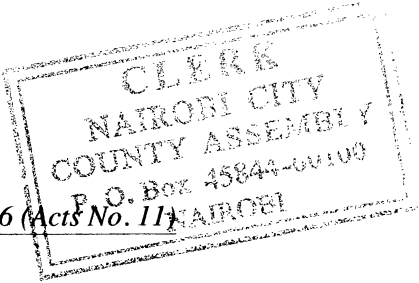


SPECIAL ISSUE

Nairobi City County Gazette Supplement No. 26 (Acts No. 11)



REPUBLIC OF KENYA

**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 22nd April, 2016

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

No. 11 of 2015

Date of Assent: 17th March, 2016

Date of Commencement: 22nd April, 2016

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- 3— Object and purpose of the Act.
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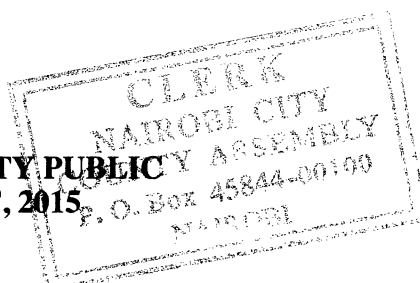
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**THE NAIROBI CITY COUNTY PUBLIC
PARTICIPATION ACT, 2015**

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

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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,

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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;

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- (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.

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(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

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citizens including person with disabilities.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing any elected leader.

(6) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

11. (1) On the request of a sub-County or town administrator, city or municipal manager or member of the County Assembly in the areas for a sub-county, city or urban area citizen participation forum, the County Government shall facilitate the convening of a citizens' participation forum to discuss and give views on—

Sub-county, city and urban area citizen participation forum.

- (a) issues of interests in the sub-county, city or urban area;
- (b) the implementation of County policies and plans in the sub-county, city or urban area; or
- (c) the administration and functioning of the sub-county, city or urban area; or
- (d) the delivery of services by the County public service in the sub-county, city or urban area.

(2) The provisions of section 10(2) to (6) shall apply to a forum convened under this section.

12. (1) A ward or village administrator or a member of the County Assembly may convene a ward or village citizen participation forum, and the County Government shall facilitate the organization of the forum to discuss and give views with respect to the following—

Ward or village citizen participation forum.

- a) issues of interests in the ward or village, as the case may be;
- b) implementation of County or sub County policies and plans in the ward or village;
- c) the administration and functioning of the ward or

village; or

- d) the delivery of services by the County public service in the ward or village.

(2) The forum may only be convened in consultation with the member of the County Assembly and shall be open to all interested parties.

(3) Members of a citizen forum in a ward or village may petition the ward or village administrator for a forum to discuss any of the issues in sub-section 11(1) and if supported by at least 100 persons, the ward or village administrator shall convene a citizens' forum.

(4) The citizens in the citizens' forum shall appoint their own secretary.

(5) The convener of the forum shall appoint a secretary to take the minutes of the proceedings of the forum and shall, with the assistance of the County Government publicize the minutes throughout the ward or village and shall—

- (a) take note of the issues arising from the forum for action or response by the relevant organs of the County Government; and
- (b) give a feedback on the action taken on the issues raised.

(6) The convener of the forum shall ensure that the forum is fully publicized to enable attendance and participation of a wide section of the population, including marginalized groups and communities.

13. (1) The County Government shall convene and facilitate the citizens' forum requested under section 12 (1).

Citizen initiative
forum.

(2) Where the County Government declines to issue a request under subsection (1), the County Government shall issue written reasons for such decline within seven days.

(3) A person dissatisfied with the decision of the County Government under subsection (2) may appeal to the

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Governor for review of that decision in writing and a response given to the petitioners within seven days.

PART IV – PETITIONS

14. A petition to the County Executive Committee shall be in the form set out in the Schedule and shall—

Form of petition.

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili and be written in temperate language;
- (c) be free of alterations and interlineations in its text;
- (d) be addressed to the County secretary;
- (e) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (f) confirm that efforts have been made to have the matter addressed by the relevant body and that there has been no response on the matter from the relevant body or that the response has not been satisfactory;
- (g) confirm that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;
- (h) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- (i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (j) contain only signatures or thumb impressions, as

the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;

- (k) not have any letters, affidavits or other documents annexed to it;
- (l) in the case of a petition presented by a Member of County Assembly on behalf of a petitioner, be countersigned by the Member presenting it; and
- (m) if the petitioner is unable to sign, be signed by a witness in whose presence the petitioner shall make his or her mark or thumb impression on the petition.

15. (1) A petition to the County Executive Committee shall be submitted to the County secretary by the petitioner.

Procedure for presenting petition.

(2) The County secretary shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of this Act.

(3) Where the County secretary considers that a petition does not comply with section 14, the secretary may give such directions as are necessary to ensure that the petition is amended to comply with that section.

16. (1) The County secretary shall, if satisfied that the petition meets the requirements of this Act, forward the petition to the County executive committee or the relevant body for consideration.

Consideration of petition.

(2) The County executive committee or the relevant body relating to the petition may appoint a committee to investigate the subject matter of the petition.

17. (1) The County executive committee, the relevant body or a committee appointed in relation to a petition may hold public hearing and may —

Procedure in the investigation.

- (a) invite individuals to submit memoranda or

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appear before the committee to give evidence on a petition;

- (b) invite any person holding public office to appear before them to give evidence relating a petition; or
- (c) with the support from the County Government, hold public hearing in relation to the petition.

(2) The evidence given by a person invited under subsection (1) shall be taken down in writing and a copy of it sent to the person who gave the evidence.

(3) The presentations and comments given during a public hearing shall be recorded and a copy of it shall be publicized by posting the copy in a conspicuous place at the offices of the County Government and on the website as the case may be.

(4) A person giving evidence may, within seven days from the date of receipt of the copy under subsection (2), suggest corrections to his or her evidence due to inaccurate reporting and the evidence shall be printed with such corrections as may be appropriate.

(5) The County Executive Committee, the relevant body or the committee may at its discretion refuse to hear any irrelevant evidence or to listen to any unruly or unmanageable person giving evidence.

(6) Any document received at the investigation of a petition shall not be withdrawn or altered without the knowledge and approval of the executive committee.

(7) A document submitted to the investigation of a petition may be released to the person who submitted it at the conclusion of the deliberations.

(8) The committee appointed under section 16(2) shall, as soon as practicable after the conclusion of the investigation, submit its findings and recommendation to the County Executive Committee or the relevant body for a final decision to be made on the petition in any case not

later than thirty days after finalization of the hearing.

(9) The County secretary shall, within fifteen days of the decision of the County Executive Committee or the relevant body, in writing, notify the petitioner of the decision.

18. The County secretary shall, within fourteen days after the decision is communicated to the petitioner or petitioners and by sending to churches, mosques, temples, public barazas and social halls with a request to announce the same—

Publication of
decision on petition.

- (a) give notice of the decision to the public by posting a copy in a conspicuous place at the offices of the County Government;
- (b) inform the public that a copy or extract of the decision is available on its website;
- (c) publish the decision in the County Gazette, print or electronic media; or
- (d) publish the decision in such other manner as may be appropriate for the dissemination of information.

19. (1) The County secretary shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the County Executive Committee or the relevant body on the petitions.

Register of petitions.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

20. Any petitioner who is dissatisfied by the decision of the County Government or the relevant body may appeal to the Commission on Administrative Justice pursuant to the Commission on Administrative Justice Act, 2011.

Appeal against
decision on a
petition.

21. A petition may be presented or submitted to the County Assembly by the petitioner or a Member of the assembly on behalf of the petitioner in accordance with the Standing Orders of the Assembly.

Petitions to County
Assembly.

PART V—MISCELLANEOUS PROVISIONS

22. The County Government, through its organs and departments, shall set aside at least two percent of the annual budget for public participation.

Setting aside of funds.

23. (1) No provision in this Act precludes the private mobilisation of citizens for purposes of public participation.

Independently organised initiatives.

(2) The County Government shall work in cooperation with the citizens' fora.

24. (1) The County Government through its organs, departments, and agencies shall organize annual forums in April of every year at the ward level to receive feedback from the citizens.

Review forums.

(2) The forums referred to in subsection (1) shall be held accordance with the provisions of Part III of this Act.

25. (1) Every financial year, the sub-County administrators, ward administrators and village administrators shall, in consultation with the member (s) of the County Assembly and the County Executive committee, conduct at least two civic education sessions to inform and receive feedback from County residents on issues including but not limited to—

Civic education.

- (a) County policy making;
- (b) law making processes;
- (c) public finance management processes;
- (d) development planning processes; monitoring and evaluating County budget implementation;
- (e) evaluating periodic County reports.

(2) Certified civic education providers who are non-state actors may conduct civic education in the County as per County civic education guidelines.

(3) Non-state actors shall coordinate with the County Executive Committee Member in charge of public participation at all times as they carry out civic education.

(4) The County Executive Committee Member responsible for public participation shall publish a bi-annual report on —

- (a) number of certified non-state actor civic education providers;
- (b) number of civic education session conducted by non-state actors; and
- (c) assessment of the impact of civic education conducted by non-state actors.

26. (1) The County Executive Committee Member responsible for public participation may make regulations generally for the better carrying into effect of the provisions of this Act.

Regulations.

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SCHEDULE

(s. 10)

FORM OF A PUBLIC PETITION

TO: The (Name of County) County Government/Assembly/Office

WE/I, the undersigned and humble Petitioner(s) of

..... (Here insert the names or description of the petitioner or petitioners and address including their status: residents of a particular area, workers, particular part of the community, minority or marginalised group etc.)

DRAW the attention of the County Government/Assembly to the following:

(Here, briefly state the reasons underlying the petition and request for the intervention of the Government/Assembly by outlining the grievances or problems and summarizing the facts which the petitioners wish the Government/Assembly/Office to consider)

THAT:

(Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.)

THAT:

(Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.)

THEREFORE your humble petitioners PRAY that the Government / Assembly/ Office:-

(Here, set out the prayer, by stating in summary what action the petitioners wish the Government/Assembly to take or refrain from)

and your PETITIONERS will ever Pray.

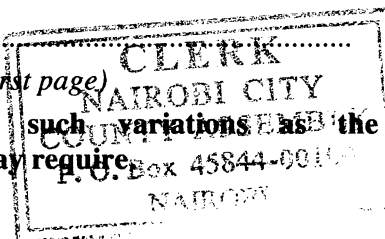
Name of petitioner	Full Address	National ID or Passport No.	Signature/Thumb print
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Subsequent Pages

PETITION concerning.....

(Here, repeat the summary in first page)

***This form may contain such variations as the circumstances of each case may require.**



CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI