

PROPOSED BARINGO COUNTY LIVESTOCK SALE YARD(AMENDED) BILL, 2015

(An Act of the County Assembly of Baringo to make Provisions for Promotion for Livestock Sale Yard model)

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A Bill for

An Act of Baringo County Assembly to provide for the establishment and control of livestock sales yards; and for connected purposes.

PART I – PRELIMINARY

Short title	1. This act may be cited as the Baringo County Livestock Sale Yard Act, 2015 and applies to promotion livestock sale management in the County involving traders in the County Communities, Kenya Livestock Marketing Council and County Livestock Marketing Council (KLMC & CLMC) as Partners and the County Government.
Interpretation	2. In this Act, unless the context otherwise requires- “association” means a Livestock Marketing Association) LMA); “auctioneer” means any person who conducts an auction by announcing the lots and controlling the bidding; “Calf” means any bovine animal less than twelve weeks of age; “Casual trader” means a trader in livestock who is not a regular trader; “livestock” means all domestic animals including cattle, camels, goats, sheep, donkeys, pigs and poultry; rabbits “livestock sale yards” means any place where livestock is assembled for sale; “regular trader” includes infirm, diseased, ill and injured animals. “livestock sales yard operator” means any person who is in charge of a livestock sale yard; “regular traders” means persons or their agents who have been granted a license to use a stall. “ Animal Health Inspector “ means a person appointed as an animal Health Inspector pursuant to regulations made under this Act “Unfit animal” as defined under Animal Diseases Act cap 364 “ livestock Marketing Association” means the association by that name registered under the Societies Act cap 108

Proposed Baringo County Livestock Sale Yard (Amended) Bill 2015

“Stock trade license and sale yard license should be very specific and well defined (to be agreed during Assembly deliberations

Power of the county
Public service
Board.

3. (1) The ~~County Public Service Board~~ **Director of veterinary Services** may designate any qualified person to be an animal health inspector for purposes of this Act.
- (2) The ~~Board~~ may appoint such other officer as may be necessary for Proper implementation of this Act.

Construction of
Livestock Sale
infrastructure needed
Yards

4. The County Government shall construct at least one Livestock Sale Yard in every ward **if need be** in the county complete with the necessary including loading rumps; or shall facilitate the construction of the Yards and loading rumps by private individuals (on Private Public Partnership arrangement) or entitles.

Livestock
Marketing
Association (LMCs)

5. Livestock Sales Yards shall be held, operated and managed by Livestock Marketing Association, Kenya Livestock Marketing Council (KLMC), County Livestock Marketing Council (CLMC) and County Government establish by the communities in that ward; except where a Livestock Sale Yard is privately owned under section 4.

Livestock Market
Monitor

- Livestock sale yard operator**
6. (1) ~~Operation of a Livestock Sale Yard~~ shall keep and maintain a Livestock Market Monitor, to provide livestock sales data to be submitted to County Livestock Marketing Council (CLMC) and Ward Administrator.

Registration of
Livestock Marketing
Association (LMAs)

7. ~~The Sub-County Administrator~~ **Department of social Services** shall register the Livestock Marketing Association in the Sub-County, and cause to be kept at a register of the Associations, and guide in membership and general administration.

Function of
Livestock Marketing
Associations

8. For the purpose of ensuring community participation in management of the sale yards, the functions of the LMAs under the supervision of County Livestock Marketing Council (CLMC) and Ward Administrator shall be as follows:-
- a) Manage the sale yards on a day to day basis (emphasis on market days or sale yards days); ensure there’s repair and maintenance of the market infrastructure, provision of water and toilet facilities, and safeguard/protect the market land from private developers.

- b) Manage livestock market information i.e. collect and disseminate livestock numbers; prices and establish a traders' data base (buyers and sellers).
- c) Ensure transparency in revenue collection (fees and levies) during the market days and the management of such levies.
- d) Settling grievances/conflicts and arbitration between different actors in the market.
- e) **Work in liaison with National Government** to maintain security around the market and access routes as shall be provided by the Ward Administrator. Ensure there is order and good business operation.
- f) Coordinate with the Animal Health Inspector on livestock disease surveillance and ensure a clean environment.
- g) Hold quarterly meetings to discuss progress; income; challenges and achievements of the market.
- h) Hold Annual General Meetings (AGM) every end of the year and General Elections after every ~~TWO~~ years. **One year**

PART II – LICENSING

Application for a License

1. (1) A person shall not hold, operate, manage or use on a livestock sales yard or loading rump in the County without a valid license issued pursuant to the Provisions of this Act.

(2) The application for a license shall be in the prescribed form and shall be issued under the seal of the county.

(3) A license shall set out the following particulars-
 - (a) the name of the Association managing the livestock sale yards; Community Chairman
 - (b) the location of the establishment of premises;
 - © the type or kinds of livestock to be handled, sold or exchanged;

- (d) a description of the facilities to be used in conducting such a livestock sales yard;
- (e) the name of the accredited veterinarian who will supervise such livestock sales yard by County Gazette Notice; and
- (f) such other information as the Governor may reasonably require.

Grounds for
Refusal to issue a
License and for
License suspension
And revocation

2. The county executive may refuse to issue or to renew a license or may suspend or revoke a license on any one or more of the following grounds:-

- a) Violation of any provision of this Act, order, or regulation issued hereunder;
- b) Selling or exchanging stolen or mortgaged livestock without authority from the owner or mortgage;
- c) Failing to meet any prescribed measures on sanitation of the yard, housing, holding, and feeding of livestock;
- d) In the case of livestock weighed on the licensee's scales and sold by weight, knowingly quoting incorrect weights or failing to have his scales regularly inspected and tested; and
- e) Failing to pay for livestock after sale.

Record and
Documents

3. (1) Each Association in charge of a livestock sales yard shall keep the following records for each lot of livestock consigned to or sold through Such livestock sales yard:-

- (a) The name ,the physical address of the consignor; and Identification Number
- (b) A description of the livestock, which includes the kind, approximate age, the sex, and any marks, brands or other distinguishing or identifying marks;

- (c) The method by which the livestock was delivered to the livestock sale yard and, in the case of livestock delivered by motor vehicle registration number;
- (d) The name and address of the purchaser of such livestock;
- (e) The price for which the livestock was sold or exchanged and the commission or other fees charged by the livestock sales yard;
- (f) Any health certificates.

(2) Such records shall be kept by the Association in charge of a livestock sales yard at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the Sub-County Administrator.

(3) Such records shall be open for inspection by the Inspector at all reasonable times and shall be retained and preserved for a period of at least 2 years

Duration and
Renewal of license

4 (1) A license shall be valid for ~~two years~~ **one year**

(2) After the expiry of a license, the Inspector may renew a license upon application.

Ministry of finance

License fee and
Revenue collection

~~5. The county executive member responsible for Agriculture and Livestock shall determine the applicable license fee from time to time.~~

~~6. Trade license charged shall be Kshs. 1,000/= annually and revenue charged during sales days shall be as follows:~~

~~a) Cattle – Kshs 200/- (buyer Kshs 100/- seller Kshs 100/-)~~

~~b) Sheep and Goats – Kshs 60= (buyer Kshs 30 and seller Kshs 30)~~

~~c) Camels – Kshs200 – (buyer Kshs 100 and seller Kshs 100)~~

~~d) Donkeys – Kshs 200/- (buyer Kshs 100 and seller Kshs 100)~~

~~e) Movement permit for livestock on transit shall be charged at Kshs: 200/= per animal (cattle, camels, sheep and goats)~~

~~f) License for a private sale yard shall be Kshs: 3,000/= annually and for private loading rumps shall be Kshs: 1,000/= annually.~~

To be aligned to the County Finance Act

- Appeal 7. Any person who is aggrieved by the decision of the Inspector under this Act may Appeal to the court.
- Livestock sales
Yard days 8. The county executive committee member responsible for agriculture and livestock shall publish in the county gazette, the days of the week when owners shall come to Sell their livestock in the livestock sales yard.

PART III – ADMINISTRATION.

- Powers and duties 9. (1) The Animal Health Inspector shall-
- Of Animal Health a) ensure that livestock sale yards conform to the requirements under this Act.
- Inspectors b) ensure that only licensed livestock traders operate livestock sale yards;
c) enforce the rules to protect animals during transportation;
d) ensure that the health and safety measures prescribed in this Act are complied with; and
e) ensure that the animals transported to the livestock sales yards meet the required market standards.
- (2) The Animal health Inspectors shall have the power to:-
- a) Recommend the issuance of licenses upon inspection of the sale yards;
- b) Enter and inspect any livestock sales yard for the purpose of ensuring compliance with this Act;
- c) Seize and confiscate any documents suspected to be forged or fraudulently obtained;
- ~~d) Seize and confiscate any sick, stolen and abandoned animals;~~
- ~~e) Destroy any sick animals as per the regulations;~~
- Sick animals should not be destroyed but treated or quarantined and also should be in compliance to the Animal Welfare Act and Animal Disease Control Act
- f) Return any stolen or abandoned livestock to their owners with the consent of the court.

~~g) Close any livestock sales yard which does not comply with the standards set out under this Act or any other Act.~~

Search and entry
Warrant

10 (1) Subject to section 10 (1) (b) an Inspector may obtain a search warrant from a court within the county to enter and search a livestock sales yard Is in contravention with the provisions of this Act or regulation.

(2) An Inspector may enter and search a livestock sales yard without a search warrant where he has reason to believe that the owner of the livestock sales yard is in contravention with the provision of this Act or regulation.

(3) Subject to sub-section (1) and (2) the Inspector may seize and confiscate any records or sick, stole or abandoned livestock found in the livestock sales yard.

(4) The Inspectors and the inspection must comply with the provisions of the Penal Code.

Stalls

11 (1) The County Government shall construct stalls in the livestock sales yard.

(2) Where the livestock sales yard is privately owned, the owner shall Construct the stalls.

L.M.A's

Allocation of
Stalls to regular

12 (1) Any person may apply to the Inspector for the allocation of a stall in a livestock sales yard.

Traders

(2) The Inspector shall charge an annual fee of Kshs. 100/= or as shall be Determined by the County Executive Committee member responsible For agriculture and Livestock, for regular traders in the livestock sales yard.

LMA's

(3) an Inspector may reserve a stall for a regular traders in the livestock until 9am

(4) where a regular trader fails to turn up at 9am on a trading day, the Inspector may allocate the reserved stall to a casual trader.

(5) (a) Where a regular trader shall be absent from their allocated stall for more than a month the regular trader shall be required to notify the Inspector of absence.

(b) Subject to paragraph (a) an Inspector may allocate a stall to a casual trader for the duration of absence of the regular trader.

Allocation of stalls
To casual traders

13 An Inspector may grant a casual trader the use of a stall on the appointed livestock sales yard days upon payment of the prescribed fee to be determined By the County Executive Committee member responsible for agriculture and Livestock.

PART IV – TRANSPORTATION OF LIVESTOCK TO THE LIVESTOCK SALES YARD.

Factors to consider
When transporting
Livestock
unnecessary

14. All livestock shall be traded in the designated sale yards.

15. livestock shall be transported in a way that will not cause injury or

Suffering to them, taking the following factors into account-

a) Ensure that animals are fit to travel;

b) Ensure that vehicle loading and unloading facilities are constructed and maintained to avoid injury and suffering.

c) Ensure that those handling livestock are competent and do not use violence or any methods likely to cause fear, injury or suffering;

d) Provide sufficient floor, space and height allowance; and

e) Facilitate the provision of water, feed and rest as needed.

Offences and
Penalty

16. Any person who transports livestock contrary to the provisions of this Act commits an offence and shall on conviction be liable to imprisonment for a term not Exceeding three months or to a fine of one hundred thousand Kenya shillings

PART V- WELFARE OF LIVESTOCK IN THE LIVESTOCK SALES YARD PLACE

- Unfit livestock 17. (1) No person shall permit an unfit animal to be exposed for sale in a livestock sale yard.
- (2) No person shall permit an animal to be exposed for sale in a livestock sales yard if it is likely to give birth while it is there.
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- Protection of Livestock from 18 (1) No person shall cause or permit any injury or unnecessary suffering to an animal in a livestock sales yard.
- Injury or unnecessary suffering (2) Without prejudice to the generality of sub-section (1) above, it shall be the duty of any person in charge of livestock to ensure that no injury or unnecessary suffering is caused by:-
- a) The animal being exposed to adverse weather;
 - b) Inadequate ventilation being available for animal;
 - c) The animal being hit or poked by any instrument or any other things; or
 - d) Any other cause.
-
- Handling and tying Of livestock 19 (1) Subject to paragraph (3) below no person shall handle an animal in a livestock sales yard by:-
- a) Lifting it off the ground;
 - b) Dragging it along the ground; or
 - c) Suspending it clear off the ground by the head, neck, ears horns, leg, feet ,tail, fleece or wings;
- (2) no person shall:-
- a) Tie up or muzzle any calf; or
 - b) Tie any poultry by the neck, leg or wing.

(3) Paragraph (1) above shall not prohibit-

(a) any poultry being lifted off the ground by the base of both wings; or

(b) any poultry being suspended clear off the ground by the legs when they are being weighed.

Control of livestock 20 (1) No person shall use excessive force to control any livestock in a livestock sales yard.

(2) Subject to paragraph (3) below no person shall use in a livestock sales yard-

(a) any instrument which is capable of inflicting an electric shock to control any livestock;

(b) any stick, goad or other instrument to hit or prod any calves; or

(c) any stick (other than a flat slap stick or a slap marker), non-electric goad or other instrument to hit or prod any pigs.

(3) The prohibition in paragraph (2) (a) above shall not apply to the use of an instrument mentioned in that paragraph on the hindquarters of any cattle over the age of 6 months or adult pigs which are refusing to move forward when there is space for them to do so.

(4) No person shall drive or lead any animal over any ground or floor, the nature or condition of which is likely to cause the livestock to slip or fall.

Penning and caging 21 (1) it shall be duty of a livestock sales yard operator to ensure that no animal is
Of livestock kept in a pen, cage or hutch which is unsuitable for the size and species of that animal.

(2) Without prejudice to the generality of paragraph (1) above it shall be the duty of a livestock sales yard operator to ensure that-

(a) any person in which any calves or pigs kids and lambs are kept is of sufficient size to enable all the calves or pigs kids and lambs kept in it to lie down at the same time;

(b) any cage or hutch in which any poultry or rabbits are kept-

(i) is of such a design as to enable the poultry to stand in their natural position, or, as the case may be, to enable all the rabbits kept in them to sit upright on all four feet without their ears touching the top of the cage or hutch, and

(ii) has a door which is of sufficient size to enable the poultry or rabbits (as the case may be) to be placed in, and removed from, the cage or hutch without being caused any injury or unnecessary suffering.

(3) Without prejudice to the generality of paragraph (1) above, it shall be the duty of a livestock sales yard operator to ensure that, within the livestock sales yard-

(a) when livestock are penned-

(i) those of one species are kept in separate pens from livestock of another species; and

(ii) they are distributed within the pens, having regard to differences in age and size, so as to avoid unnecessary suffering to them;

(b) any fractious animal is kept in a separate pen, cage or hutch from other livestock;

(c) livestock are not kept in pens, cages or hutches which are overcrowded;

(d) adequate provision is made to prevent livestock from-

(i) escaping from the livestock sales yard, and

(ii) coming into contact with any aggressive or fractious livestock in the livestock sales yard;

(e) a bull is not kept in the same undivided pen in the livestock sales yard as any other animal except that-

(i) bulls which are halter broken may be kept together in the same undivided pen if they are all secured by the head or neck, and

(ii) bulls which have been reared together may be kept together in the same undivided pen (without being secured by the head or neck

(f) a boar over the age of 6 months is not kept in the same undivided pen as any other animal; and

(g) livestock with young at foot are not kept in the same undivided pen as any other livestock, except where they originate from the same group of livestock and are of a mutually acceptable disposition

(4) For the purposes of paragraph (3) above, a “fractious animal” is an animal which is likely to cause injury to other livestock.

Feeding and
Watering of
Livestock

22 (1) it shall be the duty of the person in charge of an animal to ensure that the animal is provided with an adequate quantity of wholesome water as often as is necessary to prevent it suffering from thirst.

(2) it shall be the duty of the owner of an animal which is kept in a livestock sales yard from one day to the next to ensure that the animal is provided with an adequate quantity of suitable ~~food~~ feed and with adequate of water at regular intervals.

Provisions of lighting

(23) it shall be the duty of a livestock sales yard operator or other person for the time being in charge of an animal to ensure that-

(1) any calves, dairy cattle in milk or in calf, goats in milk or in kid, or pigs; and

(ii) any lamb, except a lamb, which is kept at the foot of its dam, or goat kids in either case under 4 weeks of age.

PART VI – SALE AND AUCTION OF LIVESTOCK

Restriction on the

24 (1) A person shall not bring to livestock sales yard a calf which is less

(iii) Where the calf has been brought to a livestock sales yard once within the previous 28 days, the address of the livestock yard and the date on which the calf was brought there.

(6) Every livestock sales yard operator shall----

(a) Keep a record of the details supplied to a purchaser of the calf for the purpose of paragraph (5) above and of the name and address of that purchaser;

(b) retain such record for a period of 6 months from the date on which the details to

which the record relates were supplied to the purchaser;

- (c) produce such records to an inspector on demand being made by hi at any reasonable time during that period and allow a copy of it or an extract from it to be taken.

(7) it shall be the duty of the owner of any calf kept in a livestock sales yard on any day, or his agent, to remove it from the livestock sales yard within 48 hours of the time when the last sale by auction of a calf has taken place on that day.

25(1) sale of livestock at the livestock sales yard shall be conducted either by----

- (a) Regular sale where the price of livestock shall be determined by the prevailing livestock sales yard price; or
- (b) Sale by auction.
- (c) Live weight determined by a weigh bridge.

(2) where any livestock is put up for sale by auction----

- (a) the date, time and place of every sale shall be advertised in the prescribed manner and such sale shall take place on the date, at the time and at the place so advertised;
- (b) in lots, each lot shall automatically be deemed to be the subject of a separate contract of sale;
- (c) the particulars or conditions of any sale including the conditions whether the sale is subject to a reserve or to that effect, then it shall not be lawful for the seller or any person employed by him to bid at such sale, or for the auctioneer to take knowingly any such bid:

provided that if it is stated that the sale shall be subject to a right for the seller to bid, then it shall be lawful for the seller or for any person acting on his behalf to bid at such auction.

(4) if it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the seller or any person acting on his behalf to give one bid for each such lot and no more.

(5) if the seller or any person acting on his behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfill his purchase; provided that the highest bona fide bidder shall be entitled, if he shall so elect, to have the property at the price offered by him.

(6) No auctioneer shall make a bid either on behalf of himself or as an agent of any person unless on making such bid, he announces that it is his bid.

(7) A bidder may retract his bid at any time before the sale is complete

(8) The inspector shall charge a fee from the sale of every animal, at a rate to be determined by the County Executive Committee member for agriculture and Livestock.

(9) A person who, knowingly -----

(a) receives or makes any bid contrary to the provisions of this section; or

(b) Makes a bid which he cannot honour or is fraudulent, or is intended to avoid a valid sale which is subject to a bid,

Commits an offence and is liable for a fine not exceeding Kenya Shillings.....

(10) Where a person convicted of an offence under this section is a licensed auctioneer, he shall, in addition to any other penalty imposed, be liable to having his license revoked.

PART VI-----GENERAL PROVISIONS

26 The county executive committee member responsible for agriculture and livestock may make regulations generally for the purpose of carrying out this Act.

27 Any person who contravenes the provisions of this Act for which no penalty is provided commits an offence and shall on conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings.

Regulations 28. The Governor may make regulations generally but shall do it in consultation with Stakeholder and Kenya Livestock Marketing Council for the purpose of carrying out the purposes of this Act.

Transitional Provision 30 Every livestock sales yard existing before the commencement of this Act shall have 6 months to comply with the provisions of the Act.