

THE NYERI COUNTY WARD DEVELOPMENT FUND BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART 1 – PRELIMINARY

1. Short Title
2. Interpretation
3. Objects and Purpose of the Act

PART II – ESTABLISHMENT AND ADMINISTRATION OF THE FUND

4. Establishment of the Fund
5. Establishment of the Ward Development Fund Management Committee
6. Conduct of Affairs
7. Functions of the Ward Development Fund Management Committee
8. Fund Administrator
9. Staff of the Committee
10. Delegation by the Committee

PART III – FUNDS ALLOCATION AND DISBURSEMENTS

11. Allocation and disbursements
12. Allocation of Funds
13. Bank Account of the Fund
14. Records
15. Remuneration and allowances

PART IV- PROJECTS MANAGEMENT

16. Establishment of the Ward Development Committee
17. Removal from office
18. Staff of the Ward Committee
19. Public Forums
20. Functions of the Ward Committee

PART V - SUBMISSION OF WARD DEVELOPMENT PROPOSALS

21. Submission of projects
22. Submission deadline
23. Submission form
24. Project description form
25. Responsibility of Ward Committees
26. Types of projects
27. Number of projects
28. Duplication of projects
29. Personal awards
30. Part Funding
31. Procurement of works and services

PART VI – GENERAL PROVISIONS

32. Dispute resolution
33. Regulations

SCHEDULES

THE NYERI COUNTY WARD DEVELOPMENT FUND BILL, 2015

Bill for

AN ACT of the County Assembly of Nyeri, to provide for the establishment, administration and use of the Ward Development Fund and for connected purposes

ENACTED by the County Assembly of Nyeri as follows—

PART I – PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Nyeri County Ward Development Fund Act, 2015 and shall come into operation upon publication in the Kenya Gazette and County Gazette notices whichever comes earlier.

Interpretation

2. In this Act –

“Committee” means the Ward Development Management Fund Committee established under section 5 of this Act;

“ Executive Secretary” means the County Executive Secretary responsible for finance and planning;

“ Fund” means the Ward Development Fund established under Section 4 of this Act’

“MCA” means a Member of the County Assembly

“ Ward Committee” means the Ward Development Committee established under Section 16 of this Act

Objects and Purposes of the Act

3. The object and purpose of this Act is to provide for a legal framework for establishment of a fund to promote County development at the Ward level in order to:-

(a) alleviate poverty and promote economic growth and development in the County;

(b) promote equity and equality in access to development services;

(c) ensure rural and regional development within the

The Nyeri County Ward Development Fund Bill, 2015

County;

(d) improve the standards of living among the residents of Nyeri County;

(e) enhance provision and access to be basic services such as health, education, county road construction and maintenance, county transport, communication and Water.

PART II – ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of the Fund.

4. (1) There is established a Fund known as the Ward Development Fund which shall be administered by a Fund administrator appointed under Section 116 of the Public Finance and Management Act.

(2) The Fund shall consist of –

(a) an amount not less than five percent (5%) of all the County ordinary revenue and transfers received from the National Government in accordance with Article 202(1) and Article 203(2) of the Constitution of Kenya, 2010.

(b) any monies accruing to, donated, lent or received by the Fund from any other lawful source.

(3) The amount referred to in section 2(a) shall be calculated on the basis of the most recent audited accounts of the revenue received, as approved by the County Assembly.

(4) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained for the purpose for which the Fund is established.

(5) The fund shall be used for meeting capital and recurrent expenditure relating to:-

- a) Development projects in the Wards;
- b) Operations of the committees established under this Act.

Establishment of the County Ward Fund Management Committee

5. (1) There is established a committee to be known as the County Ward Development Fund Management Committee.

(2) The committee shall consist of –

(a) The Chief Officer of the County Department for the time being responsible for matters relating to finance and economic planning or a designated alternate but not being below the level of Director;

The Nyeri County Ward Development Fund Bill, 2015

- (b) The Chief officer of the County Department for the time being responsible for matters relating to public works or a designate alternate not being below the level of Director;
 - (c) The Chief officer of the County Department for the time being responsible for matters relating to health or a designate alternate not being below the level of Director;
 - (d) The Chief officer of the County Department for the time being responsible for matters relating to Agriculture or a designate alternate not being below the level of Director;
 - (e) The Chief officer of the County Department for the time being responsible for matters relating to social services and special programs or a designate alternate not being below the level of Director;
 - (f) The Fund Administrator who shall be an Ex – officio member.
- (3) The Chairperson of the Committee shall be the Chief Officer for Finance and Economic planning.

Conduct of affairs

- 6.** (1) The conduct and regulation of the business and affairs of the Committee shall be as provided under the First Schedule.
- (2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

Functions of the Ward Development Fund Management Committee

- 7.** The Functions of the Committee shall be to -
- (a) ensure timely and efficient allocation and disbursement of funds in every Ward;
 - (b) consider and approve project proposals submitted for various wards in accordance with the Act;
 - (c) ensure efficient management of the Fund;
 - (d) receive and consider annual reports and returns from each ward;
 - (e) ensure the compilation of proper records, returns and reports from the wards;
 - (f) continually review and oversee the implementation of policy framework and legislative matters that may arise in relation to the Fund;
 - (g) Perform such other functions as may be provided for this Act.

Fund Administrator

- 8.** (1) There shall be a Fund Administrator who shall be appointed by the Executive Secretary in accordance with the provisions of section 116 of the Public Finance Management Act.

The Nyeri County Ward Development Fund Bill, 2015

(2) The Fund administrator shall be the Chief Executive Officer of the Fund and the Secretary to the Committee.

(3) The Fund administrators shall –

(a) supervise and control the day to day administration of the Fund;

(b) be responsible for the day to day management of the affairs and staff in the service of the Committee;

(c) prepare monthly returns on the movement of funds as appropriate for submission to the County Executive Committee through the Executive Secretary;

(d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;

(e) operate the bank account for the Fund;

(f) preparation of financial statements for the Fund for each financial year;

(g) preparation of quarterly statements for submission to the County Treasury and the Controller of budget;

(h) Not later than three months after the end of each financial year, submit financial statements relating to the fund accounts to the Auditor General; and present the financial statements to the County Assembly; and

(i) perform any other duties that may be reasonably assigned by the Committee.

Staff to the Committee

9. (1) The Committee shall through the County Public Service Board recruit such staff as it shall find necessary for carrying out its functions under this Act.

(2) notwithstanding the provisions of subsection(1) the County Public Service Board may upon the request by the Committee second such staff as shall be appropriate to the Committee as shall be necessary for the proper management of the Fund.

Delegation by the Committee

10. The Committee may by resolution either generally or in any particular case delegate to any committee or to any member, officer, employee or agent of the committee, the exercise of any of the powers of the performance of any of the functions or duties to the committee

The Nyeri County Ward Development Fund Bill, 2015

under this Act or under any other written law.

PART III – FUNDS ALLOCATION AND DISBURSEMENTS

Allocation and Disbursements

- 11.** (1) Any allocation or disbursement from the fund shall be approved and minuted by the Committee.
- (2) All disbursements from the Fund shall be for specific projects as shall be submitted by the wards in accordance with the procedures to be developed by the committee upon the commencement of this Act.
- (3) Notwithstanding the provisions of subsection (2) the specific projects shall be in line with the County Integrated Development Plan.
- (4) Notwithstanding the provisions of subsection (3) payments for a joint project as outlined in section 27(2) of this Act or joint procurement, may be made directly to a supplier or to an account established for the purpose with due approval of the committee.
- (5) The record of the amounts received by each ward and the record of the expenditure of amounts so received shall be submitted to the committee within thirty days after the close of the financial year.
- (6) The Committee shall set out general conditions and requirements for release of funds to ensure efficient and effective management of resources.

(7) The committee may impose such reasonable requirements, including restrictions on a particular ward and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the County Executive Committee.

Allocation of Funds

- 12.**(1) The Committee shall upon the approval of the County Executive Committee for each financial year allocate funds to each project in accordance with section 11 of this Act.
- (2) Funds allocated to a particular project shall remain allocated for that project and may only be allocated to such other purposes with the approval of the Committee.
- (3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such project shall be returned to the Fund and credited to the account of the Ward from which the funds were withdrawn.
- (4) Any unspent funds shall with the approval of the Committee be allocated to any eligible project and such project may be new or ongoing at the end of the financial year..
- (5) The committee shall in every financial year submit a return in the prescribed form on any funds that are unspent.

The Nyeri County Ward Development Fund Bill, 2015

Bank Account of the Fund

- 13.(1) There shall be opened and maintained a bank account for the Fund by the County Treasury.
- (2) The Signatories to the account shall be –
- (a) an officer appointed by the Executive Secretary from the County Treasury;
 - (b) the Chairperson of the Committee ;and
 - (c) The Fund Administrator.

Records

14. (1) There shall be kept accurate and updated records of all disbursements made for the purpose of all projects to every Ward by the Committee.
- (2) The disbursement of the funds shall be effected at the beginning of the first quarter of each financial year.
- (3) The Committee shall at the end of every financial year submit to the County Executive Committee an annual report of its allocations activities, operations and expenditures.

Remuneration and allowances

15. (1) The personal emoluments of officers of the County Government working or involved in the management of the Fund shall be determined by the County Executive Secretary in charge of Public administration in consultation with the Committee and the advice of the County Public Service Board.
- (2) Sitting and other allowances for members of the Committee and the Ward Committee shall be fixed by the County Executive Committee.

PART IV – PROJECTS MANAGMENT

Establishment of the Ward Development Committee

16. (1) There is established the Ward Development Committee for each ward.
- (2) The Ward Committee shall consist of –
- (a) the area MCA who shall be the Patron of the Committee
 - (b) the ward administrator who shall be an ex – officio member;
 - (c) three representatives each from the special groups that is, women, youth and persons with disabilities; who are resident in the respective Wards and elected through an elective process.
 - (d) two persons elected from each Ward through an elective process
- (3)The Executive Secretary shall make regulations on the elective process under the provisions of (2) (c) and (d).
- (4) The Ward Committee shall elect from among members appointed under subsection 2 (d) to be the chairperson of the committee.

The Nyeri County Ward Development Fund Bill, 2015

- (5) The Executive Secretary shall upon appointing the members gazette their appointment in the County or National Gazette notices.
- (6) The term of office of the members appointed under sub paragraph 2 (c) and (d) shall be three years; renewable; but shall end with the election of a new committee in the specific Ward.
- (7) The quorum of the Ward Committee meetings shall be two thirds of the members.
- (8) The area MCA shall attend all meetings but shall not vote. He/She shall ensure that meetings are convened and in a timely manner.

Removal from office

- 17. (1)** A member of the Ward Committee may be removed from the Committee on any of the following –
- (a) contravention of the constitution or any other governing ethics of public officers and economic crimes;
 - (b) incapacitation due to physical or mental infirmity;
 - (c) absence from the committee meetings for more than three consecutive times without reasonable grounds;
 - (d) inability to discharge duties effectively;
 - (e) resignation to the Chair of the Ward Committee;
- (2) any decision to remove a member in accordance with sub section(1) a – d shall be subject to the member being accorded a fair hearing.
- (3) Whenever a vacancy occurs in the Ward Committee for reasons set out under subsection (1) the vacancy shall be filled from the same category of persons where the vacancy has occurred. The County Ward Development Fund Management Committee shall oversee the process.

Staff of the Ward Committee

18. The committee may through the County Public Service Board employ such staff as it may deem necessary to enable it carry out its functions under this Act.

Public Forums

19. The Ward Committee may for the purposes of carrying out its functions conduct public meetings in the ward.

Functions of the Ward Committee

20. The functions of the Ward Committee shall be –
- (a) prepare a list of all proposed projects;
 - (b) maintaining proper records and books of the committee
 - (c) monitoring the implementation of the projects
 - (d) such other functions as shall be mandated by the Committee.

PART V – SUBMISSION OF WARD DEVELOPMENT PROPOSALS

The Nyeri County Ward Development Fund Bill, 2015

- Submission of projects* 21.(1) The ward development committee shall before the beginning of every financial year present a proposal list of projects to be carried out in that financial year for the purposes of budgeting and approval by the Committee.
(2) The committee shall upon receipt of the proposal review and compile a report of the proposed ward projects submitted for the purposes of its approval.
- Submission Deadline* 22. (1) the proposed list of the ward projects shall be submitted to the committee before the end of February of every calendar year.
(2) Where the ward committee fails to submit the proposed list by the time stipulated, the said proposed projects shall be carried forward to the next financial year.
- Submission form* 23. (1) The list of projects shall be submitted in the prescribed form set out under the Third Schedule to this Act accompanied by the minutes of the Ward Committee approving the projects.
(2) All projects proposed for every ward shall be listed together with the cost estimates.
- Projects description Form* 24.(1) The list of projects submitted to the Committee pursuant to Section 23 shall be tabled for review before the Committee.
(2) The Committee shall upon receipt of the proposed projects scrutinize and approve for the purposes of funding those projects that meet the requirement set out by the Committee.
(3) Where the Committee does not approve a proposal submitted to it under this Act, it shall refer the matter back to the relevant Wards development Committee with reasons for the refusal.
- Responsibility of Ward committees* 25. It shall be the responsibility of the Ward Committee to ensure that the funds allocated are utilized for the projects allocated.
- Types of projects* 26. (1) Projects under this Act shall be public or community based in order to ensure that the prospective benefits are available to a widespread cross section of the inhabitants of a particular area and the projects shall be based on the County Integrated Development Plan.
(2) Any funding under this Act shall be for a distinct programme, complete project or a defined phase of a project and may include the acquisition of land and buildings.
(3) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious activities.
(4) notwithstanding the provisions of subsection(3), the Ward

The Nyeri County Ward Development Fund Bill, 2015

Committee may identify a religious body or organization as an appropriate specialized agency for the purpose of carrying out the function in regard to emergency support or for implementing a specified project for the sole benefit of the community.

(5) Environmental activities may be considered as development projects for the purposes of this Act.

Number of Projects 27. (1) The number for projects to be included in the ward committee proposal list shall be on a need basis.
(2) project activities of a similar nature in a particular ward may be combined and considered as one project for purposes of subsection(1) provided that the sub projects are listed.
(3) the consideration and combination of projects in accordance with subsection(2) shall be with the approval of the Committee.

Duplication of Projects 28. The Ward Committee shall ensure that there is no duplication of projects especially where it is prudent to combine efforts on projects designed to benefit a large section or sector of a community traversing several wards in the County.

Personal awards 29. There shall be no projects of personal awards to any person in cash or in kind.

Part Funding 30. The committee may for the purposes of this Act consider part funding of a project financed from other sources than the Fund if –
(a) the financiers of the project have no objection; and
(b) provided that the part of the funding for the project availed pursuant to this Act shall go to a specified unit or part thereof or phase of the project in order to ensure that the particular portion as shall be agreed upon between the parties.

Procurement of works and services 31. (1) No project under this Act shall be carried out unless the same has been procured in accordance with the Public Procurement and Disposal Act, 2005.
(2) The procurement shall be carried out by the relevant department to which the project relates.

PART VI - GENERAL PROVISIONS

Dispute Resolution 32.(1) All complaints and disputes by persons arising due to the administration of this Act shall be referred to the Committee.

Regulations 33.(1) The Executive Secretary for Finance and Economic Planning may make regulations generally for the better carrying out of the objects of this Act.
(2) the regulations shall prescribe the formula for distribution of the

The Nyeri County Ward Development Fund Bill, 2015

funds between the wards;

(3) without prejudice to the generality of subsection(1) , Regulations may –

- (a) prescribe procedures for further administration of the funds under this Act;
- (b) prescribe forms of notices to be issued under this Act;
- (c) prescribe the forms of identification of projects funded under this Act;
- (d) Prescribe the requirements and conditions for accessing the funds.

**FIRST SCHEDULE
CONDUCT OF BUSINESS AND AFFAIRS OF THE
COMMITTEE**

1. The member of the Committee appointed under Section 16 (2) paragraph (c) and (d) shall, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment but their term shall end with the election of a new committee in the specific Ward.

2. Members of the committee appointed under section 2 paragraph (d) may –

- (a) at any time resign from office by notice in writing to the

The Nyeri County Ward Development Fund Bill, 2015

Executive Secretary;

- (b) be removed from office by the Executive Secretary on recommendation of the committee if the member –
 - (i) has been absent from three consecutive meetings of the committee without its permission;
 - (ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (iv) is otherwise unable or unfit to discharge its functions.

3(1) The committee shall meet not less than six or more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of sub paragraph (1), the Chairperson may, and upon requisition in writing by at least five members convene a special meeting of the committee at any time for the transaction of the business of the committee.

(3) Notice of the meeting shall be given to all members of the committee shall be given in writing at least seven days before every meeting;

(4) The quorum for the conduct of the business of the committee shall be five members.

(5) The chairperson shall when present, preside at every meeting of the committee 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 the meeting and the business transacted in the meeting.

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

(7) Subject to subparagraph (4), no proceedings of the board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this schedule, the committee may determine its own procedure and the procedure of any subcommittee and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

**SECOND SCHEDULE
WARD PROJECTS DESCRIPTION FORM**

WARD PROJECT DESCRIPTION FORM

Ward No: Ward Name.....Sub County

Project No.

Project Title

Sector

Status of projects (tick One) NewExtension.....On – going.....

Rehabilitation

Brief Statement on project status at the time of submission

.....

.....

.....

Financial Year.....

Original Cost Estimates in Kshs

Amount allocated

Person completing the formSignature.....

Date

THIRD SCHEDULE

WARD PROJECT SUBMISSION FORM

Ward No.Ward Name.....Financial Year

Serial no.	Name of Project	Amount Allocated
Total for the Financial Year		

Signature Date

Name Position.....

FOURTH SCHEDULE

WARD PROJECT RE – ALLOCATION FORM

Ward No. Ward Name Financial Year.....

Project No.	Project Title	Amount Allocated	Amount Disbursed	Balance	Unspent reallocated

Signature Date

Name Position.....

Hon. Duncan Gituanja Kiara
Chairperson
County Assembly Budget and Appropriations Committee