the stakeholders;
3. To ensure that the proposed Bill does not contravene the Constitution or any other statute; and
4. To consider and present to the House the proposed amendments on the Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023.

## 1.4. ACKNOWLEDGEMENT

**Mr. Speaker,**

The Committee is particularly grateful to your Office and that of the Clerk of the County Assembly of Bungoma for the support received as it discharged it's mandate.

The Committee equally appreciates the members of the Civil Society Organisataion and other stakeholders for their valuable input to ensure timely collection and collation of the information incidental to the preparation of this report.

The significant role played by the Committee Members and Secretariat for their steadfastness in the compilation and completion of this report cannot be overlooked.

Lastly, the committee appreciates the sponsor of this Bill; Hon. Barasa Mukhongo for the effort and initiative to prepare the Bill and have it committed to this Committee for consideration.

**Mr. Speaker,**

I wish to confirm that the recommendations of the Committee in this report were unanimous. It is now my pleasant duty and privilege, on behalf of the members of the

Public Administration & ICT Committee, to present to this House the Committee`s report on the Bungoma County Inspectorate, Compliance and Enforcement Bill,2023 for noting and adoption.

**Signed:**

**HON. TONY KHAOYA BARASA; MCA – LWANDANYI WARD**
**CHAIRPERSON: SECTORAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT.**

**DATE**.....26/06/2023**SIGNATURE**.....

## CHAPTER TWO

## 2.0. BACKGROUND INFORMATION

**Honorable Speaker,**

The Bungoma County Inspectorate, Compliance and Enforcement Bill,2023 was published on 11th April,2023, it was first read on 27th April 2023, and thereafter committed to the Sectoral Committee on Public Administration and ICT for consideration pursuant to Standing Order No. 140(1).

The Bill seeks to establish the Bungoma County Enforcement Inspectorate Unit, provide an institutional framework for the enforcement of Bungoma County Laws and regulate the actions of County Inspectorate officers.

The Bill concerns the County Governments since the County Executive is obliged in the County Governments Act, 2012 to implement county legislation.

The Bill outlines the functions of the directorate and provides grounds for discipline of the enforcement officers, given that previously the unit had usurped extra powers that were vindictive to the public. It further provides for offenses, penalties and the procedures to tackle the public who obstruct or impersonate an enforcement officer.

In respect of the Intergovernmental relations between the National and County Governments, the Bill recognizes the need to put in place arrangements with the Director of Public Prosecution, the Judicial Service Commission and other relevant bodies dealing with matters of criminal suspects and convicts.

The Bill does not delegate legislative powers to any party

## 2.1. SALIENT FEAUTURES OF THE BILL

### 2.1.1. Purpose and objective of the Bill

The Bungoma County Inspectorate, Compliance and Enforcement Bill,2023 seeks to provide for the establishment of the Bungoma County Enforcement Inspectorate Unit and an institutional framework for the enforcement of County laws. It also seeks to regulate the actions of County Inspectorate officers.

**The Bill is divided into six sections:**

**Part I** outline the preliminary provisions which include the short title, interpretation and outlines the purpose of the Bill. It further limits the powers and responsibilities under the Bill to the jurisdiction of Bungoma County.

**Part II** provides for the composition and administration of the inspectorate. It stipulates the composition and functions of the inspectorate, recruitment, deployment, promotion and discipline of the enforcement officers and general rules for the administration of the inspectorate.

**Part III** stipulates the powers and duties of officers. It provides for the general duties performed by the officers and the specific duties towards the public, arrested persons, and duties to keep order in public places. The Bill provides power for the officers to inspect and search suspected persons and places and handle animals and unclaimed properties.

**Part IV** outlines the regulations that govern erection of barriers on streets, stray dogs and unfit animals. It also delegates power to the County Executive Member to make regulations.

**Part V** outlines the offenses, penalties and procedures to be followed for members of the public who may cause obstruction or impersonate an enforcement officer and general penalties for contravening the Act.

**Part VI** provides for the miscellaneous provisions which include indemnity to officers of the Inspectorate, complaint mechanisms and provisions for arrangements between the county government and other law implementing institutions.

The Bill provides the Memoranda of objects and reasons which clearly outlines the issues contained in the Bill. It further provides the statement of delegation of legislative powers, and statement as to whether the Bill is within the meaning of Article 114 of the Constitution.

### 2.1.2. Statement of compatibility with Human Rights.

The Bill has been assessed on the compatibility with the human rights and freedoms as envisioned under Chapter Four of the Constitution of Kenya. The Bill is considered compatible and does not limit any fundamental rights and freedoms.

### 2.1.3 Involvement of the Public, Stakeholders and Interest Groups.

Pursuant to Article 196 of the Constitution, County Assembly is obligated to conduct its business in an open manner, and its sittings and those of its committees shall be open to the public. It shall further facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

### 2.1.4. Financial Implications

In line with Article 114 of the Constitution of Kenya 2010, it's not a money Bill and would therefore not have any financial implications in its implementation.

Article 114 of the Constitution of Kenya 2010 stipulates that:

*114(3) In this Constitution, 'a money Bill "means a Bill other than a Bill specified in Article 218, that contains provisions dealing with-*

a) *Taxes;*
b) *The imposition of charges on a public fund or the variation or repeal of any of those charges;*
c) *The appropriation, receipt, custody, investment or issue of public money;*
d) *The raising or guaranteeing of any loan or its repayment; or*
e) *Matters incidental to any of those matters.*

## 2. 2. CONSTITUTIONAL AND LEGAL FRAMEWORK

**Honorable Speaker,**

Inadequacy of the legal and institutional framework is the root of all other challenges experienced in the enforcement of county laws in Kenya. These challenges include lack of capacity for the enforcement of county laws by the counties, corruption menace, lack of a uniform code of conduct for county enforcement officers, the novelty of devolution to county enforcement officers and the general public and the lack of county courts to resolve disputes involving counties and enforce county laws.

Proposals for addressing these challenges are given stressing on the need to enact legislation to provide for the legal and institutional framework for the enforcement of county laws in Kenya. This is important because one of the ways through which the objects of devolution can be achieved in Kenya is through the effective and efficient enforcement of county laws and regulations.

The 2010 Constitution has provided for the powers and functions of both the legislative and executive structures at the county level of government. The County Executive Committees handle the executive functions while the County Assemblies have the mandate on matters of county legislation. These legislative powers include the regulation of various matters within the purview of the powers and functions of the county government.

County legislation, just like any other laws, requires implementation and enforcement.It is through the enforcement and implementation of the county legislation that the objects of devolution can be achieved. Generally speaking, the County Executive Committees implement county legislation. Practically, to achieve the implementation and enforcement of the county laws, the county governments should through legislation, establish a proper institutional framework with specific powers geared at enforcing the

county laws and regulations. County laws include the Acts of the County Assembly of the respective county or subsidiary county laws.

The County Assemblies have been enacting county laws which make some acts and/or omissions offences without clearly indicating who should be responsible for enforcing such laws. This is the problem which the County Inspectorate, Compliance and Enforcement Bill seeks to address.

Enforcement includes inspection of compliance with county laws, arresting those who offend county laws, their prosecution, judicial determination of accusations and punishment of those who offend the county laws and regulations.

Enforcement further extends to impoundment of property and animals which is and/or are traded and/or kept contrary to the county laws and regulations. The arresting and/or impounding officer(s) must have a legal backing from which such powers should be given.

### 2.1.6. Comparative Analysis with other Counties

**Honorable Speaker,**

It is upon the above background that some Counties such as Mombasa, Nairobi City and Nakuru counties have enacted county legislation providing for the establishment of county laws enforcement units and their powers. Others such as Kakamega, Mandera and Trans Nzoia counties have hired county enforcement officers and/or county security officers through their respective County Public Service Boards to assist in the enforcement of county laws- including identifying, developing, implementing and maintaining security processes, protocols and programs to reduce risk, respond to incidents, and limit exposure; overseeing the physical security and safety of county government staff and assets; and enforcement of county legislation.

### 2.1.7. Constitutional and legal framework for enforcement of County laws

#### a) Constitution of Kenya ,2010

The county assemblies have the powers to legislate for the counties while the county executive committees implement county legislation. As a result, the enforcement of county laws is arguably a function of county executive committees and they are required

to cooperate with the police, judiciary, independent commissions and offices and other organs of the national government in implementation.

In order to give effect to Chapter Eleven of the 2010 Constitution: Devolved Government, the Kenyan Parliament enacted the County Governments Act, No- 17 of 2012 to provide for the county governments' powers, functions and responsibilities to deliver services and for connected purposes.

The legislative organs of the county governments are their respective county assemblies while the executive structures are their respective county executive committees. County executive committee's function to:

a) Implement county legislation;
b) Implement, within the county, national legislation to the extent that the legislation so requires;
c) Manage and coordinate the functions of the county administration and its departments; and
d) To perform any other functions conferred on it by the 2010 Constitution or national legislation.

Article 185(1) of the 2010 Constitution provides that the legislative authority of a county is vested in, and enforced by, its respective county assembly. The power of county assemblies to enact legislation means that implementation and enforcement of county laws is a key component of the county governments.

According to Article 185(2), county assemblies have the powers to make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county governments under the Fourth Schedule to the Constitution. With regard to this Article, County assemblies have enacted county laws which make several acts and/or omissions done contrary to county laws as offences punishable under such county laws.

Informed by the recognition that county governments require officers who can be responsible for ensuring compliance with and the enforcement of county laws, county governments have hired officers for this purpose. Counties refer to these

officers as county enforcement officers and/or security officers and/or security wardens. Generally, these officers ensure compliance with and enforcement of the county laws and regulations.

It is also important to note that, county governments inherited the council askaris who previously worked under the now defunct local authorities in the former highly centralized system of government. Both the newly employed county enforcement officers and/or security officers and/or security wardens by the counties and the inherited council askaris work in order to fulfill the sole mandate of ensuring compliance with and the enforcement of the county laws and regulations.

**b) County Government Act,2012**

**Honorable Speaker,**

The County Government Act, 2012 is an Act of Parliament to give effect to Chapter Eleven of the 2010 Constitution: Devolved Government; to provide for county governments powers, functions and responsibilities to deliver services and for connected purposes. The Act provides for the powers, functions and responsibilities of the county governments to deliver services and development to the Kenyan people.

In line with these purposes, the Act has relevant provisions which empower county governments with both legislative and executive powers and functions. Section 5 (2) gives the responsibilities of county governments to include:

i. County legislation in accordance with Article 183 of the 2010 Constitution;
ii. Exercising executive functions in accordance with Article 186; and
iii. Functions provided for in Article 186 and assigned in the Fourth Schedule to the Constitution.

The Act recognizes the two organs of the county governments as their respective county assemblies and county executive committees. The county assemblies are the legislative organs of the counties responsible for county legislation and the county executive committees are responsible for implementing county legislation. For the county plans and policies to be achieved, there is need for a proper implementation of the county

legislation which includes the enforcement of county laws. Proper enforcement of county laws is one of ways through which county governments can achieve the objects of devolution as set out under Article 174 of the 2010 Constitution.

**c) County Legislation**

**Honorable Speaker,**

With regard to the relevant provisions of the Constitution of Kenya, 2010 and the County Governments Act, 2012, the county assemblies have been enacting laws for effective performance and exercise of the functions and powers assigned to counties under Part II of the Fourth Schedule of the Constitution. The county laws which have been enacted by the respective county assemblies have created offences to be committed by those persons who offend such laws. The acts and/or omissions resulting in criminal offences in reference to county laws are punishable by either imprisonment and/or payment of a fine.

Based on the foregoing, some of the counties have enacted county legislation providing for the establishment, organization, powers and functions and the conduct of inspectorate officers within the county governments. The objectives of the county legislation are to provide for a legislative and institutional framework for the enforcement of the county laws and other applicable laws and the regulation of the actions of county inspectorate officers. Generally, the inspectorate units are responsible for the enforcement of and compliance with county laws and regulations. Some counties have empowered the inspectorate units to collect service fees and land rates. For example, both the Mombasa County Inspectorate Act, 2016 and the Nakuru County Laws Enforcement Inspectorate Unit Act, 2014 have empowered their respective inspectorate units to collect service fees and land rates. This results in duplication of roles which is wasteful of resources because county revenue clerks are also responsible for county revenue collection including service fee and land rates.

In accordance with the spirit of cooperative government as provided in Articles 6(2) and 189 of the 2010 Constitution, the county inspectorates offer secondary support to services that are primarily the preserve of the national government, such as county

traffic control and security. Some counties such as Mombasa have their inspectorate departments comprised of well-trained people-friendly security teams inclusive of firefighters who take charge of security operations in the county by effectively and efficiently responding to emergencies. Mombasa County also has ever present and agile traffic marshals who work hand in hand with the traffic police and this has resulted to efficient management of traffic.

It is important to note that some Counties such as Kilifi, Tana River, Uasin Gishu, Kakamega, Kwale, Embu, Bomet, Embu and Tharaka Nithi do not have inspectorates' units for ensuring compliance with and enforcement of County laws. Instead, they have security officers and/or security wardens and/or county enforcement officers and/or security enforcement officers popularly known as County askaris whose responsibilities include: (a) enforcement of and compliance with county laws and regulations; (b) patrol and guarding of access points; (c) controlling crowds; (d) protection of county government property; and (e) providing market security.

The conclusion is that Counties have organized their officers responsible for compliance with and enforcement of the County laws differently. Despite these differences, all these officers are commonly referred to as County askaris who are generally responsible for compliance with and the enforcement of the county laws and regulations.

### 2.1.6. Challenges Experienced in enactment of County Laws

**Honorable Speaker,**

The challenges experienced include:

**a) Inadequate legal and institutional framework:**

A few county governments have enacted legislation providing for a legislative and institutional framework for the enforcement of and compliance with county laws and regulations; Bungoma County inclusive.

Instead, County Public Service Boards have employed security officers /security wardens /security enforcement officers /county laws enforcement officers popularly

referred to as county askaris whose responsibility is to ensure compliance with and enforcement of the county laws and regulations.

These county askaris work under the department of Public Service. This clearly shows that most county governments lack legal and institutional frameworks for ensuring effective and efficient enforcement of and compliance with county laws and regulations.

**b) Lack of capacity for the enforcement of County laws by the counties;**

Generally, county inspectorate officers who are commonly referred to as county askaris are supposed to enforce the county laws and regulations. A close scrutiny of their performance depicts numerous glitches which should be addressed by the respective county governments to ensure that they discharge their mandates within the confines of the law and uphold human rights. This raises the questions of whether the county governments really have the needed capacity to maintain inspectorate units of professional county askaris.

Most of the county askaris hardly undergo any training besides the minimum secondary school education requirement and being physically and mentally fit. As a result, the capacity of the county askaris is low considering their training schools, curriculum and training modes and length being questionable.

c) corruption;
d) lack of code of conduct for county *askaris*;
e) devolution still novel to county *askaris* and the public; and
f) lack of county courts to resolve disputes involving county governments and to enforce county laws.

## CHAPTER THREE.

## 3.0. PUBLIC PARTICIPATION

**Honorable Speaker,**

The requirement of the Committee to conduct public participation on the bill is a constitutional imperative flowing from Article 196 of the Constitution which provides that the County Assembly shall.

a) *Conduct its business in an open manner and hold its sittings and those of its Committees', in public; and*
b) *Facilitate public participation and involvement in the legislative and other business of the assembly and its committees.*

The Committee is required pursuant to Standing order no.140 (2) to facilitate public participation on the Bill through appropriate mechanism including.

a) Inviting submission of memoranda
b) holding public hearings
c) consulting relevant stakeholders in the sector
d) consulting experts on technical subjects

## 3.1. SUMMARY OF THE VIEWS FROM THE PUBLIC

Following the call for submission of memoranda from the public as contained in the advert in the Daily Nation on 9th May,2023. The Committee received memoranda from one entity. The proposals were deliberated on and considered by the Committee. Below are the views from **Bungoma Hoteliers Association** and recommendations of the Committee.

1. The enforcement officers to be well trained to handle Bungoma business communities with decorum.
2. They should have good public relations and etiquette.
3. Be presentable and responsible.
4. Avoid using force in the discharge of duties.
5. They should be well guided and focused while serving Bungoma residents
6. Let them not be used during political rallies and political duties.

**Honorable Speaker,**

The Committee observed that these are finer details and recommends that this should be captured while formulating the regulations.

## CHAPTER FOUR

## 4.0 COMMITTEE CONSIDERATION ON THE BUNGOMA COUNTY COMPLIANCE AND INSPECTORATE BILL, 2023 / PROPOSED AMENDMENTS AND RECOMMENDATIONS

**Honorable Speaker,**

Having considered the memoranda on each of the clauses, the Committee proposes the following amendments.

**CLAUSE 1: Agreed to.**

**CLAUSE 2: Agreed to with amendments.**

**THAT** Introduce the word "*Director*" to mean Director of inspectorate

**Justification:** To address the omission.

**CLAUSE 3: Agreed to.**

**CLAUSE 4: Agreed to.**

**PART II-COMPOSITION AND ADMINISTRATION OF THE INSPECTORATE**

On Composition of the County Inspectorate; **agreed to with amendments**

**THAT** sub-clause numbered **4(1)** be amended so as to read, **5(1)**

**Justification-**To correct the typographical error.

**THAT** the current erroneous Clause 4(2) in the Bill be amended by inserting the word "*County*", before the word "*Executive*" so as to read;

5(2) The inspectorate shall consist of such number of officers and be constituted in such a manner and such organization as the County Executive Member may, in consultation with the County Public Service Board, determine.

**Justification-**To have it harmonized with the definition under interpretation.

**CLAUSE 6: Agreed to with amendments**

**THAT (1)(b)** be amended by inserting the word *"policies"* at the end of the clause.

So as to read; Enforcing the compliance with the Bungoma County Laws, Regulations and Policies.

**Justification-**To give room for enforceability on all legal instruments in the County.

**CLAUSE 6: Agreed to with amendments**

**THAT (1) f** to be amended by inserting the words, *"liaising with other revenue collection agencies" in* at the start of the sub-clause.

So as to read; Liaising with other revenue collection agencies in enforcing service fee and land rates collection.

**Justification-**To have them work as a team in assisting the enforcement of the fees. and rates collection.

**CLAUSE 6: Agreed to with amendments**

**THAT (1)(g)** be deleted in entirety

**Justification-**Clause 6(1)(b) has covered the provisions under it.

**CLAUSE 7: Agreed to.**

**CLAUSE 8: Agreed to with amendments.**

**THAT** on the powers and duties of the Director be approved with amendment by adding the words *"and any other enacted regulations"* so that the clause reads;

8(1) The director shall be subject to consultation with the Executive Member exercise such powers and perform such duties as are or may be provided by or under this Act and any other enacted regulations.

**Justification**: To bring clarity on the reporting and working structure.

**THAT** a sub-clause named 9(2) be introduced to read;

9(2) The recruitment shall be based on the provisions of the Constitution and other supporting laws

**Justification**-To have constitutional provisions adhered to terms of employment.

**CLAUSE 10: Agreed to with amendments.**

**THAT** clause 10(2) be amended by deleting the words *"County Secretary"* and replacing it with the words *"Chief officer"* so as it reads;

10(2) Despite sub-section (1), the County Public Service Board may delegate any of it functions of deployment, promotion and discipline of officer, in writing, to the Chief officer responsible for matters pertaining to the enforcement of County laws or the Director.

**Justification**-To align the roles provided to the relevant office.

**CLAUSE 11; Agreed to with amendments.**

**THAT clause 11(1)** to be amended by deleting the word *"disciple"* and replacing with the word "discipline" so as to read;

11(1) The grounds constitute a breach of discipline by officers of the inspectorate which includes-

**Justification**-To correct typographical errors.

**CLAUSE 11: Agreed to with amendments.**

**THAT clause 11(1, e)** be amended by deleting the word *"remissness"* and replacing it with the word ***"negligence"*** so as to read;

e) negligence in discharge of any duty

**Justification-**For better clause understanding by all.

**CLAUSE 12; Agreed to with amendments.**

**THAT** clause 12 be amended by inserting a new clause 12(g) and (h) so as to read:

12(g) Nature and manner of recordings to be maintained by the inspectorate.

12(h) Handling of all impounds

**Justification-**To provide for wide range of regulations for easy enforcement of the law.

**CLAUSE 13: Agreed to.**

**CLAUSE 14: Agreed to with amendments**

**THAT clause 14(d)** on duties of officers towards the public and arrested persons be amended by inserting the following phrase after the words "custody", so as to read;

d) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody by surrender them to the police.

**Justification-**To align with the provision of the Constitution.

**CLAUSE 15: Agreed to.**

**CLAUSE 16: Agreed to with amendments.**

**THAT clause 16(2)** be amended by inserting the word "or her" immediately after the word "him"

**Justification-**To have all the gender covered in the provision.

**CLAUSE 17: Agreed to.**

**CLAUSE 18; Agreed to with amendments.**

**That clause 18 be amended by inserting the** following words immediately after the word "laws" *"in conjunction with other law enforcement agencies"* so as to read;

18. An officer generally or specially authorized by the Executive Member may enter any shop or premises for the purpose ensuring compliance with County laws in conjunction with other law enforcement agencies.

**Justification:** To bring clarity on the roles and powers of the officers involved.

**CLAUSE 19: Agreed to.**

**CLAUSE 20: Agreed to.**

**CLAUSE 21: Agreed to with amendments.**

**THAT** the clause 21 be amended by inserting the following words after the word "property" "which shall attract penalties on a daily basis as shall be provided in supporting legislation and guidelines" so as to read

An officer has a duty to seize and take to any public pound for confinement therein for 14 days any animals found straying in any street or trespassing upon any public property which shall attract penalties on a daily basis as shall be provided in supporting legislation and guidelines.

**Justification** To deter those whose animal are confined from taking advantage of them.

**CLAUSE 22: Agreed to with amendments.**

**THAT** clause 22(2) be amended by inserting the words *"in the regulations"* at the end of the clause so as to read;

An officer taking charge of any property under sub-section (1) shall hand over the property in a manner as may be prescribed by the Executive Member in the regulations

**CLAUSE 22: Agreed to with amendments.**

**THAT sub-clause 22(3)** on charge of unclaimed property be amended by deleting the words *"three months" and* replacing it with the word *"fourteen days"*.

**So as to read;**

**Justification** –To align the provisions with other laws.

**THAT** sub-clauses 23(2) be amended by deleting the word "*newspaper*" *appearing* after the word "local" and replacing therefor with the word "media".

So as to read;

23(2) The regulations made under this section shall be published in the County gazette and in the locality affected thereby by affixing copies thereof in conspicuous places or by advertising the same in such local media.

**Justification**-To give room for more advertising platforms.

**CLAUSES 24: Agreed to with amendments.**

**THAT** erection of barriers on streets be amended by inserting the words "*on*" between *the* words *driven and* county and deleting the word "*been*" appearing between the words not and contravened. Further be amended by deleting the phrase in *respect of any such vehicle and in order to collect cess or royalties* so as it reads;

24. The Executive Member may authorize the inspectorate to erect barriers on any street for the purpose of stopping temporarily vehicles driven on the County roads in order to satisfy they have not contravened licensing laws.

**CLAUSE 25: Agreed to.**

**CLAUSE 26: Agreed to.**

**PART VII- OFFENCES, PENALTIES AND PROCEDURE**

**CLAUSE 27: Agreed to with amendments.**

**THAT** clause 27 be amended by deleting the word "*hundred*" *appearing immediately before the word "thousand"* and replacing with the word *"ten" and further delete* the words "one year" appearing before the "exceeding" and substituting therefor with the words "*three months*" so as to read;

27.A person who intentionally resists arrest, obstructs or interferes with the duties of an officer commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months or both.

**Justification**-The penalty is too punitive.

**CLAUSE 31: Agreed to with amendments.**

**THAT new** sub-clause 31(b) be introduced to read;

A complain Committee shall be formed in the regulations and will act upon the Complains

**Justification**-To avoid injustices.

**THAT a new** transitional clause be introduced so as to read;

Any officer currently serving in any rank that may be varied by this Act in terms of educational qualifications, shall continue doing so until his/her retirement

## CHAPTER FIVE

### 5.0 COMMITTEES OBSERVATIONS.

The Committee made the following observations

1. **THAT** the Bill is well drafted as per the standards of Bill drafting.
2. The Bill once enacted shall provide Legal framework for the enforcement of laws in the County.

### 5.1 COMMITTEES RECOMMENDATIONS.

**Honorable Speaker,**

The Committee recommends **THAT** this House adopts this report with the proposed amendments on the Bungoma County Inspectorate, Compliance and enforcement Bill,2023 further, the committee recommends that the Bill moves to the next stage.

***Thank you***

**ADOPTION SCHEDULE**

The Members of the Sectoral Committee on Public Administration and ICT hereby adopt and append the signatures to this report with the contents herein.

| S/N | Name | | Designation | Signature |
|---|---|---|---|---|
| 1 | Hon. Tony | Barasa | Chairperson | |
| 2 | Hon. Caleb | Wanjala | V/Chairperson | |
| 3 | Hon. Stephen | Wamalwa | Member | |
| 4 | Hon. Joseph | Juma | Member | |
| 5 | Hon. Jack | Wambulwa | Member | |
| 6 | Hon. Sudi | Busolo | Member | |
| 7 | Hon. Grace | Sundukwa | Member | |
| 8 | Hon. Francis | Chemion | Member | |
| 9 | Hon. Stephen | Kaiser | Member | |
| 10 | Hon. Timothy | Chikati | Member | |
| 11 | Hon.Cornelius | Makhanu | Member | |
| 12 | Hon. Jeremiah | Kuloba | Member | |
| 13 | Hon. Franklin | Simotwo | Member | |
| 14 | Hon. Florence | Juma | Member | |
| 15 | Hon. Bridgid | Katasi | Member | |

## ANNEXURES

1. The Bungoma County Inspectorate, Compliance and Enforcement Bill, 2022.
2. The advert for public participation.
3. The memoranda from stakeholders.
4. Minutes.

7 copies



**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 7 (Bungoma County Bills No. 6)*

Tabled on 29/04/2023 at 2.30 pm

REPUBLIC OF KENYA

Committed to Public Admin & ICT Committee

Table clerk

# KENYA GAZETTE SUPPLEMENT

## BUNGOMA COUNTY BILLS, 2023

**NAIROBI, 11th April, 2023**

CONTENT

Bill for Introduction into the County Assembly of Bungoma—

PAGE



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

6 copies

# THE BUNGOMA COUNTY INSPECTORATE, COMPLIANCE AND ENFORCEMENT BILL, 2023

## ARRANGEMENT OF CLAUSES

*Clause*

# THE BUNGOMA COUNTY INSPECTORATE, COMPLIANCE AND ENFORCEMENT BILL, 2023

**A Bill for**

**AN ACT of the County Assembly of Bungoma to provide for the establishment of Bungoma County Enforcement Inspectorate Unit and formatters connected thereto**

**ENACTED** by the County Assembly of Bungoma, as follows—

## PART I— PRELIMINARY

**Short title**

**1.** This Act may be cited as the Bungoma County Inspectorate, Compliance and Enforcement Act, 2023.

**Interpretation**

**2.** In this Act, unless context otherwise requires—

"Animal" includes both domestic and wild species;

"Member of County Executive Committee" means the County Executive Member responsible for matters pertaining to the enforcement of county laws;

"Officer" means an officer appointed under section 5;

"Relevant county organ" means the organ or department responsible for licensing, issuing permits, collecting services fee or approving an activity.

**Objects and purpose**

**3.** The objects and purpose of this Act are—

(a) to provide for an institutional framework for the enforcement of Bungoma County laws; and

(b) to regulate the actions of County Inspectorate officers.

**Jurisdiction**

**4.** Any powers and responsibilities conferred under this Act is limited to the jurisdiction of Bungoma County.

## PART II—COMPOSITION AND ADMINSTRATION OF THE INSPECTORATE

**Composition of the County Inspectorate**

**4.** (1) There is established an Inspectorate known as Bungoma County Inspectorate.

(2) The Inspectorate shall consist of such number of officers and be constituted in such manner and such organisation as the Executive Member may, in consultation with the County Public Service Board, determine.

**Functions of the Inspectorate**

**6.** (1) The Inspectorate shall be responsible for —

(a) protecting and guarding the property of the county;

(b) enforcing the compliance with the Bungoma County Laws and Regulations;

(c) inspection for compliance with trade licenses and permits;

(d) protection of public entertainment sites;

(e) enforcement of barrier cess and loyalties;

(f) service fee and land rates collection;

(g) maintaining law and order within urban centres in the county; and

(h) prevention of crime in the county.

(2) In addition to the matters listed at subsection (1), the Inspectorate shall be responsible for the enforcement of compliance of any other matter that it may be required to do so by any other written law or as directed by the Executive Member.

**Director of the Inspectorate**

**7.** There shall be a director of the Inspectorate who shall have superintendence over all officers of the Inspectorate.

**Powers and duties of the Director**

**8.** (1) The director shall, subject to consultation with the Executive Member, exercise such powers and perform such duties as are or may be provided by or under this Act.

(2) The Executive Member may, in consultation with the County Public Service Board, appoint one or more officers who shall deputise the director.

(3) An officer appointed under subsection (2) shall exercise such powers and perform such of the duties of the director may delegate by general or special order in writing.

(4) The Director shall be appointed in such manner and on such terms and conditions as the County Public Service Board may determine.

**Appointment of enforcement officers**

**9.** The County Public Service Board shall recruit enforcement officers for the Inspectorate from among persons competitively sourced, taking into account the ethnic and geographical diversity of the people of the county.

**Deployment, promotion and discipline of officers**

**10.** (1) The County Public Service Board shall be responsible for therecruitment, promotion, discipline of the officers.

(2) Despite sub-section (1) the County Public Service Board may delegate any of its functions of deployment, promotion and discipline of officers, in writing, any of its functions to the County Secretary or the Director.

**Grounds for breach of discipline**

**11.** (1) The grounds constitute a breach of disciple by officers of the Inspectorate includes —

(a) disobedience to lawful orders;

(b) misconduct;

(c) corruption;

(d) neglect of duty;

(e) remissness in discharge of any duty;

(f) drunkenness; or

(g) any intentional act rendering an officer unfit for the discharge of his or her duty.

(2) Subject to the provisions of the County Governments Act (No. 17 of 2012) and the Public Service Code of Conduct and such Rules as may be made by the Executive Member, the County Public Service Board may, prescribe the following punishment for breach of discipline—

(a) dismissal from service;

(b) compulsory retirement;

(c) reduction in rank or grade;

(d) stoppage of promotion;

(e) forfeiture of seniority for not more than one year;

(f) forfeiture of increment in pay; or

(g) censure.

(3) The County Public Service Board, or any other superior officer authorised to act in this behalf, may place under suspension any officer against whom action under sub-section (1) is required to be taken or against whom any enquiry is required to be made.

(4) Notwithstanding the provisions of this section, nothing shall affect any officer's liability to a criminal prosecution or any offence with which he or she may be charged.

**Rules for the administration of the Inspectorate**

**12.** The Executive Member shall, make rules relating to—

(a) the collection and communication by officers of information and intelligence;

(b) the description and arms, regalia, clothing and other necessaries to be supplied to the Inspectorate;

(c) the places of residence of members of the Inspectorate;

(d) the duties to be performed by officers of different ranks and the manner in which and the conditions subject to which officers shall exercise their powers and perform their duties;

(e) the efficiency and discipline of the Inspectorate; and

(f) the prevention of abuse of powers and neglect of duties by officers.

## PART III—POWERS AND DUTIES OF OFFICERS

**General duties of officers**

**13.** It shall be the duty of every officer to—

(a) obey and execute every lawful order issued by a competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his or her superiors;

(b) take steps consistent with county laws and regulations to bring offenders to justice or to prevent the commission of cognizable offences;

(c) to prevent the commission of public nuisances;

(d) to apprehend without unreasonable delay all persons whom he or she is legally authorised to apprehend and for whose apprehension there is sufficient reason;

(e) to discharge their duties in accordance with the constitution including observing the rights of arrested persons;

(f) to aid national law enforcement agencies when called upon in such ways as would be lawful and reasonable on the part of the agency aided; and

(g) to discharge such duties as are imposed upon him by any law for the time being in force in the county.

**Duties of officers towards the public and arrested persons**

**14.** It shall be the duty of every officer—

(a) to afford every assistance within his power to disabled or helpless persons in the streets;

(b) to take charge of intoxicated persons and lunatics at large who appear to be dangerous or incapable of taking care of themselves;

(c) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his condition;

(d) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

(e) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;

(f) in dealing with women, children and the elderly, to act with strict regard to decency and with reasonable gentleness;

(g) to prevent any loss or damage to impounded property; and

(h) to endeavour to avert any accident or danger to the public.

**Duties of officers to keep order in streets, roads and public spaces**

**15.** It shall be the duty of every officer—

(a) to regulate and control the traffic in the streets within designated areas of towns and urban areas within the county;

(b) to prevent obstruction in the streets in towns and urban areas within the county;

(c) to endeavour to prevent the infraction of any rule, regulation or order made under this Act or any other law for the time being in force in the county relating to road use; and

(d) to keep order in the streets, and at and within bus parks, markets, fairs and all other places of public gathering.

**Duty to conform to reasonable directions given by officers**

**16.** (1) All persons shall be bound to conform to the reasonable directions of an officer given in fulfilment of any of his duties under this Act.

(2) An officer may restrain or remove any person resisting or refusing or omitting to conform to any direction referred to in sub—section (1) and may either take such person to a police officer or, in trivial cases, release him when the occasion is past.

**Power of officers to give information**

**17.** An officer may give any evidence before a court and apply for any legal process as may be required by law against any person committing an offence under county laws and national laws.

**Powers as to inspection**

**18.** An officer generally or specially authorised by the Executive Member may enter any shop or premises for the purpose ensuring compliance with county laws.

**Power of officers to search suspected persons in streets**

**19.** If an officer in good faith suspects that a person has possession or apparent possession of any article believed to be stolen property or an article that is of danger to public safety, the officer may—

(a) search and examine the article and require an account thereof; and

(b) if the account given by the possessor is manifestly false or suspicious, detain such article and report the facts to the police, who shall thereon proceed according to relevant sections of the law.

**Powers to direct against contravention of laws**

**20.** (1) An officer may direct any person acting or about to act contrary to county laws and regulations to desist or to abstain from so doing.

(2) In case of refusal or disobedience to the warning in subsection (1) the office may—

(a) arrest the person offending; or

(b) seize any objection or thing used or about to be used in contravention of such direction.

(3) Any item seized in subsection (2) shall be disposed of according to the order of a court dealing with county matters.

**Impounding of Animals**

**21.** An officer has a duty to seize and take to any public pound for confinement therein any animals found straying in any street or trespassing upon any public property.

**Charge of unclaimed property**

**22.** (1) An office shall take temporary charge of all—

(a) unclaimed movable property found by, or made over to him or her; and

(b) movable property found lying in any public place or street.

(2) An officer taking charge of any property under sub-section (1) shall hand over the property in manner as may be prescribed by the Executive Member.

(3) The Executive Member shall issue a proclamation specifying unclaimed property and requiring any person who may have a claim to appear before him or some other officer delegated to act in this behalf to establish his or her claim within three months from the date of such proclamation.

(4) If the property in sub-section (3), or any part thereof, is subject to speedy and natural decay, or consists of livestock, or if the property appears to be of a value of less than two thousand shillings, it may forthwith be sold by auction under the orders of a magistrate and the net proceeds of such sale form part of county revenue.

(5) The Executive Member shall, on being satisfied of the title of the claimant to the property referred to in this section (4), release the property.

(6) If no person establishes a claim to such property within the period prescribed in sub-section (4), it shall be at the disposal of the Government.

## PART V—INSPECTORATE REGULATIONS

**Power of Executive Member to make regulation**

**23.** (1) The Executive Member may, in the absence of any county laws, make regulations for—

(a) regulating the conditions under which vehicles may remain parked in streets and public places, and the use of streets as parking places for vehicles;

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public;

(c) prescribing situations during which animals shall be driven along the streets, or along certain specified streets;

(d) regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams, bars, or other unwieldy articles through the streets, and the route and hours for such conveyance;

(e) licensing and the controlling of the playing of music, the beating of drums or other instruments and the blowing or sounding of horns or other noisy instruments in or near streets or public places;

(f) regulating the conduct, behaviour or action of persons constituting assemblies and processions on or along the streets;

(g) prohibiting the hanging or placing of any cord or pole across a street, or the making of a projection or structure so as to obstruct traffic or the free access of light and air;

(h) prohibiting or controlling the placing of building materials or other articles or the fastening or detention of any animal in any street or public place;

(i) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause;

(j) guarding against injury to person and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to the passenger, neighbour or public;

(k) prohibiting or regulating the setting fire to or burning any straw or other matter or lighting a bonfire or letting off or throwing a firework in or upon a street or building or the putting up of any post or other thing on the side of or across, a street for the purpose of affixing thereto lamps or other contrivances for illumination;

(l) licensing or controlling places of public amusement or entertainment;

(m) regulating the means of entrance and exit at places of public amusement, entertainment or assembly, and providing for the

maintenance of public safety and the prevention of disturbance thereat;

(n) licensing or controlling the musical, dancing, mimetic, theatrical or other performances for public amusement;

(o) regulating, in the interest of public order, decency or morality, the employment of artists and the conduct of the artists and audience at such performances and the hours during which and the places at which such performances may be given;

(p) regulating or prohibiting the sale of any ticket or issue of any pass for admission to a place of public amusement;

(q) fixing the fees to be charged for any licence or permission required under this Act.

(2) The regulations made under this section shall be published in the county gazette and in the locality affected thereby by affixing copies thereof in conspicuous places or by advertising the same in such local newspapers.

**Erection of barriers on streets**

**24.** The Executive Member may authorise the inspectorate to erect barriers on any street for the purpose of stopping temporarily vehicles driven county roads in order to satisfy they have not been contravened licensing laws in respect of any such vehicle and in order to collect cess or royalties.

**Suffering or unfit animals to be destroyed**

**25.** (1) An officer who in any street or public place finds any animal so diseased, or so severely injured, and in such a physical condition, that, in his opinion, it should be destroyed, shall cause that animal to be destroyed subject to the consent of the owner.

(2) If the owner is absent or refuses to consent to the destruction, the officer shall, summon the veterinary officer in charge of the area in which the animal is found to give a report on the nature of the animal.

(3) If the veterinary officer certifies that the animal is so diseased or so severely injured, or in such a physical condition, that it is cruel to keep it alive, the officer may, without the consent of the owner, destroy the animal or cause it to be destroyed.

(4) The veterinary officer may direct the officer to remove the animal before it is destroyed from the place where it is found to such other place as he may think fit without causing it great suffering.

(5) An animal shall be destroyed as far as possible from any street or public place and screened from the public gaze while it is being destroyed.

**Appeal**

**26.** (1) Any person aggrieved by any act by, or conferment of power to, the Inspectorate pursuant to a regulation under this section may appeal to the Executive Member.

(2) An appeal under this section shall be preferred in the form of a memorandum, setting forth concisely the grounds of objection to the act or conferment of power.

(3) The Executive Member may, after giving a reasonable opportunity to the applicant to be heard and after such further inquiry, if any, take corrective measures or confirm, vary or set aside the conferment of power appealed against.

(4) The Executive Member may suspend further action or exercise of the power appealed against pending the disposal of the appeal.

## PART VII— OFFENCES, PENALTIES AND PROCEDURE

**Obstruction of an officer**

**27.** Any person who intentionally resists arrest, obstructs or interferes with the duties of an officer commits an offence and shall be liable upon conviction to a fine not exceeding a hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

**Impersonating an officer**

**28.** Any person who impersonates an officer appointed under this Act, commits an offence and shall be liable, upon conviction, to pay a fine of not more than five hundred thousand or imprisonment for a period not exceeding three years, or to both.

**General Penalty**

**29.** Any person who is convicted of an offence under this Act for which no penalty is prescribed shall upon conviction of that offence be liable to a fine not exceeding One Hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

## PART VIII—MISCELLANEOUS PROVISIONS

**Indemnity**

**30.** An officer shall not be liable to any penalty or to payment of any damage on account of an act done in good faith in pursuance of any provision of this Act or any other law, rule, regulation or order for the time being conferring power to officers of the Inspectorate.

**Complaints**

**31.** A person may bring a complaint against any officer for anything done under any provision of this Act or of the rules, regulations or orders made there under by delivering a complaint in writing to the Executive Member.

**Fines**

**32.** All fines imposed and recovered by a competent court on an offender shall be paid to and collected by the County as revenue.

**Arrangements with other public bodies**

**33.** The county government shall put in place arrangements with—

(a) the Director of Public Prosecution for the purpose of facilitating prosecution of those who contravene county laws;

(b) the Judicial Service Commission of Kenya for the purpose of allocation and designation of magistrates to adjudicate on criminal matters arising from county laws and the transmission of fines paid by those convicted of county offences into the County Revenue Fund;

(c) the relevant public authorities dealing with matters of incarceration of criminal suspects and convicts.

**Power to make regulations**

**34.** The Executive Member may, in addition to the regulations prescribed section 23, make further regulations for the better carrying out the purposes of this Act.

## MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide a proper institutional framework for the enforcement of Bungoma county laws and regulations through the establishment of a county Inspectorate and compliance And Enforcement department.

The Bill is structured into in to six parts:

**Part I** of the Bill contains the preliminary provisions. These include the title of the Bill, the interpretation of terms as used in the Bill, the objects of the bill and the jurisdiction of the Act.

**Part II** deals with the composition and administration of the Inspectorate. It deals with the functions of the inspectorate, its superintendence and the powers and duties of its director. It also prescribes the manner for the appointment deployment, promotion and discipline of enforcement officers.

**Part III** deals with the powers and duties of officers. It enumerates the general duties of officers and the appointment of enforcement officers. It also provides for the duties of enforcement officers towards the public and arrested persons. The part also provides for the power of enforcement officers to give evidence in legal proceedings and the powers to inspect premises. It also deals with the officers' power to search suspected persons in streets and provides for the power of impounding of animals and charge over unclaimed property

**Part IV** makes provision for inspectorate regulations which should give the sort of laws to be enforced by the inspectorate. It also deals with the erection of erection of barriers on streets. The type of animals to be destroyed. It also provides for an appeal mechanism to the executive member in charge of the inspectorate for actions of enforcement officers.

**Part V** provides for offences, penalties and procedure. This includes provisions against theobstruction of an officer and the impersonation of enforcement officers.

**Part VI** provides for miscellaneous provisions including indemnifying officers of the inspectorate, providing for complaints, the making provisions for arrangements between the county government and others institutions of law. It also makes provisions for the making of further regulations by the executive member.

This Bill is not a money Bill within the meaning of article 114 of the Constitution.

JAMES MUKHONGO,

*Chairperson, Finance and Economic Planning Committee.*

# COUNTY ASSEMBLY OF BUNGOMA

P.O BOX 1886-50200, BUNGOMA, Kenya. Telephone: 055-2030854/020-2030309,
Email: bungomacountyassembly@gmail.com

## INVITATION FOR SUBMISSION OF MEMORANDA ON BILLS UNDER CONSIDERATION.

The under-listed Bills have been tabled in the County Assembly and committed to various committees.

1. **The Bungoma County Inspectorate ,Compliance and Enforcement Bill,2023**
2. **The Bungoma County Public Markets (Amendment) Bill,2023**
3. **The Bungoma County Weights and Measures Bill,2023**
4. **The Bungoma County Cooperative Societies Bill, 2023**
5. **The Bungoma County Public Entertainment and Amenities Bill,2023**
6. **The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill,2023**
7. **The Bungoma County Revenue Administration and Management (Amendment) Bill, 2023**

Article 196(1) (b) of the Constitution of Kenya, and Section 87 of the County Governments Act, provides for Public participation and involvement in the legislative and other business of the Assembly and its Committees.

In compliance with the above laws, the Committee invites members of the Public to submit written representations they may have on the aforementioned document. The Bills can be accessed from the County Assembly website at **http://www.bungomaassembly.go.ke.** Hard copies of the Bills are available at the Member of County Assembly Offices in the various wards.

The representations may be forwarded to Clerk of the County Assembly, P.O Box 1886-50200 Bungoma, hand-delivered to the office of the Clerk, Main County Assembly building or emailed to **info@bungomaassembly.go.ke;** to be received on or before 17th May 2023.

**CHARLES W. WAFULA,**
**CLERK OF THE COUNTY ASSEMBLY,**
**COUNTY GOVERNMENT OF BUNGOMA.**

BUNGOMA HOTELIERS ASSOCIATION (BUHA)
P.O BOX 1536-50200, BUNGOMA
@ DINA (KAMF DAVID) - WEBUYE
TEL: +254 720 337 730, +254 734 720 550

COUNTY ASSEMBLY OF BUNGOMA
CLERK
16 MAY 2023
RE...
P.O. Box 1886-50...

DATE: 16th May 2023

TO,

**HON CHARLES W. WAFULA,**

**CLERK OF THE COUNTY ASSEMBLY OF BUNGOMA,**

**P.O BOX 1886-50200,**

**BUNGOMA**

BUNGOMA HOTELIERS ASSOCIATION
(BUHA)
P.O Box 1536-50200 BUNGOMA
TEL: 0720337730

PCA-CS
Forward this to respective committees handling bills.
17/5/23

Dear Sir,

**REF: INVITATION FOR SUBMISSION OF MEMORANDA ON BILLS UNDER CONSIDERATION**

On behalf of Bungoma Hoteliers Association, we do offer to give our Memoranda on the below mentioned bills.

1. **Bungoma County Inspectorate, compliance and enforcement Bill 2023.**
   It is our Prayer and wish that our Inspectorate Department, Compliance and enforcement officers.
   a) Are well trained to handle Bungoma business communities with decorum.
   b) Have good Public relations etiquette.
   c) Be well presentable and responsible.
   d) Avoid using force in their discharge of duties.
   e) They should be well guided and be focused while serving Bungoma residents.
   f) Let them not be used during political rallies and political duties.

2. **County Public Market (Amendment Bill 2023)**
   a) All markets must be WASH compliant.
   b) All markets must have street lights.
   c) The County should have proper drainage and well designated dumpsite to control spillage of garbage on the market.
   d) Charges should be only paid on markets well built by the County.
   e) Stop charging businessmen and women who display their wares on the road reserves e.g. Lugulu Market, Mihuu Ward Webuye East Constituency.
   f) Charges should be fair and reasonable.
   g) Stop total display of goods and wares on road reserves to avoid accidents on such markets e.g. Chwele, Mayanja, Kamukuywa, Kimilili, Misikhu, Lugulu and Dinah Junction in Matulo Ward Webuye West Constituency.

5. **The Bungoma County Public Entertainment and Amenities Bill 2023**
   All Public Entertainment amenities must have the following
   a) Soundproof
   b) Well ventilated
   c) Have a well functioning firefighting equipment
   d) Have more access areas and doors in case of emergency and evacuation.
   e) They must be WASH Compliant

6. **The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill 2023.**
   a) Allow any organization that has paid a single permit license to put up their signage
   b) Control out door advertisement billboards and Signage near Road Junctions so that motorists can get a clear view.
   c) Charge those that are used for commercial advertisement agency higher than the normal ones.
   d) All billboards and signage must have responsible messages and pictures that has no adverse effects to our children.

7. **The Bungoma County Revenue Administration and Management (Amendment) Bill 2023**
   a) County government revenue department should have a well-defined checklist for any organization as per charges
   b) Hotel owners should be shown the criteria used by the County Government of Bungoma as pertained Single Business License Charges. Most hotels feel disadvantaged with exorbitant rates charged
   c) We need to classify and have synchronized charges in the entire County.
   d) Stop taxing Hotels liquor license fee. This is double taxation. Counties like Nyandarua charge only Single Business Permit.
   e) Make all revenue payment cashless.
   f) Reduce Single Business License Fee to Hotel Owners, it is very high.
   g) Let license fee paid run within a 12 Months cycle.
   h) Create more avenue for revenue collection such as the following:
      Build packing sites for lorries on Transit in Webuye Town, Bukembe Town, Kanduyi Town.
   i) County Government should buy 5 Ha of land on every town and develop the area so that Kshs 500 can be charged per Night per lorry as packing fee. This will generate more revenue to the County Government of Bungoma.
   j) Buy Land at the following sites: Nabuyole Falls, Daraja ya Mungu, Teremi Falls, Malakis Falls, Sikele sha Mulia and build these sites as tourist and picnic sites. This will involve as building walls, providing security, making these facilities WASH compliant. Having street lights on this sites. This will definitely increase revenue through entrance by those visiting these areas.
   k) We need to increase revenue but not through overtaxing the business communities.

*Prepared and Presented By*

NAMANDA NASILA

*Secretary General*
BUNGOMA HOTELIERS ASSOCIATION
BUNGOMA
0720337730/0734720550

BUNGOMA HOTELIERS ASSOCIATION
( BUHA )
P.O Box 1536-50200 BUNGOMA
TEL: 0720337730

**MINUTES OF THE PUBLIC ADMINSTRATION AND ICT COMMITTEE MEETING HELD ON MONDAY 19TH JUNE, 2023 AT 0900 HRS**

**VENUE: DIVINE HOMES, KISUMU.**

**MEMBERS PRESENT:**

1. Hon. Tony Barasa — Chairperson
2. Hon. Florence Juma — Member
3. Hon. Francis Chemion — Member
4. Hon. Cornelius Makhanu — Member
5. Hon. Simotwo Franklin — Member
6. Hon. Brigid Katasi — Member
7. Hon. Stephen Wamalwa — Member
8. Hon. Stephen Kaiser — Member
9. Hon. Timothy Chikati — Member
10. Hon. Jeremiah Kuloba — Member
11. Hon. Joseph Nyongesa — Member

**ABSENT WITH APOLOGIES**

1. Hon. Caleb Wanjala — Vice chair
2. Hon. Sudi Busolo — Member
3. Hon. Grace Sundukwa — Member
4. Hon. Jackson Wambulwa — Member

**SECRETARIAT**

1. Knight Ngano — Committee Clerk
2. Kellum Chandai — S.A.A
3. Dennis Waswa — Hansard Editor
4. Edward Musumba — Legal Counsel
5. Levis Wanjala — Legal Clerk

**AGENDA**

1. Preliminaries.
   i) Prayer
   ii) Adoption of the agenda.
   iii) Communication from the chair.

## ADJOURNMENT

There being no other business the meeting ended at 1230hrs. The next meeting will be by notice.

## CONFIRMATION

**CHAIRPERSON**
**HON. TONY BARASA**

**DATE**----------26/06/2023----------**SIGN**----------

**COMMITTEE CLERK**
**KNIGHT NGANO**
**DATE**----------26/06/2023----------**SIGN**----------