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CONTENT

Act—	PAGE
The Kiambu County Citizen Petition and Participation Act, 2016.....	1

**THE KIAMBU COUNTY CITIZEN PETITION AND
PARTICIPATION ACT, 2015**

No. 9 of 2017

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ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

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

**PART II—ESTABLISHMENT, COMPOSITION AND FUNCTIONS
OF THE OFFICE OF CITIZEN PETITION AND PARTICIPATION**

- 6—Public Participation Budget.
- 7—Responsibility of the County Executive.
- 8—Responsibility of the Members of the County Assembly.
- 9—Office of Public Participation and Citizen Petitions.
- 10—Powers of the Director.
- 11—Rights and Responsibilities of a Citizen.

PART III—CITIZENS' PARTICIPATION FORUMS

- 12—County Leadership Forum.
- 13—County Stakeholders Forum.
- 14—Ward Citizen's Forum.
- 15—Public Notices.
- 16—Language of Notices.
- 17—Publication of Notices.
- 18—Structure of Notice.
- 19—Form of Petition.

PART IV—PETITION

- 20—Procedure for Presenting Petition.
- 21—Consideration of Petition.
- 22—Procedure for Determining a Petition.
- 23—Register of Petitions.
- 24—Limitation to the Right to Petition.
- 25—Appeal against Decision on a Petition.
- 26—Notification in County Public Offices.

PART VI—GENERAL PROVISIONS

- 27—Offences and Penalty.
- 28—Regulations.

SCHEDULES

**FIRST SCHEDULE—CITIZEN PETITION AND PARTICIPATION
GUIDELINES**

**SECOND SCHEDULE—MEETINGS AND PROCEDURE FOR
THE OFFICE**

THIRD SCHEDULE—FORM OF A CITIZEN PETITION

**THE KIAMBU COUNTY CITIZEN PETITION AND
PARTICIPATION ACT, 2016**

AN ACT of the Kiambu County Assembly to give effect to section 14 of part 2 of the Fourth Schedule of the Constitution; to give effect to Part VIII of the County Governments Act, 2012; to establish modalities and a platform for citizen petition in the governance of the County and for and for connected purposes

ENACTED by the Kiambu County Assembly as follow—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Kiambu County Citizen Petition and Participation Act, 2016.

Interpretation

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

“challenge” means to make a formal objection to the County Government or any other authority’s policy or decision or legislation;

“constitution” means the Constitution of Kenya, 2010;

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

“county” means the Kiambu County;

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

“county secretary” means a County Secretary appointed under section 44 of the County Government Act, 2012;

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

“county government” means Kiambu County Government;

“county public officer” means any person appointed by the County Government and holding and acting in any county public office whether paid or unpaid or on contractual or permanent terms but does not include a person engaged on a part time basis in a County Public body paid at an hourly or daily rate;

“citizen” has the meaning ascribed to “Public” under this Act;

“citizen petition” means the process that directly engages the citizens of the County in decision making and gives full consideration to citizen input in making that decision;

“member of Parliament” means a Member of National Assembly or Senate;

“office” means the Office of Citizen Petition established under section 5;

“officer” means the Public Participation and Citizens Petition’s officer appointed in accordance with this Act;

“participation” when used in relation to public participation means the involvement of Individuals, Corporations or Groups of Individuals that may be affected by, or that are interested in, a proposed project, program, plan, legislation or policy of the County Government;

“petition” means a Written Document signed by an individual or a group of people demanding some form of action from the County Government or other Authority;

“policy” means the policy of the County Government which may affect the public; excluding any policy of the County Government for internal administrative purposes;

“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 resident Civic Organization with an interest in the governance of the County; and
- (d) non-resident persons who because of their temporary presence in the County, makes use of services or facilities provided by the County.

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

Objects and purpose of the Act

3. The object and purpose of this Act is to—

- (a) facilitate the implementation of constitutional provisions set out under—
 - (i) article 1, 10, 35, 37, 48, 174, 196, 201, 232 of the Constitution; and
 - (ii) section 14 of Part 2 of the Fourth Schedule to the Constitution;

- (b) give effect to public participation framework stipulated under the County Governments Act, 2012, the Public Financial Management Act, 2011 and the Urban Areas and Cities Act, 2011.

Application

4. This Act shall apply to—

- (a) enactment of County Legislations and Policy;
- (b) enactment of the County Integrated Development Plan and fiscal strategy paper ; and
- (c) any other matter requiring Public Participation provided in any other County or National Laws.

Guiding principles

5. Subject to Part VII of the County Governments Act, 2012, citizen petition and participation in the County Government activities will be guided by the following principles—

- (a) the communities, organizations and citizens to be affected by a decision shall have the right to be consulted and involved in the decision making process;
- (b) public contributions 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 the decision makers;
- (d) facilitation of the involvement of Communities, Organizations and Citizens potentially affected by or interested in a decision;
- (e) mandatory participants consultation and input in designing how they participate;
- (f) participants equitable access to the information they need to participate in a meaningful manner;
- (g) communication to participants on how their input affected the decision;
- (h) adherence to the National Values and Principles of governance set out under Article 10 of the Constitution;
- (i) adherence to the values and principles of Public Service set out under Article 232 of the Constitution;

- (j) adherence to the principles of leadership and integrity set out in Chapter six of the Constitution; and
- (k) adherence to the principles of Citizen Participation set out in Section 87 of the County Government Act, 2012.

**PART II—ESTABLISHMENT, COMPOSITION AND FUNCTIONS
OF THE COUNTY OFFICE ON CITIZEN PETITION AND
PARTICIPATION**

Public Participation Budget

6. The County Government shall provide adequate budget to support public participation within the County.

Responsibility of the County Executive

7. (1) The Governor shall promote Public Participation within the County in accordance with this Act.

(2) Every member of the County Executive Committee shall be responsible for promoting public participation in accordance with this Act.

(3) The Governor shall in every year present an annual report to the County Assembly on the status of Public Participation in the County.

(4) The County Government shall, through the established County Communication platforms, publish and publicize the report under subsection (3).

Responsibility of the Members of the County Assembly

8. (1) Every Member of the County Assembly shall be responsible for promoting public participation within the County in accordance with the provisions of Article 196 of the Constitution and the County Assembly standing orders.

(2) The County Assembly Service Board may establish such offices and structures as may be necessary for better implementation of the responsibilities under this Act

(3) The County Assembly shall cause records of all Public Participation proceedings to be kept.

Office of Public Participation and Citizen Petitions

9. (1) There is established the office of the Public Participation and Citizen Petitions which shall be an office in the County Public Service.

(2) The office shall be headed by a Director who shall be responsible for—

- (a) coordinating public participation activities of the County Executive;

- (b) mobilize and organize the public, stakeholders and local communities to participate in county governance and decision making processes;
- (c) sensitize the public on County structures and opportunities for Public Participation;
- (d) establishing linkages with Local and International institutions, Associations;
- (e) or organizations whose objectives is to promote public Participation within the County;
- (f) collaborate with relevant institutions in the County to promote access to information and civic education programmes;
- (g) establish an appropriate feedback mechanism to the Public;
- (h) ensure that the citizen participation processes adhere to the relevant legislation, regulations, policies or guidelines affecting the rights and responsibilities of the public, officers and the participants;
- (i) facilitate public education and training programmes relating to citizen participation;
- (j) receiving and coordinating citizen petitions within the County Executive;
- (k) maintaining a depository of all information, correspondence and documentation on public participation and citizen petitions within the County Executive;
- (l) assessing the public responsiveness to public participation and making recommendations to the Executive Member;
- (m) submitting reports to the Executive Member on public participation and citizen petitions within the County Executive;
- (n) advise the Executive Member generally on the appropriate policies, plans and strategies for enhancing public participation in the County; and
- (o) carry out any other function in furtherance of the objects and purpose of this Act and as may be assigned by the Executive Member.

Powers of the Director

10. (1) The Director shall have the power to do all that is necessary and lawful for the proper discharge of the functions under this Act.

(2) without prejudice to the generality of this subsection (1) the Director shall have the power to—

- (a) enter into agreements or arrangements with any institution, association or professional organization as the office may deem appropriate in furtherance of the objects of this Act;
- (b) manage, secure and administer the assets of the office in such manner as best promotes the purpose for which the office is established and;
- (c) constitute such ad hoc committees as may be necessary for the better carrying out of the functions of the Office.

(4) A person shall be appointed as a Director under subsection (2) if that person—

- (a) is a Kenyan Citizen;
- (b) has a degree from a university recognized in Kenya;
- (c) has at least five years experience in Administration or Civic education; and
- (d) has met the Constitutional requirements.

(5) The Executive Member shall in consultation with the County Public Service Board shall designate such other staff as are necessary to work in the Office.

(6) No matter or thing done by the Officer or any employee or agent of the County Government shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the office, render the Officer, employee or agent personally liable for any action, claim or demand whatsoever.

Rights and Responsibilities of a Citizen

11. (1) Resident or any member of the public with interest in County Affairs has the duty and responsibility to—

- (a) acquire and read information and materials on the Public Participation Issues;
- (b) constructively participate in the forums and platforms created by the County Government for Public Participation;
- (c) seek the guidance of the County Government where the person is unable to read or to access information on the Public Participation Issue;
- (d) determine the manner in which he or she shall participate; and
- (e) complying with the provisions of this Act and any other laws relating to Public Participation; and, observe decorum and maintain law and order.

PART III—CITIZENS' PARTICIPATION FORUMS

County Leadership Forum

12. (1) The Governor shall at least once in every year convene a County Leaders Forum comprising of all the elected leaders of the County and the County Executive Committee Members for purposes of discussing the County Development.

County Stakeholders Forum

13. (1) The Governor shall at least once in every year convene a stakeholders' forum of persons representing diverse sectors and interests within the County.

(2) Notwithstanding sub section (1) the County Government ensure regular participation of stakeholders in County affairs and shall observe the following good standards and practices—

- (a) stakeholder identification and analysis;
- (b) information disclosure;
- (c) negotiation and partnerships;
- (d) grievance management through establishing accessible and responsive means for stakeholders to raise concerns and grievances; and
- (e) efficient and strategic management of stakeholder processes.

Ward Citizen's Forum

14. (1) A Member of the County Assembly shall at least once every year convene a ward citizen participation forum to discuss any matter under the responsibility of the County Government.

PART IV—PETITIONS

Public notices

15. (1) A County Department or Agency and a Committee of the county assembly shall use the most appropriate communication methods or channels to notify and publicize any process, forum or issue requiring Public Participation under this Act.

(2) A notice issued under subsection (1) shall include—

a brief statement on the issues under consideration which shall include the purpose and likely effect of the implementation of the issues under consideration;

- (a) the persons or groups of persons who are likely to be directly affected by the issues under consideration;
- (b) the manner and location of access of any information comprising of the issues under consideration;

- (c) the designated office in each ward available to assist any person who is unable to read or access any information relating to the issues under consideration;
 - (d) the avenues open to the Public to Participate;
 - (e) the duration of citizen participation; and
 - (f) the venue, date and time of public hearings or other Public Participation Forum.
- (3) The notice under subsection (1) shall not be less than seven days.

Language of the Notices

16. (1) A notice under this Act shall be in writing and may be in either English and Kiswahili languages.

Publication of Notices

17. The County shall publish and publicize a notice through the established County Communication frameworks and platforms.

Structure of a Memorandum

18. Any citizen who intends to submit a written memorandum shall ensure that the memorandum is in writing and—

- (a) is either in English or Kiswahili language;
- (b) is Legible;
- (c) it addresses the issue under consideration only;
- (d) uses decent language; and;
- (e) is delivered to the office notified in the public notice or in any other communication platform.

Form of Petition

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

- (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.

Procedure for Presenting Petition

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

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

Consideration of Petition

21. (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.

(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.

Procedure for Determining a Petition

22. (1) The County Assembly shall, in accordance with the standing orders address a petition made under this Act.

(2) The County Executive Committee shall in accordance with this Act address a Petition made under this Act.

(3) In addressing a Petition, the County Government may—

(a) invite persons to submit written memorandum or appear before the responsible officer or committee appointed responsible for determining the petition;

(b) invite any persons holding a Public Office in the County Government to give evidence relating to the subject matter; or

(c) hold a public forum to determine the petition.

(4) The County Government shall within sixty days communicate their determination to the petition in writing.

(5) The County Executive Member shall forward a copy of any petition filed with the Executive Committee to the County Assembly.

Register of Petitions

23. The Clerk to the County Assembly and the County Secretary shall respectively cause to be kept a register of petitions in which shall be recorded—

(a) the petition and supporting document;

(b) name and contacts of the petitioner;

(c) recommendations of the officer or committee designated to investigate the petition; and

(d) determination of the County Government.

Limitation to the Right to Petition

24. The County Government shall ensure that the action taken are in line with their mandate and do not infringe of the constitutional right of any other person except with their express written consent

Appeal Against decision on a Petition

25. 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.

PART VI—GENERAL PROVISIONS**Notification in County Public Offices**

26. The County Government may from time to time publish and publicize through the established County communication frameworks and platforms—

- (a) the physical location of all its offices; and
- (b) contacts, including the telephone, post office box and email address.

Offences and Penalty

27. A Person or Petitioner who—

- (a) without justification or lawful excuse, obstructs hinders, threatens a member of the Office or a member of staff acting under this Act;
- (b) submits false or misleading information;
- (c) without reasonable excuse, fails to appear before a meeting of the Office when required to do so; or
- (d) misrepresents to or knowingly misleads a member of the Office or a member of staff of the Office acting under this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Regulations

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

FIRST SCHEDULE

(S.8)

CITIZEN PETITION AND PARTICIPATION GUIDELINES

The following guidelines shall guide the County Government and the Office when conducting citizen 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

(S. 19)

FORM OF A CITIZEN PETITION

TO: The Kiambu 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/ 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