

# **THE NYERI COUNTY PUBLIC PARTICIPATION BILL, 2015**

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**THE NYERI COUNTY PUBLIC PARTICIPATION BILL, 2015**

A Bill for

**An Act of the County Assembly of Nyeri to provide a mechanism for the involvement of and participation by the public and stakeholders in decision making and governance processes in**

**Nyeri County; to give effect to the provisions of Articles 1, 10, 35, 48, 174, 201, 232 and paragraph 14 of part 2 of the fourth schedule of the Constitution and Sections 87, 88 and 91 of the County Governments Act, 2012 and other laws requiring public participation and for connected purposes.**

ENACTED by the County Assembly of Nyeri, as follows –

## **PART I – PRELIMINARY**

Short title.

**1.** This Act may be cited as the Nyeri County Public Participation Act, 2015.

Interpretation.

**2.** In this Act, unless the context otherwise requires-

“Clerk” means the Clerk of the County Assembly of Nyeri;

“County department” means any office or department established in the county government by the County Public Service Board or under any written law;

“County Executive Committee” means the Nyeri County Executive Committee established in accordance with Article 176 of the Constitution;

“County Secretary” means the Nyeri County Secretary

“executive member” means the County Executive Committee Member for the time being responsible for public participation;

“Governor” means the Governor of Nyeri County;

“public participation” includes the processes and methods designed to consult, involve and inform the public or stakeholders in order to allow those who would potentially be affected by a decision, any policy, legislation, program, project to have input into the process.

“stakeholder” means a person or group of persons who have an interest in a public issue or who are likely to be directly or indirectly affected by a public issue, decision or policy whether negatively or positively;

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

- (a) the residents of the county;

- (b) the rate payers of a particular urban area;
- (c) any resident civic organization or non-governmental, private sector, labour organization or faith based organization with an interest in the governance of the county or an urban area;
- (d) non-resident persons who by virtue of their temporary presence in the county make use of services or facilities provided by the county or an urban area.

Purpose of the Act

**3.** The purpose of this Act is to enhance, promote and facilitate public participation in the county government and specifically to –

- (a) facilitate the implementation of constitutional provisions set out under-
  - (i) Article 1 on sovereignty of the people;
  - (ii) Article 10 on national values;
  - (iii) Article 35 on access to information;
  - (iv) Article 48 on access to justice;
  - (v) Article 174 on the objects of devolution;
  - (vi) Article 201 on principles of public finance;
  - (vii) Article 232 on values and principles of public service;
  - (viii) Section 14 of Part 2 of the Fourth Schedule to the Constitution; and
  - (ix) Any other provision related to public participation.

- (b) give effect to public participation framework stipulated under part VIII of the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Urban Areas and Cities Act, 2011;
- (c) promote participatory democracy;
- (d) transparency and accountability in decision making;
- (e) community empowerment and support;
- (f) promote partnership and collaboration in public processes;
- (g) enhance public awareness and understanding of government processes;
- (h) reduce conflicts related to public or government decisions; and
- (i) enhance community ownership of public decisions.

Principles of public participation.

**4.** The following principles shall guide public participation under this Act–

- (a) provision of meaningful information in a format and language that is readily understandable and tailored to the needs of the target groups;
- (b) provision of information in advance of consultation activities and decision making;
- (c) mutual consultations and dialogue and exchange of views on matters affecting a community or group of persons;
- (d) openness and transparency
- (e) inclusiveness in representation of views including vulnerable groups and the marginalized;

- (f) processes free of coercion;
- (g) value for money;
- (h) objectivity in engagement and non-politicization of issues;
- (i) constructive dialogue between county government and the public and or stakeholders;
- (j) clear mechanism for responding to people's concerns, suggestions and grievances; and
- (k) civic duty and responsibility.

**PART II- COORDINATION OF PUBLIC PARTICIPATION IN THE COUNTY ASSEMBLY**

Coordination of public participation in the County Assembly

5. (a) The Clerk shall be responsible for the coordination of all Public Participation activities in the County assembly.

- (b) In coordinating public participation, the clerk shall -
  - i. provide support and advise to the county assembly on managing public participation processes;
  - ii. Facilitate and support Committees of the county assembly when carrying out public participation programs;
  - iii. prepare reports on public participation facilitated by the county assembly;
  - iv. facilitate and support the Committees of the county assembly to develop networks and partnerships with key stakeholders for the purposes of enhancing public participation;
  - v. prepare annual report on County Assembly public participation processes for consideration by the County

Assembly ;

- vi. carry out any other function stipulated in the Act.

Ward forums.

6. (1) A member of the County Assembly shall convene Ward forums for the purposes of deliberating legislative, governance, policy and service delivery matters of concern to the Ward residents at least twice a year.

(2) The Member of the County Assembly shall, subject to subsection (4) take into account the special needs of:

- (i) People who cannot read or write
- (ii) Persons with disabilities;
- (iii) Marginalised groups and minorities;
- (iv) Aged
- (v) Youth
- (vi) Other disadvantaged groups

(3) The member of the County Assembly shall cause a record of the proceedings to be kept.

(4) The clerk shall provide support for facilitation of the forums referred to under this section.

(5) The member of the County Assembly shall submit a report for each forum to the County Assembly.

**PART III- COORDINATION OF PUBLIC-PARTICIPATION IN THE COUNTY EXECUTIVE**

coordination of public participation

of

public

7 (a) The County Secretary, as the head of the County Public Service, shall be responsible for the coordination of all Public Participation activities in the County Executive.

(b) The County Secretary shall -

- i. coordinate public participation by other departments and or agencies of the County Government;
- ii. facilitate capacity building and provide support to other county government departments and or agencies on public participation processes;
- iii. mobilize and organize the public, stakeholders and local communities to participate in county governance

and decision making processes;

- iv. facilitate the realization of the purpose of this Act as well as integration of the principles stipulated under section 4 in public participation processes;
- v. monitor and evaluate public participation processes undertaken by each department or agency;
- vi. sensitize the public on county structures and opportunities for public participation;
- vii. coordinate implementation of decisions and recommendations of the advisory committee;
- viii. receive public complaints on issues emerging from public participation processes and liaising with respective departments for redress
- ix. prepare an annual report on public participation in accordance with the County Governments Act for consideration by the County Assembly;
- x. advise the County Executive Committee Members generally on the appropriate policies, plans and strategies for enhancing public participation in the county;
- xi. carry out any other function in furtherance to the objects and purpose of this Act.

#### **PART IV- PUBLIC PARTICIPATION PROCESS**

Citizen forums.

8. (1) There shall be citizen participation forums in –

- (a) the county convened by the Governor;
- (b) the Sub-county convened by the respective Sub-county administrator;



- (c) the Ward convened by the respective Ward administrator;
- (d) the Village convened by the respective Village administrator, subject to the establishment of village units pursuant to Section 48(1)(d) of the County Governments Act;
- (e) each town convened by the town manager, subject to the establishment of towns pursuant to Section 10 of the Urban Areas and Cities Act;

(2) The citizen forums stipulated under subsection (1) shall be convened at least once every year and shall provide a platform for consultations, review and deliberation on critical matters affecting the respective level.

(3) The respective persons described under subsection (1) shall –

- (a) cause a record of proceedings during each citizen forum to be kept and shall ensure that where practicable, the decisions of such forums inform the decision making process by the county government;
- (b) take into account the special needs of:
  - (i) People who cannot read or write
  - (ii) Persons with disabilities;
  - (iii) Marginalised groups and minorities;
  - (iv) Aged
  - (v) Youth
  - (vi) Other disadvantaged groups

(4) A Member of county assembly may participate in any of the citizen forums stipulated under this Act.

Stakeholder and public engagement.

9. Each county department or Committee of the County Assembly where applicable, shall –

- (a) while developing legislation and policy or designing or implementing programs or delivering services, engage and encourage participation of the relevant stakeholders and the public;
- (b) provide or issue adequate and

sufficient notice and information to stakeholders or the public where the stakeholders or the public are required to participate in an issue or forum stipulated under this Act.

- (c) continuously report and communicate to the stakeholders and the public on the process, outcome and impact of policies, programs and services delivered;

Stakeholder engagement plan.

10. (1) The County Secretary shall ensure that the principles stipulated under this Act and the laws specified under section 3 are integrated in each county department's or agency's policies, plans and service delivery processes.

(2) Each county department or agency or Committee of the County Assembly shall develop and implement a stakeholder engagement plan.

(3) A stakeholder engagement plan shall provide for-

- (a) objectives of stakeholder engagement;
- (b) major issues requiring public and stakeholder engagement and consultations;
- (c) timeframe within which public consultations would be held;
- (d) processes to be undertaken in stakeholders and public participation forums;
- (e) the process of determining the public participation method;
- (f) method of providing information to the public.
- (g) any other relevant information.

The process of public participation

11. (1) While carrying out public participation, a county department or agency may-

- (a) inform the public in order to

enhance understanding of the problem, alternatives, opportunities and solutions;

- (b) consult in order to obtain public feedback on analysis, alternatives and decisions;
- (c) involve the public directly throughout the process to ensure that public concerns and aspirations are consistently understood and considered;
- (d) collaborate with the public in each aspect of the decision, including development of alternatives and the identification of the preferred solution;
- (e) empower the public to make decision in regard to any public issue.

(2) A Committee of the County Assembly may apply the processes described under subsection (1) (a) and (b) while carrying out public participation.

Modalities and platforms.

12. A county department or agency or Committee of the County Assembly may apply any of the following public participation methods in addition to the platforms stipulated under the County Governments Act, 2012-

- (a) public hearings;
- (b) workshops;
- (c) citizen advisory or consultation committees;
- (d) surveys;
- (e) focus groups;
- (f) direct mail;
- (g) newsletters;
- (h) invitations for public submission;
- (i) partnerships and collaboration;

(j) joint auditing and evaluation of county government performance including projects audits;

(k) internet based interactive platforms.

Good practices and standards in stakeholder engagement.

13. In facilitating stakeholder engagement or public participation, a county department or agency or Committee of the County Assembly shall adopt the following standards and good practices-

(a) stakeholder identification and analysis;

(b) information disclosure;

(c) stakeholder consultation;

(d) negotiation and partnerships;

(e) grievance management through establishing accessible and responsive means for stakeholders to raise concerns and grievances;

(f) stakeholder involvement in monitoring and evaluation of projects, programs and policies;

(g) reporting to stakeholders on performance;

(h) efficient and effective management of stakeholder processes.

Stakeholder mapping.

14. Each county department or agency or Committee of the County Assembly shall -

(a) identify and liaise with the stakeholders in the sector;

(b) maintain and publish a database of the stakeholders identified under paragraph (a); and

(c) ensure continuous and effective communication with the stakeholders.

Electronic governance.

15. (1) Each county department or agency shall provide all applicable information, forms, documents, statistics and data through electronic system such as online system, websites and portal in a timely, efficient

and in a usable manner in order to facilitate public participation.

(2) The Executive Member responsible for information, communication and technology shall ensure that the systems referred under subsection (1) facilitate interactive engagement with county residents and are comprehensive in terms of the information provided.

Citizens' duties and responsibilities.

16. A resident or any member of the public with interest in county affairs has the duty and responsibility to –

- (a) constructively participate in the forums and platforms created by the county government for public participation;
- (b) share information and make proposals to the county government during the law, policy and decision making processes as well as service delivery mechanisms; and
- (c) participate where appropriate and practicable, in developing or implementing public services' delivery processes.

Notice boards.

17. (1) The County Secretary will install notice boards in the most appropriate and conspicuous places in each Ward.

(2) The County Secretary shall ensure that all relevant notices related to public participation are posted on the notice boards provided, at least seven days prior to the event.

(3) Notwithstanding section (1) and (2), a County department or agency shall use the most appropriate communication methods to publicize any process, forum or issue requiring public participation.

Reporting on Public participation

18. Each county department or agency shall prepare a quarterly and annual report on public participation and submit the same to the County secretary.

Annual report.

19. (1) The County Secretary shall prepare an annual report on public participation which shall contain among others-

- (a) the public participation forums facilitated by each department or agency;
- (b) the level of implementation of stakeholder engagement plan;
- (c) challenges faced in the implementation of this Act and proposed mitigation measures;
- (d) any other prescribed matter.

(2) The County Secretary shall submit the report to the County Executive Committee not later than 2 months after the end of each financial year.

(3) In accordance with Section 92(2) of the County Governments Act, 2012, the Governor shall submit the report to the County Assembly for consideration not later than ninety days after the end of each financial year.

## **PART V- GENERAL PROVISIONS**

20. The Executive Member may make regulations for the better carrying into effect of the provisions of this Act.

## **MEMORANDUM OF OBJECTS AND REASONS**

This Bill aims at providing a legal mechanism for the involvement of and participation by the public and stakeholders in decision making and governance processes in Nyeri County. The Bill, when enacted will give effect to the provisions of Article 1, 10, 35, 48, 174, 201, 232 and paragraph 14 of part 2 of the fourth schedule of the Constitution and sections 87, 88 and 91 of the County Governments Act, 2012 and other laws requiring public participation.

**PART I** of the Bill provides for preliminary matters including the definition of terms used in the Bill. The purpose of the Act is also set out in this part. This part also provides for the principles of public participation which include provision of meaningful information, mutual consultations, openness and transparency, value for money and inclusiveness among others.

**PART II** of the Bill provides for the coordination of public participation in the County Assembly. It provides for the responsibilities of the Clerk in respect to the coordination of public participation. In this part, the Bill requires the Member of County Assembly to convene a Ward forum at least twice every year for the purposes of deliberating legislative, governance, policy and service delivery matters of concern to Ward residents.

**PART III** of the Bill provides for coordination of public participation in the county executive. It provides for the responsibilities of the County Secretary in respect to the coordination of public participation activities in the County Executive.

**PART IV** of the Bill provides for the public participation process. It provides for facilitation of citizen forums which shall be convened at the various decentralized levels in Nyeri County i.e. the County, Sub counties, wards, villages and each townat least once every year. This part also provides for guidelines for managing public participation such as stakeholder and public



engagement, development of a stakeholder engagement plan, the process of public participation, good practices and standards to be adopted in facilitating public participation, the modalities and platforms to be applied during public participation, undertaking stakeholder mapping, use of electronic governance among others. It is also stipulated under this part that each County department or agency shall prepare a quarterly and annual report on public participation and submit the same to the County Secretary. Under this part, the Governor shall be required in accordance to Section 92(2) of the County Governments Act to annually submit a report on public participation to the County Assembly.

**PART V** of the Bill provides empowers the Executive Member to make Regulations for the better carrying into effect the provisions of the Act.

HON. JOEL GICHURU MAINA  
Deputy Speaker and Vice-Chairperson-  
County Assembly Procedure and Rules Committee