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## **THE COMMISSION ON REVENUE ALLOCATION ACT**

*(No. 16 of 2011)*

## **THE COUNTY GOVERNMENTS ACT**

*(No. 17 of 2012)*

## **COMMISSION FOR REVENUE ALLOCATION MODEL TARIFF AND PRICING POLICY**

### *Notice to the County Governments*

A Tariffs and Pricing Policy is a requirement under section 120 of the County Governments Act to form a basis for determination of various county user fees and charges. The Commission on Revenue Allocation is constitutionally mandated to among others give recommendations on matters concerning financing and financial management of county governments. Further, the Commission may in formulating recommendations on this mandate when appropriate, define and enhance the revenue sources of national and county governments. It is in this regard that the National Policy to Support Enhancement of County Governments' Own Source Revenue assigns the Commission the role of assisting county governments develop their Tariffs and Pricing Policies.

Tariffs can potentially be a significant revenue source for county governments. They are also a key point of engagement between county governments and the people they serve. Proper determination of tariffs will result in maximisation of revenue which is vital in ensuring financial sustainability.

A Tariffs and Pricing Policy informs citizens what it intends to achieve through its tariffs, and assure them that tariffs are set based on strategic decisions the county needs to make. The tariff policy provides citizens with information that helps them to understand and interpret the fees and charges they pay.

The purpose of this document is to assist counties to develop a transparent and understandable tariff and pricing policy with accurate basis for tariff setting. It provides a step by step guide on development of tariff and pricing policy annexed to this document.

The Constitution under Article 209 (4) empowers National and county governments to impose charges for services that they offer. In operationalizing this constitutional provision, section 120 of the County Governments Act, 2012 requires county governments to develop a Tariffs and Pricing Policy to form a basis for such user fees

and charges. This legal requirement is underscored in the National Policy to Support Enhancement of County Governments' Own Source Revenue Policy.

Currently, no county government has complied with section 120 of the County Governments Act by having in place a Tariffs and Pricing Policy to form a basis for their fees and charges. In the alternative, counties are relying on defunct local authority by-laws and legislation such as Finance Act in setting county fees and charges which is contrary to the law. There is a disconnect between fees charged and the county services provided.

The key principle in setting county fees and charges is that fees must be generally proportional to the services offered. Other guiding principles to setting of county tariffs, fees and charges include affordability, equity, financial sustainability, destitution, transparency, environmental sustainability, consistency and promotion of local economic development.

The objectives of a Tariffs and Pricing Policy is to determine the cost of providing county public services, to map and match county revenue streams with expected services. Additionally, a Tariffs and Pricing Policy should provide for an economic, efficient and sustainable way of setting tariffs, fees and charges at the county level. Subsequently, development of the Policy will provide citizens with information to understand and interpret the fees and charges they pay and the services that they should expect from the county in return.

The process of developing a Tariffs and Pricing Policy entails six key steps namely initiate, review, determine, engage, approve and implement. Each of these steps involves various activities to be undertaken by different actors and executed within the budget cycle timelines.

### **Policy Statement**

The County Government of XXX or any other agency delivering services on its behalf in this county adopts and commits to implement this Tariffs and Pricing Policy for the provision of public services. This policy will be implemented after adoption by the County Assembly. All fees and charges will be computed in accordance with this policy.

### **Definitions**

"County Government XXX" means an imaginary county government of county for the purposes of this Tariffs and Pricing Policy

“County Executive Committee” means a Committee comprising of the Governor, the Deputy Governor, the County Secretary, and all the County Executive Committee Members;

“Technical Committee” means a Committee comprising of county Chief Officers, the Directors, technical staff from County Departments or any other member co-opted by the Committee;

“Tariffs” means the scale of fees and charges which may be imposed in respect of services provided by the county government or any agency delivering services in the county;

“Households” means all persons older than 18 years that occupy a property within the jurisdiction of the county whether the person rents or owns the property;

“House” means commercial or residential premises owned by the county;

“National OSR Policy” means the National Policy to Support Enhancement of County Governments’ Own Source Revenue;

“Variable cost” means the costs that changes as the volume of consumption of goods or services changes;

“Fixed cost” means the costs which does not change as the volume of consumption of goods or services changes.

### Policy Objectives

The general objective of this policy is to provide a basis for levying tariffs, fees and charges in the county. The specific objectives of the policy include:

- (a) To determine the cost of providing public services.
- (b) To map and match the revenue streams with expected services.
- (c) To determine the tariffs, fees and charges payable for each category of citizens.
- (d) To promote local economic development.
- (e) To provide for the economic, efficient and sustainable setting of tariffs, fees and charges.
- (f) To inform users of county services on the basis of tariffs, fees and charges.

### 1.3 Scope of Application

This policy applies to the County Government XXX or any of its agencies delivering services in the county when levying fees and charges for the delivery of public services as required by section 120 of the County Governments Act.

### 1.4 Policy Rationale

This Policy is guided by section 120 of the County Governments Act which requires county governments to adopt and implement a Tariffs and Pricing Policy for the provision of public services.

The development of this policy that sets tariffs of own source revenue streams will result in fees and charges being generally proportional to the cost of providing the respective services. Additionally, the main purpose of a tariff is to generate sufficient revenue to ensure that a service can be provided sustainably.

### 1.5 Policy Framework

The following policies were reviewed in the development of this policy as follows—

#### 1.5.1 National Policy to Support Enhancement of County Governments’ Own-Source Revenue

The National OSR Policy underscores the need for counties to develop a Tariffs and Pricing Policy so as to provide a basis for setting fees and charges for public services offered by the county government. It also stipulates that a Tariffs and Pricing Policy should provide citizens with information to understand and interpret the fees and charges they pay and the services that they should expect from the county in return.

#### 1.5.2 National Trade Policy, 2017

The development of this Policy was guided by among others the National Trade Policy, 2017 which gives direction on certain matters such as domestic trade development, one of the county functions and a key revenue stream for counties.

#### 1.5.3 County Policies

The county has also adopted policies touching on various revenue streams which have informed the development of this Policy.

### 1.6 Legislative Framework

In developing this Policy, the following laws informed the basis for levying of fees and charges in the county.

#### 1.6.1 County Governments Act, 2012

When developing this Policy, the county was guided by Section 120 which provides in part as follows-

- (1) A county government or any agency delivering services in the county shall adopt and implement a tariffs and pricing policy for the provision of public services.
- (1A) Notwithstanding subsection (1), a county government or any agency delivering services in the county shall adopt and implement tariffs and pricing policy subject to the existing National Government laws and policies.

This provision compels the County Government XXX to formulate a Tariffs and Pricing Policy for all its fees and charges. Additionally, the tariffs, fees and charges should be incidental to the cost of the respective public service.

#### 1.6.2 The Urban Areas and Cities Act, 2011

An area within a county government may be classified as an urban area or city under section 4 of this Act. The management of a city and municipality is vested in the county government and administered on its behalf by a board, a manager and such other staff or officers as the county public service may determine.

The Boards under section 20 (1) (b) (m) and (n) are mandated among others to:

- (a) develop and adopt policies, plans, strategies and programmes, and may set targets for delivery of services;
- (b) as may be delegated by the county government, collect rates, taxes, levies, duties, fees and surcharges on fees; and
- (c) set and implement tariff, rates and tax and debt collection policies as delegated by the county government.

The Board management functions will entail service delivery and also include collection of county fees which are grounded on this county Tariffs and Pricing Policy. Further, the Boards will be involved in setting and implementing tariffs which are enshrined in this Policy. section 21 (1) (c) also empowers Boards to impose such fees, levies and charges as may be authorized by the county government for delivery of services by the municipality or the city.

#### 1.6.3 The Public Finance Management Act, 2012

The County Treasury is mandated under section 104 (1) (a-d) to monitor, evaluate and oversee the management of public finances and economic affairs of the county government including—

- (a) developing and implementing financial and economic policies in the county;
- (b) preparing the annual budget for the county and co-ordinating the preparation of estimates of revenue and expenditure of the county government;
- (c) co-ordinating the implementation of the budget of the county government;
- (d) mobilizing resources for funding the budgetary requirements of the county government and putting in place mechanisms to raise revenue and resources.

This Policy falls under the purview of the County Treasury as per section 104 (1) (a) above.

#### 1.6.4 Other National Legislation on Revenue Streams

In developing this Policy, reference was made to various national legislation such as the Physical and Land Use Planning Act, 2019 which provides for zoning, a parameter for setting some of the fees and charges in the county such as parking, building plan approval and trade licensing fees.

#### 1.6.5 County Legislation

Various county legislations guiding fees and charges were considered in formulating this Policy.

### 1.7 General Principles Guiding the Determination of Tariffs

Development of this policy was informed by section 120 of the County Governments Act which provides guidelines on setting of tariffs. County tariffs, fees and charges should reflect the costs reasonably associated with rendering the respective services. The following are the guiding principles:

#### 1.7.1 Affordability

Tariffs, fees and charges should be reasonably priced and proportional to the service provided. Further there should be value for money to users.

#### 1.7.2 Equity

Tariffs, fees and charges must be fair and impartial and applied to all users without discrimination.

#### 1.7.3 Financial Sustainability

The tariffs, fees and charges should be set to generate sufficient resources for the county to render the services in the long run.

#### 1.7.4 Destitution

The county may impose tariffs, fees and charges at cost or subsidise. Poor households shall have access to at least basic services through;

- (a) tariffs that cover only operating and maintenance costs;
- (b) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
- (c) any other direct or indirect method of subsidies of tariffs for poor households.

#### 1.7.5 Transparency

Good governance, integrity, accountability and full disclosure should be observed when setting tariffs, fees and charges.

#### 1.7.6 Promote Local Economic Development

Provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users. The tariffs, fees and charges should generate revenue, promote economic efficiency and growth of the business environment in the county.

#### 1.7.7 Environmental Sustainability

Tariffs, fees and charges must promote economic, efficient, effective and sustainable use of resources, the recycling of waste and other appropriate environmental objectives.

### 1.8 Policy Development Process

The policy development process commenced with the County Executive Committee Member of Finance designating the Chief Officer Finance to spearhead the process as supported by a Technical Committee.

This Policy was developed through the following stages—

- (a) *Situational Analysis*- the county assessed the existing tariffs, fees and charges. Additionally, the cost of service delivery, the current economic situation, the rationale and basis of existing tariffs, fees and charges and the priorities of the county government were also assessed.
- (b) *Request for Submissions* -the County Treasury requested for input from the county departments on the existing tariffs, fees and charges through the budget circular. In addition, the County Treasury requested for input on the same from stakeholders. The input received was compiled by the Technical Committee.

(c) *Formulation of a Draft Tariffs and Pricing Policy*- the Technical Committee formulated the draft Tariffs and Pricing Policy taking into consideration the submissions received and in line with the county priorities. The fees and charges by the county governments were mapped to the public services that the county will offer.

(d) *Public Participation on the draft Tariffs and Pricing Policy*- The County conducted public participation with a view to inform and consult stakeholders on the draft Policy. The views were subsequently considered, validated and incorporated into the draft Policy by the Technical Committee.

(e) *Adoption and Approval of the Tariffs and Pricing Policy by the County Executive Committee* – the County Executive Committee considered and approved the draft Tariffs and Pricing Policy.

(f) *Submission of the Tariffs and Pricing Policy by the County Executive Committee Member, Finance* – The draft Policy was submitted for consideration and adoption by the County Assembly.

(g) *Consideration of the Tariffs and Pricing Policy by the County Assembly*-The County Assembly considered and adopted the Tariffs and Pricing Policy for publication and implementation.

### EXAMPLE OF TARIFF DETERMINATION

#### 1.8 Introduction

This chapter describes the determination of tariffs for the revenue streams charged by the County Government XXX. In this policy, five revenue streams are covered namely trade licensing fees, building plan approval fees, parking fees, market access fees and housing rent.

In determining tariffs, the county differentiated between different categories of users such as special interest groups, debtors, service providers, services, service standard, geographical areas and other matters while ensuring that it did not amount to unfair discrimination.

#### 1.9 Trade Licensing Fees Tariff

A trade licensing fee is a levy charged to traders by the county government as a prerequisite to conducting business within the county jurisdiction. On payment of the fees, a trader is issued with a trade license.

The specific objectives of trade licensing are to:

- (a) control and regulate business practices.
- (b) generate consistent business-related data for county planning.
- (c) mobilise resources for providing services that ensure a safe and clean environment for traders.

The following factors have been considered in setting the county trade licensing tariff:

##### (i) Type of Business

There are several types of businesses in the county such as transport, processing and manufacturing firms, hospitality businesses, professional service and education institutions.

##### (ii) Size of Business

The size of business is as informed by the number of employees and plinth area of the business premises.

##### (iii) Cost of Providing the Services

Cost of providing county services varies between urban and rural areas. Services in respect to trade licensing include firefighting, street lighting, road access, stormwater management and waste collection. Such costs for service provision may be fixed or variable as tabulated below-

Table 1: Services and Costs for Trade Licensing

Services	Fixed Cost	Variable Cost
Firefighting services	<ul style="list-style-type: none"> <li>● Fire station depreciation cost</li> <li>● Fire trucks depreciation</li> </ul>	<ul style="list-style-type: none"> <li>● Water</li> <li>● Fuel cost</li> <li>● Fire truck maintenance cost</li> <li>● Ambulance fuel</li> </ul>

Services	Fixed Cost	Variable Cost
	cost <ul style="list-style-type: none"> <li>• Firefighters salaries</li> <li>• Fire trucks drivers' salaries</li> <li>• Ambulance depreciation cost</li> <li>• Ambulance staff salaries</li> <li>• Fire inspector salaries</li> <li>• Firefighting uniform and equipment</li> </ul>	and maintenance cost <ul style="list-style-type: none"> <li>• Electricity costs</li> </ul>
Street lighting	<ul style="list-style-type: none"> <li>• Street Lighting Installation Depreciation</li> <li>• County Electrician salaries</li> </ul>	<ul style="list-style-type: none"> <li>• Electricity cost</li> <li>• Repairs and maintenance of the street lighting</li> </ul>
Road access	<ul style="list-style-type: none"> <li>• Road construction Depreciation</li> <li>• Road maintenance staff salaries</li> </ul>	<ul style="list-style-type: none"> <li>• road maintenance cost</li> </ul>
Storm water management	<ul style="list-style-type: none"> <li>• Drainage system construction Depreciation</li> <li>• Stormwater management staff salaries</li> </ul>	<ul style="list-style-type: none"> <li>• Drainage system maintenance cost</li> </ul>
Waste collection	<ul style="list-style-type: none"> <li>• Garbage trucks Depreciation</li> <li>• Garbage collection staff salaries</li> </ul>	<ul style="list-style-type: none"> <li>• Garbage truck fuel and maintenance cost</li> </ul>

NB: Parameters used in determining costs of service in the above stream may not be the only factors

#### 1.9.1 Setting a Trade Licensing Fee

In setting a trade licensing fee, the average annual cost of service provision in the past three years was considered as a base. The table below shows how the county determined the cost of providing services relating to trade licensing. For the purposes of this policy, the county assumed that the businesses licensed are of the same size and type.

### POLICY IMPLEMENTATION FRAMEWORK

This Policy will be implemented through an inter-departmental approach spearheaded by the County Treasury. The County Treasury will also commission a midterm evaluation of the implementation progress.

#### 1.10 Institutional Framework

The actors responsible for the implementation of this Policy are the County Treasury, the Technical Committee, County Executive Committee, and the County Assembly whose roles are as follows:

##### 1.10.1 County Treasury

The County Treasury is in charge of co-ordinating the implementation and review of this Policy. Specifically, they shall be responsible for:

- (a) requesting and compiling submissions in the review of this Policy;
- (b) ensuring adequate public participation on the proposed changes to this Policy; and
- (c) preparing a monitoring and evaluation report on the implementation of this Policy.

##### 1.10.2 Technical Committee

This Technical Committee will be chaired by the Chief Officer in charge of revenue matters. It will comprise of technical officers from departments where revenue streams are domiciled to a maximum of eleven (11) members. The technical committee shall review and

incorporate submissions from the County Treasury and issues raised by stakeholders on this Policy.

##### 1.10.3 County Executive Committee

This Committee shall-

- (a) Discuss and approve the Policy;
- (b) Lead and oversee implementation of the Policy;
- (c) Make policy decisions on emerging issues concerning the Policy.

##### 1.10.4 County Assembly

The assembly shall:

- (a) Consider and adopt the Policy submitted by the County Executive Committee;
- (b) Enact any relevant laws to give effect to the Tariffs and Pricing Policy;
- (c) Play the oversight role to the county executive committee in the implementation of the Tariffs and Pricing Policy.

The diagram below summarises the roles of these county organs in developing and implementing this policy. Compliance and Enforcement.

To ensure compliance, the county shall develop and conspicuously display a service charter. The service charter shall outline the services provided, cost for provision of such services, duration of the service and user requirements. The charter shall inform the public of the payable county fees and charges for services offered.

Compliance to the policy shall be enforced by the County Treasury. The county government shall develop legislation on sanctions for non-compliance where necessary.

### 1.11 Monitoring and Evaluation

Monitoring and evaluation of this policy will be conducted periodically to assess the progress of implementation of the Policy. The Policy's broader impact on the overall county economy will be monitored within the context of the County Integrated Monitoring and Evaluation System (CIMES).

Table 4.1 below summarizes the policy development process outlining the progress indicators, lead actors and timelines in line with the county budget calendar. The relevant county departments will be required to issue periodic progress reports to the County Treasury for evaluation purposes.

Table 4.1: Policy Development Matrix

Activity	Output Indicator	Timelines	Responsible
Research on county revenue streams charges to inform the situational analysis	Report	30th July	Technical Committee
Request and consider input on the Tariff and Pricing Policy from County departments through the budget circular	Report on submissions	30th August	CECM Finance
Formulation of draft Tariffs and Pricing Policy	draft Tariffs and Pricing Policy	30th October	Technical Committee
Public participation	Public participation	30th	Technical Committee

<i>Activity</i>	<i>Output Indicator</i>	<i>Timelines</i>	<i>Responsible</i>
on the draft Tariffs and Pricing Policy	report	November	
Validation of the tariffs and pricing policy by the Technical Committee	Validation report	31st December	Technical Committee
Adoption and approval of the tariffs and pricing policy by the County Executive Committee	approved Tariffs and Pricing Policy	30th January	CEC
Submission of the tariffs and pricing policy to the county assembly	Forwarding letter	28th February	CECM Finance
Adoption of the Tariffs and Pricing Policy by the County Assembly	Adopted Tariffs and Pricing Policy	31st March	County Assembly/Executive
Enactment and review of the	Bills	30th June	County

<i>Activity</i>	<i>Output Indicator</i>	<i>Timelines</i>	<i>Responsible</i>
affected principal laws			Assembly/Executive
Enactment of the Finance Act	Finance Act	30th September	County Assembly/Executive
Preparation of monitoring and evaluation report on the Tariffs and Pricing Policy (Situational Analysis)	Monitoring and Evaluation Report (Situational Analysis Report)	By 30th August	County Treasury

#### **1.12 Policy Review**

This policy will be reviewed after every five (5) years and tabled before the County Assembly for adoption.

This notice is to all County Governments to be adopted within three (3) years, from the 18th June, 2024.

Dated the 18th June, 2024.

MARY WANYONYI CHEBUKATI,  
*Chairperson Commission on Revenue Allocation*