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SPECIAL ISSUE

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REPUBLIC OF KENYA

**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

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CONTENT

Act—	PAGE
The Nairobi City County Public Participation Act, 2015	1



**THE NAIROBI CITY COUNTY PUBLIC
PARTICIPATION ACT, 2015**

No. 11 of 2015

Date of Assent: 17th March, 2016

Date of Commencement: 22nd April, 2016

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1— Short title.
- 2— Interpretation.
- 3— Object and purpose of the Act.
- 4— Guiding principles.

PART II—ROLES AND RESPONSIBILITIES

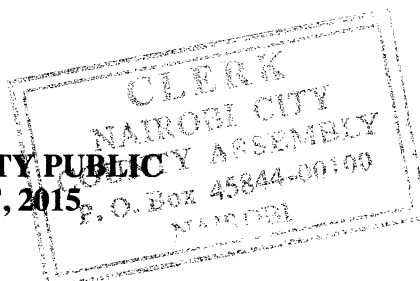
- 5— Roles and responsibilities.

**PART III—COMMUNITY PARTICIPATION AND
INVOLVEMENT**

- 6— Culture of democratic governance.
- 7— Form of public participation.
- 8— Communication of information.
- 9— Notification.
- 10— County citizens' participation forum.
- 11— Sub-county, city and urban area citizen participation forum.
- 12— Ward or village citizen participation forum.
- 13— Citizen initiative forum.

PART IV— PETITIONS

- 14— Form of petition.
- 15— Procedure for presenting petition.
- 16— Consideration of petition.
- 17— Procedure in the investigation.
- 18— Publication of decision on petition.
- 19— Register of petitions.
- 20— Appeal against decision on a petition.
- 21— Petitions to County Assembly.



PART V—MISCELLANEOUS PROVISIONS

- 22— Setting aside of funds.
- 23— Independently organised initiatives.
- 24— Review forums.
- 25— Civic education.
- 26— Regulations.

SCHEDULE— FORM OF A PUBLIC PETITION

2015

Nairobi City County Public Participation

**THE NAIROBI CITY COUNTY PUBLIC
PARTICIPATION ACT, 2015**

AN ACT of the Nairobi City County Assembly to give effect to paragraph 14 of Part 2 of the Fourth Schedule of the Constitution; to provide for public participation in the governance of the County and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nairobi City County Public Participation Act, 2015.

Short title.

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

Interpretation.

“civic education” means the provision of information and learning experiences to equip and empower citizens to participate in democratic and governance processes pursuant to sections 98, 99, 100 and 101 of the County Governments Act of 2012;

“Constitution” means the Constitution of Kenya, 2010;

“county” means the Nairobi City County;

“county assembly” means the Nairobi City County Assembly;

“county executive committee” means the County Executive Committee of the Nairobi City County Government;

“county government” means the County Government of the Nairobi City county;

“county secretary” means a County secretary appointed under section 44 of the County Government Act, 2012;

“marginalised group” has the meaning assigned to it by Article 260 of the Constitution;

“the public”, when used in relation to public participation in this Act, means—

- (a) the residents of the County;
- (b) the rate payers of the County;
- (c) any civic organisation with an interest in the governance of the County;
- (d) non-resident persons who because of their temporary presence in the County, make use of services or facilities provided by the County; and
- (e) “public participation” means the involvement of individuals and groups that are positively or negatively affected by, or that are interested in, a proposed project, program, plan, legislation or policy that is subject to a decision-making process in an open, accountable and inclusive process through which individual citizens, community and interest groups, and other stakeholders can exchange views and make or influence the decisions that affect their lives.

3. The object and purpose of this Act is to—

Object and purpose
of the Act.

- (a) give effect to the provisions of Chapter Eleven of the Constitution;
- (b) provide a framework for participation by the public in the affairs of the County through actively informing the form and content of legislation, policy and development plans formulated by the County Government;
- (c) provide for a framework for informed, effective, efficient and sustainable engagement of the public in the County in the formulation of policy, legislation, budgeting and implementation of the development plans and programmes by the

2015

Nairobi City County Public Participation

County Government;

- (d) provide for a framework for public participation in service delivery by the County Government;
- (e) generally give effect to the principles of public participation as set out in Articles 1(2) and 10, Chapter 4, Articles 35, 61, 69, 118, 119, 196, 174, 184, 201 and 232, and the Fourth Schedule of the Constitution;
- (f) give effect to the objects and principles of devolution set out under Article 174 (e) and (d) of the Constitution; and
- (g) give effect to Part VIII of the County Governments Act, 2012.
- (h) enable citizens to hold the County Government accountable and to demand for feedback on progress of service delivery and contribute in decision making process that include planning for service provision, budgeting, implementation and policy-making.

4. Subject to section 87 of the County Governments Act, 2012, public participation in the activities of the County Government shall be guided by the following principles—

Guiding principles.

- (a) the communities, organizations and citizens to be affected by a decision shall have a right to be consulted and involved in the decision-making process;
- (b) contributions by the public shall be taken into consideration when making decisions;
- (c) promotion of sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers;
- (d) mobilize and facilitate effective involvement of

communities, organizations and citizens potentially affected by or interested in a decision;

- (e) the public shall have timely access to appropriate information which shall be publicised or provided by the County to enable their participation in a meaningful manner;
- (f) communication to the public on how their input affected the decision;
- (g) adherence to the national values and principles of governance set out under Article 10 of the Constitution;
- (h) adherence to the values and principles of public service set out by Article 232 of the Constitution;
- (i) adherence to the principles of leadership and integrity set out in Chapter Six of the Constitution; and
- (j) adherence to the principles of citizen participation set out in section 87 of the County Governments Act, 2012.

PART II—ROLES AND RESPONSIBILITIES

5. (1) The County Government shall promote and facilitate public participation in the county.

Roles and responsibilities.

(2) The ultimate responsibility for public participation in the County Executive and County Assembly shall be on the Governor and Speaker of the County Assembly respectively.

(3) The County Executive Committee Member responsible for matters of Public Service in the County shall be in charge of public participation in the County Executive.

(4) The County Executive Committee Member responsible for matters of Public Service in the County, shall in consultation with the County Public Service Board,

2015*Nairobi City County Public Participation*

establish such offices and structures that may be necessary for the proper execution of public participation under this Act.

(5) Without prejudice to any structures that may be created under subsection (3), the office or officer responsible for public participation shall—

- (a) coordinate public participation by all County departments or agencies;
- (b) facilitate capacity building and provide support to other County Government departments on public participation processes;
- (c) monitor and evaluate public participation processes undertaken by each department or agency;
- (d) develop and execute an appropriate civic education programme;
- (e) ensure coordination with non-State actors in public participation processes and civic education;
- (f) prepare an annual report on public participation in accordance with the County Governments Act, 2012;
- (g) manage the day to day running of civic education in the county;
- (h) develop a registry of all civic community based organizations in the County.

(6) Notwithstanding subsection (2), each member of the County Executive Committee shall promote, facilitate and coordinate public participation on matters under the department of that member.

- (7) (a) The Speaker of the County Assembly shall promote and facilitate public participation in the proceedings and other activities of the County

Assembly.

- (b) In fulfilling the responsibilities under section 7 (a) above, the Speaker of the County Assembly shall, when needed, be supported by the offices of Sub-County, Ward and Village Administrators established under sections 50, 51 and 52 of the County Governments Act, 2012.

(8) The Clerk of the County Assembly shall provide administrative support for all public participation activities carried out by the County Assembly.

(9) Each chief officer shall provide administrative support for all public participation activities carried out by the respective department for which the chief officer is responsible.

(10) Sub-county, ward and village administrators shall promote, facilitate, and coordinate public participation activities in their respective administrative units.

PART III— COMMUNITY PARTICIPATION AND INVOLVEMENT

6. The County Government shall develop a culture of democratic governance that complements a system of participatory governance, and for this purpose, shall—

Culture of democratic governance.

- (a) encourage, and create conditions for the local community to participate in the affairs of the county, including—
- (i) the preparation, implementation and review of its integrated development plan;
 - (ii) the establishment, implementation and review of its performance management system;
 - (iii) the monitoring and review of its performance, including the outcomes and impact of such performance;

2015

Nairobi City County Public Participation

- (iv) the preparation of its annual development plans, budgets and their implementation and monitoring thereof; and
 - (v) strategic decisions relating to the provision of County services and functions;
- (b) contribute to building the capacity of—
- (i) the local community to enable it to participate in the affairs of the county; and
 - (ii) staff and administrators of decentralised units to foster community participation appropriate for the purpose.

7. (1) Public participation in the affairs of the County shall take place through—

Form of public participation.

- (a) political structures for participation in terms of the County Government Act, Urban Areas and Cities Act, Public Finance Management Act and other relevant laws;
- (b) the mechanisms, processes and procedures for participation in participatory governance established in terms of this Act and any other relevant Act;
- (c) other appropriate mechanisms, processes and procedures established by the office or County Assembly; and
- (d) generally applying the provisions for participation as provided for in this Act.

(2) The County Government shall establish appropriate mechanisms, processes and procedures to enable the public participate in the affairs of the county, and shall, for this purpose provide for—

- (a) the receipt, processing and consideration of petitions and complaints lodged by members of the public;

- (b) notification and public comment procedures, when appropriate;
- (c) public meetings and hearings by the County Government organs and other political structures and political office bearers of the County when appropriate;
- (d) consultative sessions with locally recognized community organizations and, where appropriate, minorities; and
- (e) report-back to the local community in a timely manner.

(3) In establishing mechanisms, processes and procedures pursuant to subsection (2), the County Government shall take into account the special needs of—

- (a) persons who cannot read or write;
- (b) persons with disabilities;
- (c) women and youth; and
- (d) other marginalized groups.

8. (1) The County Government shall communicate to the public information concerning—

Communication of information.

- (a) the available mechanisms, processes and procedures to encourage and facilitate public participation;
- (b) the matters with regard to which public participation is required;
- (c) the rights and duties of members of the public; and
- (d) County governance, management and development.

2015

Nairobi City County Public Participation

(2) When communicating the information mentioned in subsection (1), the County Government shall take into account—

- (a) language preferences and usage in the county; and
- (b) persons with special needs.
- (c) preference to the different mediums of communication.

9. (1) Any notice to the public required in terms of this Act or any other applicable legislation shall be done by—

Notification.

- (a) publication in at least two daily newspapers with national circulation where appropriate;
- (b) publication in the official website of the County Government;
- (c) by means of radio broadcasts covering the area of the county; or
- (d) publication in any other media with wide reach to interested persons, including but not limited to social media platforms.

(2) A notification under subsection (1) shall be in English and Kiswahili.

(3) A copy of every notice issued by the County Government under this Act or any other legislation shall be published in the County Gazette and placed in notice boards in all offices of the County and any other places where the public is known to converge, including but not limited to Churches, Mosques, Temples, public barazas and community social halls.

(4) When the County Government invites the public to submit written comments or representations on any matter before it, it shall be stated in the invitation that any person who cannot write may visit, during office hours, a place where a staff member of the County Government named in

the invitation shall assist that person to transcribe that person's comments or representations.

(5) When the County Government requires a form to be completed by a member of the public, reasonable assistance shall be given to persons with special needs including those who cannot read or write, to enable such persons to understand and complete the form.

10. (1) On the request of the County Executive Committee or a County Government organ, the County Government shall facilitate resources for the convening of a citizens' participation forum and shall convene a citizens' participation forum once in three months to discuss any matter of public importance affecting the public or any community in the County or the delivery of services by the County Government.

County citizens'
participation forum.

(2) The County Government shall, when a forum is convened, ensure that the forum is fully publicized to enable the attendance and participation of a wide section of the population, including gender and marginalized groups and communities.

(3) The County Government shall appoint a secretary for every forum to take the minutes of the proceedings of the forum and shall publicize the minutes throughout the county—

- (a) taking note of the issues arising from the forum for action or response by the relevant organ or organs of the County Government or other entity; and
- (b) giving feedback on the action taken on the issues raised within thirty days of the forum.

(4) The County Government shall facilitate meaningful participation of the citizens in the forum including—

- (a) ensuring accessibility to the forums; and
- (b) the use of language that is understandable by the