

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KAJIADO COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2014**

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**NAIROBI, 16th July, 2014**

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**CONTENT**

Bill for Introduction into the Kajiado County Assembly—

	PAGE
The Kajiado County Public Participation Bill, 2014.....	1

**KAJIADO COUNTY PUBLIC PARTICIPATION BILL, 2014**  
**ARRANGEMENT OF CLAUSES**

*Clauses*

**PART I—PRELIMINARY**

- 1—Citation.
- 2—Interpretation.
- 3— Objects and Purposes of the Act.
- 4— Guiding principles.

**PART II—PUBLIC PARTICIPATION**

- 5—Development of culture of public participation.
- 6—Mechanisms, processes and procedures for public participation.
- 7—Communication of information concerning public participation.

**PART III—PUBLIC COMMUNICATION**

- 8— Communications to local community.
- 9— Documents to be made public.
- 10— Official website.

**PART IV—SUB-COUNTY CITIZENS FORUM**

- 11— Establishment and Composition of the Sub-County Citizens Forum.
- 12— Meetings.
- 13— Power to petition.
- 14— Sub-County Citizens Forum Committees.
- 15— Functions of the Sub-County Citizens Forum.

**PART V—WARD CITIZENS FORUM**

- 16— Establishment and Composition of the Ward Citizens Forum.
- 17— Meetings.
- 18— Functions of the Ward Citizens Forum.

**PART VI—VILLAGE CITIZENS FORUM**

- 19— Establishment and Composition of the Village Citizens Forum.
- 20— Meetings.
- 21— Functions of the Village Citizens Forum.

**PART VII—AFFIRMATIVE ACTION PROGRAMMES**

- 22— Affirmative action programmes.

**PART VIII—COUNTY DEVELOPMENT OFFICER**

- 23— Establishment of the office of the County Development Officer.
- 24— Terms of Office.
- 25— Remuneration.
- 26— Removal from office.

**PART IX—PETITIONS**

- 27— Form of petition.
- 28— Procedure for presenting petition.
- 29— Consideration of petition.
- 30— Procedure in the investigation.
- 31— Publication of decision on petition.
- 32— Register of petitions.
- 33— Appeal against decision on a petition.
- 34— Petitions to the Assembly.

**PART X—MISCELLANEOUS**

- 35— County Executive power.
- 36— Access and management of information.
- 37— Publicity.
- 38— Offences and penalties.
- 39— Regulations.

**FIRST SCHEDULE— PUBLIC PARTICIPATION GUIDELINES****SECOND SCHEDULE—FORM OF A PUBLIC PETITION**

**THE KAJIADO COUNTY PUBLIC PARTICIPATION  
BILL, 2014**

**A Bill for**

**AN ACT of Kajiado County Assembly to give effect to paragraph 14 of part 2 of the Fourth Schedule of the Constitution and Part VIII of the County Governments Act; to establish modalities and platforms for public participation in the governance of the county and for connected purposes.**

**ENACTED** by the Kajiado County Assembly as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Kajiado County Public Participation Act, 2014. Citation.

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

“administrator” means sub-county administrator, ward administrator, village administrator;

“Constitution” means the Constitution of Kenya, 2010;

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

“County Gazette” means a *gazette* published by the authority of the county government or a supplement of such *gazette*;

“government” means Kajiado county government;

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

- (a) the residents of the county;
- (b) the rate payers of a particular city or municipality;
- (c) any resident civic organisation or non-governmental, private sector or labour organization with an interest in the governance of the county, city or municipality;
- (d) non-resident persons who because of their temporary presence in a the county, city or

municipality make use of services or facilities provided by the county, city or municipality.

3. The objects and purposes of this Act are, subject to Articles 1(4), 10, 201 and 232 (1) (e) of the Constitution, to establish a legislative framework to give effect to—

Objects and purposes of the Act.

- (a) paragraph 14 of part 2 of the Fourth Schedule of the Constitution;
- (b) the objects and principles of devolution set out under Article 174 (c) and (d) of the Constitution; and
- (c) Part VIII of the County Governments Act, 2012.

4. Subject to section 87 of the County Governments Act and other statutory provisions, public participation in the county government activities will be guided by the following principles—

Guiding principles.

- (a) timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- (b) reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
- (c) protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;
- (d) legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
- (e) reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;

- (f) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development;
- (g) recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight;
- (h) inclusion of the widest spectrum of the public;
- (i) provision of information in formats accessible to a wide group of people including persons with disabilities and translate to local language where necessary;
- (j) continuous civic education to sensitize the public on the importance of their involvement in public affairs;
- (k) communication to participants on how their input affected the decision;
- (l) adherence to the national values and principles of governance set out under Article 10 of the Constitution;
- (m) adherence to the values and principles of public service set out by Article 232 of the Constitution;
- (n) adherence to the principles of leadership and integrity set out in Chapter Six of the Constitution;
- (o) recognition and respect of the differences between cultures and contributing to the recognition and value of each; and
- (p) duty to act in good faith by abstaining from impartiality and anti-democratic conduct.

## **PART II—PUBLIC PARTICIPATION**

5. A county government shall develop a system of governance that encourages participation by citizens in its affairs, and shall for that purpose—

Development of culture of public participation.

- (a) create appropriate conditions for participation in—

- (i) the formulation and implementation of laws, policies and regulations;
  - (ii) the preparation, implementation and review of the integrated development plan;
  - (iii) the establishment, implementation and review of its performance management system;
  - (iv) the monitoring and review of its performance, including the outcomes and impact of its performance;
  - (v) the preparation of its budget; and
  - (vi) making of strategic decisions relating to delivery of service.
- (b) contribute to building the capacity of:
- (i) the citizens to enable them participate in the affairs of the county; and
  - (ii) sub-county administrators, ward administrators and village administrators and members of the staff to foster community participation.
- (c) apply its resources, and allocate funds annually as may be appropriate for the implementation of paragraphs (a) and (b).

6. (1) Participation by the local public in the affairs of the county must take place through—

- (a) decentralized structures for participation in terms of the sub-counties equivalent to the constituencies within the county established under Article 89 of the Constitution, the Wards within the county established under Article 89 of the Constitution and section 26, village units in each county as may be determined by the county assembly of the respective county, the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act (No. 13 of 2011), and such other or further units as a county government may determine;

Mechanisms, processes and procedures for public participation.

- (b) other appropriate mechanisms, processes and procedures established by the county;
- (c) sub-county administrators in accordance with Section 50 (3)(g) of the County Governments Act;
- (d) ward administrators in accordance with Section 51 (3)(g) of the County Governments Act;
- (e) village administrators in accordance with Section 52 (3)(a)(i) of the County Governments Act; and
- (f) generally applying the provisions for participation as provided for in this Act.

(2) A county assembly must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the community, and must for this purpose provide for:

- (a) the receipt, processing and consideration of petitions, complaints and suggestions lodged by members of the local community;
- (b) notification and public comment procedures when a Bill is introduced in the County Assembly;
- (c) public meetings and hearings by the appropriate decentralized unit and other political structures and political office bearers of the county, when appropriate;
- (d) consultative sessions with locally recognized community organizations and, where appropriate, traditional authorities;
- (e) report-back to the local community;
- (f) information communication technology based platforms; and
- (g) county calendar of events.

(3) A county assembly must ensure that the mechanisms, processes and procedures for citizen participation provide for participation by the widest sections of the public, and these may include:



- (a) citizen forums;
- (b) citizen juries and panels;
- (c) focus group discussions;
- (d) open days/ exhibitions;
- (e) citizen care desks and information centers;
- (f) establishing a TV station and community FM radio stations;
- (g) broadcasting the County Assembly proceedings to the members of the public;
- (h) notice boards/suggestion boxes/websites;
- (i) service charters and social networking facilities;
- (j) county magazines/monthly newsletters / Information bulletins;
- (k) traditional media; and/or
- (l) any other mechanism, process or procedure of citizen participation that may be suitable for the county.

(4) When establishing mechanisms, processes and procedures in terms of subsection (2) the county assembly must take into account the special needs of—

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

7. (1) An administrator must communicate to his/her community information concerning—

- (a) the available mechanisms, processes and procedures to encourage and facilitate community participation;
- (b) the matters with regard to which community participation is encouraged;
- (c) the rights and duties of members of the local community; and

Communication of information concerning public participation.

(d) county governance, management and development.

(2) When communicating the information mentioned in subsection (1), an administrator must take into account:

- (a) language preferences and usage in the community; and
- (b) the special needs of people who cannot read or write.

### PART III— PUBLIC COMMUNICATION

8. (1) When anything must be notified by an administrator through the media to the local community in terms of this Act or any other applicable legislation, it must be done—

Communications to local community.

- (a) in the local newspaper or newspapers of its area;
- (b) in the newspaper or newspapers circulating in its area and determined by the county assembly as a newspaper of record; and
- (c) by means of radio or television broadcasts covering the area of the community.

(2) Any such notification must be in the official languages and having regard to language preferences and usage of the area.

(3) A copy of every notice that must be published at least twenty one (21) days before the meeting in the County Gazette or the media in terms of this Act or any other applicable legislation must be displayed at the sub-county or ward or village offices.

(4) A notice must indicate the time, date and venue of the meeting.

(5) When the administrator invites the local community to submit written comments or representations on any matter before the county assembly, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the county assembly named in the invitation will assist that person to transcribe that person's comments or representations.

- (6) (a) When an administrator requires a form to be completed by a member of the local community, a staff member of the county assembly must give reasonable assistance to persons who cannot read or write, to enable such persons to understand and complete the form.
- (b) If the form relates to the payment of money to the county assembly or to the provision of any service, the assistance must include an explanation of its terms and conditions.

9. (1) All documents that must be made public by the county in terms of the requirement of this Act, the Public Finance Management Act or other applicable legislation, must be conveyed to the local community:

Documents to be made public.

- (a) by displaying the documents at the county's head and satellite offices and libraries;
- (b) by displaying the documents on the county's official website, if the county has a website as envisaged by section 10; and
- (c) by notifying the local community, in accordance with section 8, of the place, including the website address, where detailed particulars concerning the documents can be obtained.

(2) If appropriate, any notification in terms of subsection (1) (c) must invite the local community to submit written comments or representations to the county in respect of the relevant documents.

10. (1) The County must—

Official website.

- (a) establish its own official website if the county decides that it is affordable; and
- (b) place on that official website information required to be made public in terms of this Act and the Public Finance Management Act.

(2) If the County decides that it is not affordable for it to establish its own official website, it must provide the information in terms of legislation referred to in subsection (1)(b) for display on an organized local government website sponsored or facilitated by the National Treasury.

(3) The County Development Officer must ensure that

the county's official website is maintained and regularly updated if in existence, or provide the relevant information as required by subsection 2.

#### **PART IV— SUB-COUNTY CITIZENS FORUMS**

**11.** (1) A Sub-County Citizens Forum of not fewer than 3 and not more than 10 persons shall be established at the sub-county level to enable direct citizen engagement in planning and budgeting, implementation and monitoring of development projects.

Establishment of  
the Sub-County  
Citizens Forum.

(2) The Sub-County Citizens Forum shall comprise citizen ward representatives, Civil Society Organization's representatives, community and religious leaders.

(3) Technical county government officers and development partners may sit on the forum as ex-officio members.

(4) The Sub-county Citizens County Forum shall be headed by the Sub-County Administrator.

(5) The Sub-County Citizens Forum shall have powers to form committees for specific functions to address issues of allocation of funds, audit, and procurement among others.

(6) The officials of the Sub-County Citizens Forum shall be appointed by the County Executive Committee.

(7) The County Executive Committee shall publish the names of the Sub-County Citizens Forum in the County Gazette and the local newspapers and shall invite public opinion on the matter.

(8) A code of conduct shall govern the members of the forums and their committees.

**12.** (1) The Sub-County Citizens Forum meetings shall be open to all members of the public.

Meetings.

(2) The County Assembly shall ensure that a member of the Assembly attends at least three of the Sub-County Citizens Forum meetings.

(3) A calendar of all Sub-County Citizens Forum meetings shall be maintained and publically disseminated.

(4) The Sub-County Citizens Forum shall facilitate the

convening of a citizens' participation forum to discuss and give views on—

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

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of that County Assembly or as a Member of Parliament.

(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.

**13.** The Sub-County Citizens Forum shall have the power to petition parliament.

Power to Petition.

**14.** (1) The Sub-county Citizens Forum may delegate roles, responsibilities and powers to the sub-committees.

Sub-County  
Citizens Forum  
Committees.

(2) The Sub-County Citizens Forum shall establish a citizen oversight committee to oversee sub-county and county project implementation.

(3) The forum shall also establish the sub-county Public Audit Sub-Committee to audit the implementation of the sector sub-county projects.

(4) The Sub-County Citizens Forum and committees shall have the right to access all information held by the county executive.

**15.** (1) The Sub-County Citizens Forum shall—

- (a) review and recommend annual prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the county executive for approval;
- (c) receive the county implementation status reports on a quarterly basis which status report shall

Functions of the  
Sub-County  
Citizens Forum.

- capture all allocations, expenditure, projects, status;
- (d) receive county expenditure reports prepared by the county executive;
  - (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
  - (f) submit any arising complaints to the county executive and assembly for follow up;
  - (g) report back to the community on the responses to the complaints made;
  - (h) receive annual monitoring reports prepared by the county sectoral offices;
  - (i) receive citizen monitoring reports from the oversight committee;
  - (j) make recommendations based on the monitoring reports and forward the same to the county executive;
  - (k) prepare and submit an annual report to the Governor for submission to the county assembly on the status of public participation in the affairs of county governance.

#### **PART V—WARD CITIZENS FORUMS**

16. (1) Ward Citizens Forums of not fewer than 3 and not more than 10 persons shall be established at the ward to enable direct citizen engagement in planning and budgeting, implementation and monitoring of development projects.

Establishment of  
Ward Citizens  
Forums.

(2) The Ward Citizens Forum shall comprise ward residents, Civil Society Organizations working in the ward, religious bodies and community leaders.

(3) Technical county government officers and development partners may sit on the forum as ex-officio members.

(4) The Ward Citizens Forum shall be headed by the Ward Administrator.

(5) The Ward Citizen Forum shall nominate two ward representatives to represent the ward at the Sub-County

**Citizens Forum.**

(6) The Ward Citizens Forum shall have power to petition the county assembly directly.

(7) A code of conduct shall govern the members of the forums and their committees.

(8) The forums and its committees will be representative of all members of society including marginalized groups and persons with disabilities.

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

17. (1) The Ward Citizens Forum meetings shall be open to all members of the public. Meetings.

(2) The County Assembly shall ensure that a member of the Assembly attends at least three of the Ward Citizens Forum meetings.

(3) A calendar of all Ward Citizens Forum meetings shall be maintained and publically disseminated.

(4) The Ward Citizens Forum shall facilitate the convening of a citizens' participation forum to discuss and give views on—

- (a) issues of interests in the ward;
- (b) the implementation of county policies and plans in the ward;
- (c) the administration and functioning of the ward; or
- (d) the delivery of services by the county public service in the ward.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of that County Assembly or as a member of Parliament.

(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.

(7) The forums shall be open to all citizens of the ward who desire to attend and citizens shall be allowed to speak

through representatives or directly.

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

**18. (1) The Ward Citizens Forum shall—**

Functions of the  
Ward Citizens  
Forum.

- (a) review and recommend annual ward prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the Sub-County Citizen's Forum;
- (c) receive the ward implementation status reports on a quarterly basis which status report shall capture all allocations, expenditure, projects, status;
- (d) receive ward expenditure reports;
- (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
- (f) submit any arising complaints to the county executive and assembly for follow up;
- (g) report back to the community on the responses to the complaints made;
- (h) receive annual monitoring reports prepared by the ward sectoral offices;
- (i) receive citizen monitoring reports from the ward oversight committee;
- (j) make recommendations based on the monitoring reports and forward the same to the county executive; and
- (k) prepare and submit an annual report for submission to the county assembly on the status of public participation in the affairs of county governance.

#### **PART VI—VILLAGE CITIZENS FORUMS**

**19. (1) Village Citizens Forums of not fewer than 3 and**

Establishment of  
the Village



not more than 10 persons shall be established at the village to enable direct citizen engagement in planning and budgeting, implementation and monitoring of development projects.

Citizens Forums.

(2) The Village Citizens Forum shall comprise village residents, Civil Society Organizations working in the village, religious bodies and community/traditional leaders.

(4) The Village Citizens Forum shall nominate two village representatives to represent the village at the Ward Citizens Forum.

(5) The Village Citizens Forum shall have power to petition the county assembly directly.

(6) A code of conduct shall govern the members of the forums and their committees.

(7) The forums and its committees will be representative of all members of society including marginalized groups such as persons with disabilities.

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

**20.** (1) The Village Citizens Forum meetings shall be open to all members of the public.

Meetings.

(2) The County Assembly shall ensure that a member of the Assembly attend at least three of the Ward Citizens Forum meetings.

(3) A calendar of all Village Citizens Forum meetings shall be maintained and publically disseminated.

(4) The Village Citizens Forum shall facilitate the convening of a citizens' participation forum to discuss and give views on—

- (a) issues of interests in the village;
- (b) the implementation of county policies and plans in the village;
- (c) the administration and functioning of the village; or
- (d) the delivery of services by the county public service in the village.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of that County Assembly or as a Member of Parliament.

(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.

(7) The forums shall be open to all citizens of the village who desire to attend and citizens shall be allowed to speak through representatives or directly.

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

21. (1) The Village Citizens Forum shall—

Functions of the  
Village Citizens  
Forum.

- (a) review and recommend annual village prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the Ward Citizens Forum;
- (c) receive the county implementation status reports on a quarterly basis which status report shall capture all allocations, expenditure, projects, status;
- (d) receive county expenditure reports;
- (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
- (f) submit any arising complaints to the county executive and assembly for follow up;
- (g) report back to the community on the responses to the complaints made; and
- (h) prepare and submit an annual report for submission to the county assembly on the status of public participation in the affairs of county governance.

## **PART VII— AFFIRMATIVE ACTION PROGRAMMES**

**22.** (1) The County Development Officer shall ensure that the county government and its entities put in place affirmative action programmes to ensure that minorities and marginalised groups—

- (a) participate in all matters that affect them and are represented in governance and other spheres of life;
- (b) are provided with special opportunities in all areas of economic, educational, social, religious and political fields;
- (c) are provided with special opportunities for access to employment;
- (d) develop their ethnic and cultural values, languages and practices;
- (e) have reasonable access to water, health services and infrastructure;
- (f) pursue their personal development;
- (g) live in dignity and respect and be free from abuse;
- (h) are free from discrimination including but not limited on the basis of language, religion, culture, national or social origin, sex, caste, birth, descent or other status; and
- (i) are free from hostility, violence and abuse as a result of their ethnic, cultural, linguistic, religious or other identity.

## **PART VIII—COUNTY DEVELOPMENT OFFICER**

**23.** (1) There is established the office of the County Development Officer who shall co-ordinate and monitor public participation activities in the sub-county, ward and village levels.

Establishment of  
the office of the  
County  
Development  
Officer.

(2) The County Development Officer shall facilitate and oversee the effective coordination of citizen participation

and shall—

- (a) ensure to inform the public on whether financial resources correspond to the nature and scope of the public participation planned;
- (b) ensure that there is sufficient and adequately trained staff to carry out planned public participation;
- (c) ensure that the sub-counties, wards and villages have clear and reasonable timelines for public input and comment and that these timelines are communicated to the participants;
- (d) ensure that the sub-counties, wards and villages have established a feedback process to the public including opportunities for the public to forward additional comments or input to the decision taken;
- (e) develop an evaluation framework to the public participation plan;
- (f) advise the county executive committee on matters of policy relating to public participation;
- (g) ensure that the public, affected groups, and stakeholders are informed of the results of the public participation process and how their input was used in the decision taken;
- (h) prepare and submit reports to the County Assembly on the status of public participation implementation under this Act;
- (i) perform any other function as may be assigned by legislation.

**24.** (1) The County Development Officer shall be appointed for a term of three years and is eligible for re-appointment.

Term of Office.

**25.** (1) The County Development Officer shall be paid such salary, allowances and benefits as the County Executive Committee shall, with the approval of the County Assembly and on the advice of the Salaries and Remuneration Commission determine.

Remuneration.

26. (1) The County Development Officer may be removed from office for— Removal from Office.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) incompetence or negligence of duty;
- (d) bankruptcy;
- (e) is found guilty of professional misconduct by the relevant professional body; or
- (f) in any particular case, failure to declare his or her interest in any matter being considered or to be considered by the board or committee.

(2) A County Development Officer may be removed from office on any of the grounds in subsection (1) by—

- (a) the Governor;
- (b) upon petition by the residents of the County.

(3) Before the officer is removed from office under subsection (2), the officer shall be given an opportunity to provide a defence against any of the allegations against him or her.

### **PART IX—PETITIONS**

27. A petition to County Executive Committee shall be in the form set out in the fourth Schedule and shall— Form of Petition.

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili and be written in respectful, decorous and 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.

**28.** (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 26, the County Secretary may give such directions as are necessary to ensure that the petition is amended to comply with that section.

**29.** (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.

**30.** (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 appear before the committee to give evidence on a petition;
- (b) invite any Executive Secretary or any person holding public office to appear before them to give evidence relating a petition;
- (c) employ qualified persons to assist it in the discharge of their functions;
- (d) with the support from the Office, hold public hearing in relation to the petition.

(2) The evidence given by a person invited under sub section (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 sub section (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 28 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.

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

31. The County Secretary shall, within fourteen days after the decision is communicated to the petitioner or petitioners, with support from the Office—

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.

32. (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.

Register of petitions.

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

33. 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 Act, 2011.

Appeal against decision on a petition.

34. A petition may be presented or submitted to the 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 the Assembly.

## **PART X—MISCELLANEOUS**

35. The County Executive Committee shall oversee the performance of the activities of the County Development

Executive Committee's power of



Officer under this Act and may, in writing, give such officer directions on matters of policy not inconsistent with the provisions of this Act. direction.

36. (1) The administrators shall ensure that all important information affecting the county/sub-county/ward/village is published and publicized, within their mandate. Access and management of information.

(2) A person may request for information in public interest.

(3) A request for information under subsection (2)—

- (a) shall be addressed to the County Development Officer or such other person as the County Executive Committee may designate for that purpose;
- (b) may, where the County Development Officer incurs expense in providing the information, be subject to payment of a reasonable fee; and
- (c) may be subject to confidentiality requirements within reasonable statutory requirements.

(4) Subject to the provisions of Article 35 of the Constitution and the law relating to freedom of information and data protection, the County Development Officer may decline to give information to an applicant where—

- (a) the request is unreasonable in the circumstances; or
- (b) the applicant fails to satisfy any confidentiality requirements.

(5) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

37. Subject to section 91 of the County Governments Act, the administrators and the County Development Officer shall, in such manner as they consider appropriate, publish a notice for public information specifying— Publicity.

- (a) the location of their respective offices; and
- (b) their address or addresses, telephone numbers and other means of communication or contact.

**38.** (1) Any person who attempts to influence the administrator or the County Development Officer or any other staff member or an agent of a county not to enforce an obligation in terms of this Act, any other applicable legislation or by-law or decision, is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.

Offences and penalties.

(2) An administrator or the County Development Officer or any other staff member or an agent of a county who accedes to an attempt mentioned in subsection (1), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.

**39.** (1) The executive committee member responsible for matters relating to information may, in consultation with the administrators and the County Development Officer, make regulations for the better carrying into effect of the provisions of this Act.

Regulations.

(2) The executive committee member may make regulations or issue guidelines concerning:

- (a) minimum standards for county, including minimum standards relating to funding, when implementing the provisions of this Act; and
- (b) any matter that may facilitate:
  - (i) the participation of the local community in the affairs of the county; or
  - (ii) the application of this Act.

(2) When making regulations or issuing guidelines to provide for or to regulate the matters of this Act, the executive committee member must take into account the capacity of the county and decentralized units therein to comply with those matters.

**FIRST SCHEDULE****PUBLIC PARTICIPATION GUIDELINES**

The following guidelines shall guide the administrators while conducting public participation activities:

1. Build a realistic timeframe for the consultation, allowing reasonable period for each stage of the process.
2. Be clear as to the type of the public, community or profession to be consulted, the issues or matter for consultation and for what specific purpose.
3. Ensure that the consultation document is as simple and concise as possible, providing the summary of the issues or matter for consultation and clearly setting out the questions to be address.
4. Publish and distribute the documents as widely as possible, including but not limited to providing hard copies, television advertisements, websites, community radio announcements and traditional media.
5. Ensure that all responses are carefully and open-mindedly analysed and the results made widely available to the public, including an account of the views expressed and the reasons for the decisions taken.
6. Disclose all information relevant for the public to understand and evaluate the decision.
7. Ensure that stakeholders have fair and equal access to the public participation process and their opportunity to influence decisions.
8. Ensure that all commitments made to the public, including those by the decision-maker, are made in good faith.
9. Undertake and encourage actions that build trust and credibility for the process among all the participants.
10. Be personally responsible for the validity of all data collected, analyses performed, or plans developed by it or under its direction.
11. Ensure that there is no misrepresentation of work performed or that was performed under the relevant body's direction.
12. Examine all of its relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers.
13. Should not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination.
14. Should not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with its professional judgment.

**SECOND SCHEDULE**  
**FORM OF A PUBLIC PETITION**

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

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 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—

*(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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-----	-----	-----
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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.**

**MEMORANDUM OF OBJECTS AND REASONS**

**Statement of the Objects and Reasons for the Bill**

The main objective of this Bill is to provide a legislative framework through which the County Government can establish modalities and platforms for public participation in the governance of the County and for connected purposes.

**Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill delegates legislative powers to the CEC Member in charge of matters concerning public participation at section 39 of the Bill to make regulations in consultation with County officials for the better carrying into effect of the provisions of the Act. The legislative authority delegated to the Executive Member accords with the requirements of Article 94(6) of the Constitution by providing that the delegated authority shall only be exercised for the purpose and intent specified in the above stated section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instrument Act, 2013. The Bill does limit fundamental rights and freedoms.

**Statement of how the Bill concerns County Governments**

The Constitution of Kenya 2010, at Article 185(2) provides for the legislative authority of the County Assembly specifically for the effective performance of the County Government. Further Article 186 enumerates the functions and powers of the National and County Governments. This Article goes on to state that the above functions and powers are as set out in the fourth schedule of the Constitution. Part 2 thereof and paragraph 14 as well as Part VIII of the County Government Act in particular provide for the participation of communities and locations in governance as well as in the development of the administrative capacity for the effective participation in governance at the local level. As such, the Bill is a Bill that affects the powers and functions of County Government and it is therefore a Bill that concerns the County Government in terms of Article 110(1)(a) of the Constitution.

**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

The Bill is not a money Bill within the meaning of Article 114 of the Constitution. '

Dated the 2nd July, 2014.

HON. TIMOTHY SAYIORE,  
*Chairman, Information and Communication Committee,  
Kajiado County Assembly.*