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**KIAMBU COUNTY COMMUNITY AND NEIGHBORHOOD
ASSOCIATIONS PROMOTION OF PARTICIPATION AND
ENGAGEMENT BILL, 2016**

A Bill for

AN ACT of the County Assembly of Kiambu to give statutory recognition to community and neighborhood associations and effect to their initiatives in complementing county government service delivery; to enable structured co-operation between the County Government, residents and businesses; to facilitate the activities of the associations and organizations; and to give further effect to Articles 10 and 174 of the Constitution as regards the principle of participation of the citizens and for connected purposes

ENACTED by the County Assembly of Kiambu, as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Kiambu County Community and Neighborhood Associations Promotion of Participation and Engagement Act, 2016.

Interpretation

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

“association” means a residents’ association or residents umbrella association representing a wider network registered under the laws of Kenya and recognized by the County Government under this Act;

“community” means any interest group, society or community based organization registered under the laws of Kenya and whose objectives meet the criteria set out in section 5;

“executive committee member” means the County Executive Committee Member responsible for physical planning;

“neighbourhood” includes a grouping representing a common interest not necessarily domiciled in the same locality;

“resident” in respect of a locality or a neighbourhood includes persons who operates a permanent business in that locality or neighbourhood or shares in the community of interest of any group whose members are not necessarily in the same neighbourhood.

Objects of the Act

3. The objectives of this Act are to—

- (a) establish a legal framework for the engagement, promotion and facilitation of community and neighbourhood associations in their support, co-operation and collaborative efforts County Government in the delivery of services;
- (b) enhance public participation in the decision making by the County Government especially with regard to service delivery and thus give effect Articles 10 and 174 of the Constitution;
- (c) recognize and facilitate community and neighborhood initiatives in complementing National and County Governments services including security, waste management, water, sanitation, public health and other utility provision;
- (d) establish a recognition framework for the community and neighborhood associations;
- (e) provide for competencies and responsibilities of the community and neighborhood associations;
- (f) establish framework for strengthening capacities and synergy of community and neighborhood associations to enforce regulations aimed at enhancing service provision.

PART II—RECOGNITION OF, AND ENGAGEMENT WITH COMMUNITIES AND NEIGHBORHOOD ASSOCIATIONS

Objectives and Initiatives of community and Neighborhood associations necessary for recognition and Engagement

4. The objectives for which a community and neighborhood association may be established shall be as per the Societies Act cap 108 or the law under which it is registered. The associations shall cooperate and collaborate with the County Government in—

- (a) protection, generally of their environment and the promotion of the integrity of their environment and investments;
- (b) the provision and maintenance of basic security services and support to security services in the maintenance of neighborhood security;
- (c) the maintenance of such common facilities in the neighborhood as may be necessary for the furtherance of special services or recreational purposes;

- (d) the sharing of information between the residents and the County Government and its various institutions on matters affecting the residents and their environment and investment;
- (e) collaboration in the provision of services including establishment and maintenance of early childhood education centres, water, solid waste collection and disposal;
- (f) mobilization of the membership for engagement in County Government initiatives and for the furtherance of matters of common interest;
- (g) promotion of recreational activities and facilities including sports and art;
- (h) co-ordination of collaborative roles among associations or communities, liaison for synergy and empowerment, capacity building and bench marking of associations and communities.

Eligibility for community and neighborhood associations to enter into Recognition Agreement with County Government

5. The County Government may enter into a recognition agreement with a community and neighborhood associations under this Act if that community or association—

- (a) is registered as an association or a community under the laws of Kenya and has demonstrated compliance with the relevant National and County legislation relating to registration, regulatory and other requirements;
- (b) comprises a minimum number of twenty members;
- (c) has, as its objects, functions that complement and demonstrate the spirit of corporation between the members or between the community or association and the County Government for the purpose of the functions of the County Government;
- (d) demonstrates that it is complying to its objectives and serving the common interest of its members;
- (e) where the membership of the community or association is based on domicile in any locality or zone, demonstrates that it has in its membership at least fifty one per cent of the residents and/or property owners in the locality or zone in respect of which it is seeking recognition.

Recognition Agreements

6. The county government may, where it considers that the relevant community or association has satisfied the criteria for recognition by the County Government, enter into a recognition agreements with the community or association either directly or through the recognized umbrella body in existence as at the time of agreement. Such deed may provide for, among other things—

- (a) the provision by the County Government of such support to the community or association for the achievement of its objectives;
- (b) an arrangement for the support by the community or association in the collection of revenue;
- (c) the mobilization by the community or association of its members and other residents in the neighbourhood to participate in County activities and service in that neighbourhood;
- (d) the mobilization of its members to pay to the County Government rates and other fees;
- (e) monitoring compliance with County Planning regulations and zoning requirements in respect of the neighborhood;
- (f) protection of public utility land and recreational facilities in the neighbourhood;
- (g) management of waste, sanitation, public health, primary health care and environment etc.

Delineation of Zones

7. (1) The County Government may in consultation with residents, community and associations delineate respective zones within the County which shall be recognized as areas of the respective community or association for the purpose of this Act.

(2) In delineating the zones under this section, the County Executive Committee Member shall take into account—

- (a) the existing co-operation arrangement by residents, if any;
- (b) the community of interest of the respective neighbourhood's residents;
- (c) geographical, spatial plans and built demarcations if any;
- (d) any other relevant matter as the executive committee member may determine, in consultation with the residents.

Community and Association of interest in a Zone

8. (1) Notwithstanding section 7, executive committee member in consultation with community or associations shall by notice of the Gazette prescribe the criteria to be used to determine community or association of interest that may be eligible to enter into a recognition agreement with the County Government despite the fact that the membership of such community or association may not comprise residents of a locality or neighbourhood.

(2) Where there is more than one community or association claiming to be operating in a particular zone, the County Government shall, subject to the requirement of Section 5(e) and provisions of Section 8(1), only enter into recognition agreement with community or association most representative of the residents.

Termination of Recognition Agreement

9. (1) A recognition agreement between community or association and the County Government may be terminated if—

- (a) the association in question ceases to exist or is otherwise unable to transact business as such by operation of national Societies Act or any other written law;
- (b) the association is in breach of a condition contained in the deed and has failed to make good such breach within such time as the executive committee may determine;
- (c) in case of an association contemplated under section 5(3), the membership of the association in question reduces so that the association is no longer representing fifty one per cent of the residents in the neighbourhood;
- (d) the County Government or the Association decides to terminate the agreement.

(2) Before terminating an agreement under this section, the party terminating shall give three months written notice. The notice will then be placed within the public domain by the County Government for the purposes of informing the general public.

(3) For avoidance of doubt public domain may include; the official county government website, public notice boards within the material locality, mainstream newspapers, radio and television advertisements.

PART III—DELEGATION OF RESPONSIBILITIES BY EXECUTIVE COMMITTEE MEMBER TO COMMUNITIES AND ASSOCIATIONS

Delegation of Responsibilities

10. (1) The executive committee member may, in consultation with County Executive Committee and to such extent and subject to such conditions as the County Executive Committee thinks fit, delegate to a recognized community or association eligible responsibilities. A responsibility is eligible for the purpose of sub-section (1) if—

- (a) it does not consist of a power to make regulations or other instruments of a legislative character;
- (b) County Executive Committee considers that it can appropriately be performed by the recognized community or association.

(2) A delegation under sub-section (1) may be revoked by way of written notice at any time during the subsistence of the delegation by executive committee member.

Mandate of and Limitations to communities and Associations

11. (1) Nothing in this Act shall permit communities and associations to perform any regulatory functions or restrict access to public places, erect any barriers on public roads, levy any fees on members of the public other than as may be expressly permitted under this law or any other law, or to assume any other responsibilities not specified or contemplated in this Act or any recognition agreement or regulation provided for under this Act.

(2) Where a simple majority of members of the association pass a lawful resolution under the mandate of the association, the resolution will be binding to the rest of the members within the association.

Agency arrangements with Community and Association

12. The County Government may, subject to any relevant written law and to such conditions as it may determine, enter into agency arrangements with any community or association, or their respective but recognized umbrella body for the purpose of providing services or collecting revenue.

PART IV—MISCELLANEOUS PROVISIONS

Consultative forums with communities and Associations

13. The County Government shall at least once every year, and, as need arises, convene a forum and invite at least three officials from each

community and association to discuss, as the main agenda, County Government programmes of interest to the residents where direct participation is sort.

Benefits and Incentives

14. (1) The County Government may, subject to the relevant legislation, grant waiver on rates, fees and other charges due to the County Government from members of a recognized community or association which has successfully engaged with the County Government in implementation of a recognition agreement entered into under this Act.

(2) The County Government may enter into an agreement for a specific development initiative that has a direct benefit to the community or association which has successfully engaged with the County Government in implementation of a recognition agreement entered into under this Act.

Dispute Resolution

15. Any dispute arising from the implementation of the provision of this Act shall be referred to a mediation committee to be appointed by the Governor in respect of that particular dispute and shall comprise —

- (a) a chairperson to be nominated by the Governor;
- (b) one person nominated by each community or association, or federation of communities or associations, concerned with the matter;
- (c) one person nominated by the professional association of a profession concerned with the issue in dispute;
- (d) the Committee may co-opt into the membership individuals whose knowledge and skills are necessary for the functions of the committees.

Regulations

16. The executive committee member, with the approval of the County Executive Committee, may make regulations for the better implementation and carrying out of the provision of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to establish a legal framework for the engagement between recognized residents' association, residents umbrella association, interest groups, societies or community based organizations and the County Government.

Residents and businesses in the County and Country at large have organized themselves into neighbourhood or residents associations; have formed interest groups, societies or community based organizations for their common good including pooling of resources to provide some basic needs like security services, community based policing, ensure garbage collection, ensure clean habitable environment and neighbourhood, ensure maintenance of the value of their investments and property. Some of these initiatives have oftentimes taken over certain functions that the authorities are meant to perform. However despite these interventions by citizens directly in service provision and sometimes in even in infrastructure development initiatives, the authorities have not recognized nor rewarded such initiatives even where such residents have continued to pay the respective services charges, relevant fees and taxes to the relevant government.

The Bill seeks to ensure an arrangement for recognition and support of these initiatives; their regulation and engagement of communities and associations with County Government on issues that have to do with their objectives as resident association or community. This will enable the County Government not only entrench the principle of public participation as required by Article 10 and Article 174 of the Constitution but will also enable structured collaborative engagement between the County Government and communities and associations in the latter's initiatives so that there is an understanding of expectations and incentives that are intended for them.

Part I—provides for preliminary matters include the definition of certain terms and phrases used in the proposed legislation.

This part also sets out the broad objectives of the Act which include the establishment of a legal framework to promote, facilitate and strengthen communities and associations in their support and co-operation with the County Government in the delivery of services as well as enhancing public participation.

Part II—provides for the recognition of and engagement with communities and associations.

Clause 4—provides for the objectives and/or initiatives of a community or neighbourhood association necessary for recognition and

engagement. Among the objectives are those that promote integrity of the members' environment and investments or protection of environment and enhancement of habitability of a zone.

Clause 5—provides for the grounds of eligibility to enter in recognition agreement with County Government. These include valid registration under the laws of Kenya, representation of at least fifty one percent of the residents in a give locality, a demonstration of compliance with the relevant National and County legislation relating to registration, regulatory and other requirements and demonstration of public interests.

Clause 6—requires the County Government to enter into a recognition agreement with eligible communities and associations and provides for areas that may be provided for in the recognition agreement.

Clause 7—provides for delineation of zones and considerations thereof.

Clause 8—provides for the manner of determination of community of interest in cases where the community or association is to further interests which are not necessarily neighbourhood based and where more than one community or association claim to operate within a zone.

Clause 9—provides for termination of Recognition Agreement giving circumstances leading to termination and notice period thereof.

PART III—provides for delegation of responsibilities by executive committee member to communities and associations as well as mandate of and limitations to communities and associations

Clause 10—provides for delegation of responsibilities to a recognized community or association eligible for responsibilities

Clause 11—prohibits associations from undertaking or assuming regulatory functions or any other responsibilities which are preserved for the County Government. It also provides binding effect of a lawful resolution passed under the mandate of the community or association

Clause 12—provides for County Government entering into agency arrangements with any community or association, or their respective but recognized umbrella body for the purpose of providing services or collecting revenue.

PART IV—provide for miscellaneous matters include at least two forums every year between the County Government and selected officials of recognized communities or associations.

Clause 14—provides for benefits or incentives that may be awarded to a community or an association for successfully engaging with the

County Government in implementation of a recognition agreement entered.

Clause 15—provides for dispute resolution mediation committee that would comprise of members nominated by respective parties, a professional nominated by a professional body and a co-opted member whose knowledge and skills is deemed necessary for the functions of the committees.

The enactment of this Bill into law shall not occasion expenditure of public funds.

Dated the 10th May, 2016

PETER GECHU KARANJA, MCA,
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