

SPECIAL ISSUE

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**NYERI COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

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THE NYERI COUNTY WARD DEVELOPMENT FUND ACT, 2016

No. 2 of 2016

Date of Assent: 5th February, 2016

Date of Commencement: See Section 1

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**THE NYERI COUNTY WARD DEVELOPMENT
FUND ACT, 2016**

**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

1. This Act may be cited as the Nyeri County Ward
Development Fund Act, 2016 and shall come into operation
upon publication in the Kenya *Gazette* and County *Gazette*
notices whichever comes earlier.

Short Title and
Commencement

2. In this Act—

Interpretation

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

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

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

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

Objects and
Purposes of the Act

- (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
County;
- (d) improve the standards of living among the
residents of Nyeri County;
- (e) enhance provision and access to basic services
such as health, education, county road
construction and maintenance, county transport,
communication and Water.

**PART II — ESTABLISHMENT AND
ADMINISTRATION 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 Management Act.

Establishment of the Fund.

(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 expenditure relating to—

- (a) development projects in the Wards;
- (b) operations of the committees established under this Act.

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

Establishment of 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 or a designate alternate but not being below the level of Director;
- (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.

6. (1) The conduct and regulation of the business and affairs of the Committee shall be as provided under the First Schedule.

Conduct of affairs

(2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

7. The Functions of the Committee shall be to—

Functions of the
Ward Development
Fund Management
Committee

- (a) ensure timely and efficient allocation and disbursement of funds for projects identified 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 for Ward Development Committee Projects;
- (e) ensure the compilation of proper records, returns and reports from the ward Development Committee;
- (f) continually review and monitor 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.

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.

Fund Administrator

(2) The Fund administrator shall be the Director of the Fund and the Secretary to the Committee.

(3) The Fund administrator 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) prepare financial statements for the Fund for each financial year;
- (g) prepare 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.

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.

Staff to the Committee

(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

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the Committee as shall be necessary for the proper management of the Fund.

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 under this Act or under any other written law.

Delegation by the
Committee

PART III — FUNDS ALLOCATION AND DISBURSEMENTS

11. (1) Any allocation or disbursement from the fund shall be approved and minuted by the Committee.

Allocation and
Disbursements

(2) All disbursements from the Fund shall be for specific projects as shall be submitted by the ward Development Committee 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 records of the amounts disbursed to each ward committee projects shall be submitted by the Ward Development Committee 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.

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.

Allocation of Funds

(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 shall be spent for projects in the specific Ward.

(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.

13. (1) There shall be opened and maintained a bank account for the Fund by the County Treasury.

Bank Account of the Fund

(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.

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.

Records

(2) The disbursement to the fund shall be effected at the beginning of every 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.

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 Committee with the advice of the County Public Service Board.

Remuneration and allowances

(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 MANAGEMENT

16. (1) There is established the Ward Development Committee for each ward.

Establishment of the
Ward Development
Committee

(2) The Ward Committee shall consist of—

- (a) the Ward Administrator;
- (b) five representatives who are residents in the Ward, elected by Ward residents among who there must be a representative for the women, a representative for the youth, a representative for persons with disability, a representative from community based organisations/ non-governmental organisations and a representative for the faith based organisations;
- (c) one person designated by the County Government with the approval of the County Assembly as the Fund Manager who shall be an *ex officio* and Secretary to the Committee.

(3) The five representatives referred in sub-section (2)(b) shall be elected in accordance with the following procedure—

- (a) within forty-five days of being sworn in, each Member of the County Assembly in collaboration with the Ward Administrator shall convene open public meeting in each Sub-location;
 - (b) each sub-location shall elect five persons; and shall ensure that among the five elected, each of the special groups that is youth, women and persons with disabilities are represented;
 - (c) the five Sub-location representatives elected under paragraph (b) shall, in a ward public meeting convened by Member of County Assembly in collaboration with the Ward administrator elect the five persons who are members of the Ward Committee, taking into account geographical and social diversity and interests;
 - (d) the Ward administrators shall be the secretaries of respective public meetings;
- (4) The Ward Committee shall elect from among

members elected under subsection 2 (b) to be the chairperson of the committee.

(5) The Executive Secretary shall upon elections under subsection 3 above, gazette the members elected in the County or National Gazette notices.

(6) The term of office of the members appointed under sub paragraph 2 (b) 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.

17. (1) A member of the Ward Committee may be removed from the Committee on any of the following grounds—

Removal from office

- (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 subsection (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.

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.

Staff of the Ward Committee

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

Public Forums

20. The functions of the Ward Committee shall be—

Functions of the
Ward Committee

- (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**

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.

Submission of
projects

(2) The list of the projects under subsection (1) above shall be in line with the Nyeri County Integrated Development Plan.

(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.

22. (1) the proposed list of the ward projects shall be submitted to the committee before the end of February of every calendar year.

Submission Deadline

(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.

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.

Submission form

(2) All projects proposed for every ward shall be listed together with the cost estimates.

24. (1) The list of projects submitted to the Committee pursuant to section 23 shall be tabled for review before the Committee.

Projects description
Form

(2) The Committee shall upon receipt of the proposed projects scrutinize and approve those projects that meet the requirements set out by the Committee.

(3) The Committee shall forward a report of the

approved projects to the Executive Secretary for the purposes of the projects being allocated to the specific departments for implementation.

(4) 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.

25. It shall be the responsibility of the Ward Committee to ensure that the funds allocated are utilized for the projects allocated.

Responsibility of
Ward committees

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.

Types of projects

(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 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.

27. (1) The number for projects to be included in the ward committee proposal list shall be on a need basis.

Number of Projects

(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.

28. The Ward Committee shall ensure that there is no

Duplication of

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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.

Projects

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

Personal awards

30. The committee may for the purposes of this Act consider part funding of a project financed from other sources than the Fund if—

Part Funding

- (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.

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.

Procurement of works and services

(2) The procurement shall be carried out by the relevant department to which the project relates.

PART VI — GENERAL PROVISIONS

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

Dispute Resolution

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.

Regulations

(2) The regulations shall prescribe the formula for distribution of the 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.

TRANSITIONAL PROVISIONS

34. Prior to the constitution of the Committees under Section 5 and 16 of this Act, the projects to be funded shall be identified by the public and communicated to the finance department for purposes of implementation through the respective departments.

(2) The identified projects under subsection (1) shall be in line with the Nyeri County Integrated Development Plan.

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

1. The member of the Committee appointed under Section 5 of the Act shall hold office for such period as shall be specified in the instrument of appointment.

2(1) The committee shall meet not less than four and not more than six 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

NamePosition.....

FOURTH SCHEDULE

WARD PROJECT RE – ALLOCATION FORM

Ward No.Ward NameFinancial Year.....

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

Signature Date

NamePosition.....