

THE MURANG'A COUNTY AGROECOLOGY DEVELOPMENT ACT, 2022.

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THE MURANG'A COUNTY AGROECOLOGY DEVELOPMENT BILL, 2022.

An ACT of the Murang'a County Assembly to provide for the development, promotion and regulation of the organic food industry, to provide for the establishment of the agroecology development and marketing board, in furtherance of the relevant provisions of the fourth schedule to the constitution of Kenya 2010 and for connected purposes.

1. Short Title.

This Act may be cited as the Murang'a County Agroecology Development Act, 2022.

2. Interpretation.

In this Act unless the context otherwise requires —

“Agroecology” means the interdisciplinary combination of agronomy, agriculture, scientific ecology that integrates practices of organic farming, regenerative agriculture and aspects of permaculture;

“Aggregation centre” means an area established close to growers for bulking of produce for purposes of collecting, marketing and enforcement of quality standards;

“Board” means the Murang'a County Agroecology Development and Marketing Board established under section 5;

“County executive committee member” means the member of the Murang'a county executive committee for the time being in charge of agriculture.

“Certification” means organic certification process for producers of organic food and other organic agricultural product.

“Dealer” means a natural person, a company or a firm engaged in propagation of seed material, collecting, transporting, storing, buying or selling organic and shall, include an exporter, importer, processor or a produce and marketing agent.

“Dealing in organic produce” means growing aggregation, transportation, packing, storage, selling, processing, exporting and importing organic produce and products for purposes of trade but does not include dealing for household consumption.

“Grower or producer” means any person who cultivates organically, crops, livestock or aquaculture under the agroecology system referred to in this Act;

“Inspector” means an officer of the board or Murang'a county government appointed in writing to be an inspector for purposes of this Act;

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“Marketing agent” mean a natural person, company or firm engaged in buying organic produce for sale in the domestic market or export market;

“Organic agriculture” means a holistic production management system which promotes and enhances agro-ecosystem health, including biodiversity, biological cycles, and soil biological activity, emphasizes the use of management practices in preference to the use of off-farm inputs, taking into account that regional conditions require locally adapted systems;

“Organic produce” means all produce of crops, livestock or aquaculture production and produced under the standard international agro ecology principals and standards;

“Organic standards” means the existing and known international organic standards and protocols in which Kenya subscribes to;

“Traceability” means the ability to track organic produce and process owner from production to the final consumer or vice versa.

“Produce handling facility” means an area where organic produce is assembled for purposes of grading, sorting, packaging or storage;

3. Objectives and Purposes of the Act.

The object and purpose of this Act is to —

- (1) promote and enhance agro-ecosystem health, including biodiversity, biological cycle and soil biological activity;
- (2) encourage uptake of organic farming and organic products of at least 30 percent in the county;
- (3) inform, train and educate the residents of Murang’a County on the benefits of organic farming and quality control mechanisms;
- (4) ensure that organic produce of the county meets the quality standards and regulations of the international markets;
- (5) integrate organic production courses and farming units in technical training institutes across the county; and
- (6) encourage research and partnership with international, regional and national stakeholders in developing natural pesticides and herbicides.

4. Application of the Act.

(1) This Act shall apply to all crops, livestock and aquaculture and any other agricultural produce and products and to all farms whether privately or communally held as well as to growers, grower organizations, co-operatives and community associations dealing with agroecology within the boundaries of Murang’a County.

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- (2)The Act shall also apply specifically to all produce emanating from agroecology—
- (a) grown, processed or marketed in Murang'a County and
 - (b) imported to or exported from Murang'a County.

PART II-- ESTABLISHMENT, FUNCTIONS AND POWERS THE BOARD

5. Establishment of the Board.

(1)There is established a board to be known as the Agroecology Development and Marketing Board.

(2)The board shall be a body corporate with perpetual succession and a common seal, and shall, in its corporate name, be capable of —

- a) suing and being sued;
- b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- c) borrowing money upon concurrence of Murang'a County Government or making investments;
- d) entering into contracts; and
- e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

6. Functions of the Board.

(1)The board shall perform the following functions —

- (a) regulate the agroecology sub- sector, products and marketing promotion of agroecology;
- (b) collaborate with other relevant agencies to promote the trade in agro ecology and its products including trade agreements, marketing, organizations and cooperatives;
- (c) advise the county government of Murang'a on all matters relating to agro ecology;
- (d) liaise with the private sector and other agencies on matters relating to marketing of products of agroecology in order to limit duplication of efforts and ensure optimal use of available resources;
- (e) co-ordinate and mobilize resources for investments and promotion of marketing of products of agroecology;
- (f) facilitate the marketing of products of agroecology through provision of market information intelligence and the supply and demand at both the local and national level;
- (g) in collaboration with the local technical vocational and educational training stations, relevant national research centers and the local institution of higher learning, conduct

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studies and research designed to promote value addition and marketing of produce of agroecology;

(h) facilitate the development of skills and adoption of appropriate value addition technologies before the marketing;

(i) promote the adoption of standards and best practices in all sub sector production and processing activities;

(j) support and advice on infrastructure improvement in the sub sector that improves manufacturing, processing and trade;

(k) promote insurance enterprise schemes that reduce risks in the sub sector;

(l) collate and disseminate data and information on agroecology and its products for use by all stakeholders;

(m) advise the county governments on levies, fees and charges for purposes of planning and enhancing harmony and equity in the sub sector;

(n) develop and promote systems that will enable reduction of post-production and harvest losses; and

(o) facilitate the establishment of strategic business partnerships.

7. Composition of the Board.

(1) The board shall consist of the following members —

(a) a chairperson;

(b) the county executive committee member in charge of agriculture or their representative;

(c) the County executive committee member in charge of finance or their representative;

(d) three persons appointed by Murang'a County governor taking consideration the principal of gender, youth engagement and regional balance and having experience in agroecology;

(e) two persons nominated by the organizations with presence of activity on agroecology promotion within Murang'a County;

(f) one person nominated by the umbrella Kenya organic agriculture network or any other national umbrella body registered in Kenya with a national appeal in production, processing and or trade in agroecology or organic agriculture;

(g) the chief executive officer recruited by the board who shall be an ex-officio member of the board.

(2) The chairperson and the members appointed under 7 (d) shall be appointed by the governor with the approval of the County Assembly.

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(3)A person shall not be qualified for appointment as a member of the board under sub section (i-) (d), (e) and (f) if that person —

- (a) is a state or public officer;
- (b) is a member of a governing body of a political party;
- (c) is an un discharged bankrupt; or
- (d) has been removed from a public office for contravening the constitution or any other law.

8. Powers of the Board.

(1)The board shall have all the powers necessary for the proper performance of its functions under this Act and, in particular but without prejudice to the generality of the foregoing, the board shall have the power to —

- (a) manage, control and administer its assets in such a manner and for such purpose as best promotes the purpose for which the board is established;
- (b) receive gifts, grants, donations, or endowment made to the board and make disbursement therefrom;
- (c) enter into association with other bodies or organizations within or outside Kenya it may consider desirable or appropriate and in furtherance of the purpose for which the board is established; and
- (d) undertake any activity necessary for the fulfillment of its functions.

9. Vacancy of the Board.

(1)A member of the board other than an ex-officio member shall cease to be a member of the board if such person—

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment not less than six months;
- (d) is absent from three consecutive meetings of the board without good cause;
- (e) resigns in writing by a notice addressed to the County governor; or
- (f) is removed in accordance with the provisions of the constitution.

(2)The board shall be properly constituted notwithstanding a vacancy in its membership.

10. Terms of Office and Conduct of the Board.

- (1) The chairperson and the members appointed under section 7 (i-), (d), (e) shall hold office for a term of three years, renewable for one further term only.
- (2) The board shall conduct its affairs in accordance with the provisions of the schedule and shall sit at least once every quarter of calendar year or three months' period, but subject thereto, the board may regulate its own procedure.

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- (3) The board may establish committees for each produce as may be necessary to enable the carrying out of any specialized activities with respect to the promotion or management and the membership of the committee shall be drawn from the board.
- (4) The organic farming unit under Section 15 of the Act shall serve as the secretariat of the board.
- (5) The board may, with the written approval of the CEC engage the services of experts of any of its functions in which the experts have special competences.

11. Remuneration of the Board.

The membership of the board shall be paid such sitting allowances and reimbursement for expenses as may be approved by the County Public Service Board and in consultation with relevant circulars issued by the Salaries and Remuneration Commission (SRC).

12. The Chief Executive Officer of the Board.

- (1) There shall be a chief executive officer of the board who shall be appointed by the board through a competitive process.
- (2) The chief executive officer shall be an ex-officio member of the board and whose functions shall be —
 - (a) operations of the board;
 - (b) administration, organization and control of staff of the board;
 - (c) management of property and affairs of the board;
 - (d) implementation of the policies and programs of the board;
 - (e) development of operation plans for achieving the board's objectives; and
 - (f) performance of any other duty necessary for the implementation of this Act as may be assigned to the chief executive officer by the board.
- (3) The chief executive officer shall submit to the board for approval not later than three months before the commencement of each financial year, a program of activities of the board in respect of that financial year.
- (4) A person shall qualify for appointment as the chief executive officer if that person—
 - (a) is a citizen of Kenya;
 - (b) holds a minimum of a bachelor's degree in
 - (i) agriculture or agro business;
 - (ii) agroecology;
 - (iii) business or marketing; or
 - (iv) any other relevant field.
 - (c) has not less than five years' experience in the agroecology sciences and/or organic agriculture fields.
- (5) The chief executive officer shall hold office on such terms and conditions of employment as the board, in consultation with the county public service board, may determine.

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- (6) The board may remove the chief executive office from office in accordance with the terms and conditions of service on grounds of
- (a) inability to perform the functions of the office arising out of physical, or mental incapacity;
 - (b) gross misconduct misbehavior;
 - (c) incompetence or neglect of duty; or
 - (d) any other ground that would justify the removal from office under the terms and conditions of service.
- (7) Before removal under subsection (6) above
- (a) the chief executive officer shall be informed in writing of the reasons for the intended removal; and
 - (b) given an opportunity to put in a defense against the allegations.

PART III: ROLE OF MURANG'A COUNTY GOVERNMENT

13. Allocation for Organic Agriculture.

- (1) The county executive member shall set-aside at least ten percent of the agriculture sector budget to support and promote organic farming.
- (2) The allocation shall be expended for the following functions —
- (a) training and sensitization of farmers in organic farming;
 - (b) facilitate extension services to organic farmers;
 - (c) provide subsidies and economic support to organic farmers;
 - (d) any other projects and programs under this Act; and
 - (e) organize annual trade fairs for promotion and exhibition of organic products.
- (3) The county executive member shall formulate regulations to operationalize Section 2 (c) of the Act.

14. Role of the County Government.

- (1) Pursuant to the fourth schedule of the constitution, the county government will implement the national governments policies to the extent that the policies relate to the County and, in particular, shall be responsible for —
- (a) establishment of fora for coordination of agroecology development partners and service providers;
 - (b) mapping and alignment of all agroecology and organic projects and programs to existing government policies;
 - (c) regulation and enforcement of national standards related to organic agriculture and agroecology production, handling marketing and food safety for local trade;
 - (d) collect and collate production and marketing statistics for planning and sharing with industry players; and

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(e) facilitate establishment of infrastructure for produce from agroecology aggregation centers, transportation, processing and storage facilities.

(2) In execution of the roles provided in sub section (1), the county may establish technical working groups to provide for technical guidance in the agroecology matters in the County.

15. Organic Farming Unit.

(1) The county executive member shall establish a unit within the agriculture department to be in charge of organic agriculture.

(2) The unit shall be in charge of the overall organic agriculture in the county, but in particular, shall—

- (a) ensure compliance to approved standards of organic inputs to the farmers;
- (b) encourage the farmers to use on farm organic input; and
- (c) provide training and basic infrastructure to the farmers for making on farm organic input.

16. Collaboration on Organic Agriculture.

(1) The County Government shall collaborate with relevant stakeholders on—

- (a) training;
- (b) research;
- (c) monetary and input investments; and
- (d) markets.

(2) The county may in accordance with regulations made under this act and subject to any other law, put in place programs for ensuring the provisions of the following incentives and facilities to growers —

- (a) affordable farm inputs including quality seeds, planting materials and market linkages; and
- (b) technical support including linkages to research and extension services.

(3) The county executive member shall prepare and present annual reports on any ventures under subsection (1) and (2) on engagements with stakeholders with regards to organic agriculture.

17. Partnerships and MOUs.

The County government shall enter into partnerships and memoranda of understanding with international, national and local organizations to encourage and promote organic agriculture in the county.

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18. Collaboration of Farmers.

The County government shall encourage organic agriculture farmers to collaborate with in regards to organic input and output for economies of scale and marketing of the organic produce.

PART IV - PROMOTION AND MARKETS

19. Promotion of Organic Agriculture.

(1)The board shall promote and register all organic produce and products produced in Muranga County in accordance with existing certification marks including geographical indication and regions to enable traceability.

(2)The board shall coordinate and be the lead agency in promotion of marketing of organic production under agroecology locally and at national and international level for Murang'a County.

(3)The board shall collect and collate data and market intelligence for advisory and market intelligence.

(4)Be responsible in development of strategies in collaboration with the county government to promote private investments and in particular —

- (a) continuous data capture and updating;
- (b) planning production and marketing and input estimates and financial services;
- and
- (c) quality assurance and traceability.

20. Promotion of Sale of Organic Products.

The county government shall adopt marketing policies of organic products produced in the county in local, national and in international markets.

21. Organic production management systems.

The county shall promote agricultural production management systems which adopt the approach of agronomical, biological, and machinery operation that uses natural resources.

22. Balance of Supply and Demand.

The county government shall uphold the balance of principle of supply and demand in promotion of organic agriculture by—

- (1)proceeding with the development and implementation of new technology prudently and reasonably;
- (2)improving production techniques and product quality;
- (3) making the organic agricultural products accessible to consumers; and
- (4) broaden the understanding and gaining consumer trusts.

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23. Improvement of Agricultural Practices.

(1) The county government shall continuously ensure the improvement of agricultural practices, research and development of agricultural technologies, and personnel training for organic agriculture and organic agricultural products.

(2) Improvement of agricultural practices shall take cognizance of climate change and climate mitigating measures.

24. Promotion of Organic Produce.

(1) The county government shall ensure the promotion of organic agriculture in learning institutions.

(2) The board shall, in collaboration with local institutions of higher learning, develop memoranda of understanding on collaboration and development of curricula and assessment guides for practical courses in agroecology.

25. Value Addition of Organic Produce.

(1) The County government shall promote the value addition and encourage cottage industries for the processing of organic agricultural produce, provided that the value of organic produce shall be maintained.

(2) The county executive member shall enact regulations for the value addition and processing of organic produce in the county.

26. Use of Public Land for Organic Farming.

The Executive Committee Member in charge of lands and the Executive Committee Member for agriculture shall collaboratively map out suitable public land or lands of state-owned enterprises suitable for agricultural production and shall be prioritized for the establishment of organic agricultural promotion zones and organic agriculture.

27. County Planning Framework.

The county executive member shall ensure that organic agriculture shall be part of the County Planning Framework.

PART V- LICENSING AND REGISTRATION PROVISIONS

28. Licenses issued by the County Government.

(1)A person shall not produce, handle, process, transport, market, or deal in any way with organic or and produce or produce from agro ecology within the county unless that person is registered by the board and the county government.

(2)The county and the board shall issue producers license, brokerage license, transporters license, processors license, marketing license and an exporters license.

(3)A person shall not process, import or export organic or any other produce of agro ecology or product unless they possess a valid license issued under this Act.

29. Renewal of Licenses.

(1)An application for renewal of a license shall be made to the board or the county government not later than two weeks after the first day of the month of July in which the current license.

(2) A late application may be made provided that a late application fee of five percent of the prescribed application fee is paid.

30.Offences.

A person who contravenes any provisions of this section commits an offence and shall upon conviction be liable to imprisonment for term not exceeding one year or to a fine not exceeding five hundred thousand shillings or both.

31.Registration of Dealers.

(1)A dealer shall not conduct any business in respect of agroecology or organic produce or product unless that that dealer is registered by the county government in accordance with this Act.

(2)The board or the county governments may register organic or agro ecology producers, produce handlers and marketing agents supplying produce for the domestic markets—

- (a) packing facilities supplying produce to the domestic markets;
- (b) farm inputs producers, distributors and supplies; and
- (c) processors and promoters.

32. Database of Growers.

(1)Every grower shall be registered by the board or the county governments as the case may be and where the farm is located for purposes of—

- (a) continuous data capture and updating;
- (b)planning production and marketing and input estimates and financial services; and

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(c) quality assurance and traceability.

(2)The county executive member for the time being responsible for agriculture may prescribe regulations for registration of growers.

PART VI: PRODUCTION AND PROCESSING

33.Sustainable Agriculture Practices.

(1)The board shall in collaboration with the County government develop and implement a sustainable organic and quality inputs supply system.

(2) All growers of organic produce under agroecology production may use inputs from sources registered under the board.

34.Certification of National Organic Standards.

The board in collaboration with the County Government shall register and monitor certification schemes to be established in conformity with national and international market requirements for organic production in Kenya.

35. Packing and Processing of Organic Produce.

(1) Packing, processing and storage of export organic produce and products shall only be conducted at premises registered and licensed the county government.

(2) A person who contravenes the provision of this section commits an offence and shall on conviction be liable to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred thousand or to both.

PART VII: FOOD SAFETY AND QUALITY ASSURANCE.

36.Quality Assurance.

(1) The board, in collaboration with the County government, shall ensure produce and products for domestic and export market conform to quality standards in line with this Act.

(2) The board, in collaboration with the County government, shall set strategies for monitoring and evaluation of set standards in the value chain.

37. Food Safety and Packaging.

(1)All dealers shall ensure for purposes of food safety—

- (a)produce and products are handled, graded, packaged, transported and stored in a manner to prevent product contamination; and
- (b)all personnel handling organic produce shall meet personnel hygiene standards.

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38. Packaging and Storage.

The board shall prescribe the requirements for packaging, labelling, transportation and storage of all organic products under the agroecology system.

39. Trainings on Agroecology.

The county government, in collaboration with other agencies, the board and private sector shall undertake regular trainings to growers under agroecology.

40. Traceability of Produce.

The board, in collaboration with the county government, shall ensure implementation of traceability standards of the produce and products.

41. Produce Inspectors.

(1) The board, in consultation with the CEC, may appoint qualified inspectors as inspectors for quality control of produce for purposes of this Act.

(2) For purpose of section 39 (1) the board shall set the qualification for the inspectors.

(3) A person duly appointed as an inspector may—

(a) enter any farm or building occupied by the holder of a license issued under this Act or a person registered under his Act;

(b) make such inspection and enquiries as the person may deem necessary for ascertainment whether the provisions of this Act or the items and conditions of the respective license or registration are being complied with.

(4) A person who hinders or obstructs any person duly exercising or attempting to exercise any of the powers conferred by sub section (3) or who fails to give any information reasonably required commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand, or to imprisonment not exceeding one year, or both.

PART VIII-MISCELLANEOUS PROVISIONS

42. Annual Report of the Board.

(1) The board shall, not more than three months after the end of each financial year, prepare a report setting out—

(a) the description of the board's activities during the year;

(b) whether the objectives of the board for the year under review were met and the reasons why any targets were not achieved;

(c) the progress made towards the improvement of the agroecology sub sector;

(d) efforts made to achieve the challenges by both the board and the county government;

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- (e) any further efforts relating to the functions which may be necessary to achieve the objectives of the board;
- (f) recommendations on any legal and administrative measures necessary for the objectives to be fully met; and
- (g) any other information relating to the function of the board.

(2) The board shall publish and publicize all important information within its mandate affecting the agroecology sub sector.

(3) Any person may request for information from the board and such request shall be addressed to the chief executive officer.

43. Regulations.

The county executive member in charge of agriculture may, in consultation with the board, make regulations for the better carrying out of the functions under this Act.

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SCHEDULE

Conduct of Business and Affairs of the Board

1.

(a) The board shall meet not less than four times in every financial year and not more than two months shall elapse between the date of the one meeting and the date of the next meeting.

(b) A meeting of the board shall be held on such date and at such time as the chairperson shall appoint.

(c) Unless the majority of the membership of the board otherwise agree, at least fourteen days' notice of every meeting shall be given to every member.

(d) The chairperson shall, on the written application of at least one third of the members, convene a special general meeting of the board.

(e) The quorum for the conduct of business of the board shall be one half of all the members.

(f) The chairperson shall, when present, preside at every meeting of the board but the members present shall elect one member to preside whenever the chairperson is absent, and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted thereof.

(g) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a majority of the votes of the members present and voting and, in case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(h) subject to sub-paragraph (5), no proceedings of the board shall be invalid by reason only of a vacancy among the members thereof.

2.

(a) A member who has an interest in any of the matters present in a meeting shall, at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to that matter or be counted in the quorum of the meeting during consideration of the matter.

(b) a disclosure of an interest made under sub paragraph (a) shall be recorded in the minutes of the meeting at which it is made.

(c) a member of the board who contravenes sub paragraph (a) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Any person or instrument which, if entered into or executed by a person not being a body corporate would not require to be under seal, may be entered into or executed on behalf of the board by any person generally or specifically authorized by the board.

4. The board shall cause minutes of all meetings of all resolutions and proceedings of the meetings of the board to be entered in books kept for the purpose.