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NANDI COUNTY BILLS, 2018

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**THE NANDI COUNTY PUBLIC PARTICIPATION AND CIVIC
EDUCATION BILL, 2018****A Bill for**

AN ACT of the County Assembly of Nandi to give effect to paragraph 14 of Part 2 of the Fourth Schedule of the Constitution; to provide for public participation in the governance of the county and for connected purposes

ENACTED by the County Assembly of Nandi, as follows—

PART I—PRELIMINARIES**Short title and Commencement**

1. This Act may be cited as the Nandi County Public Participation and Civic Education Act, 2018 and shall come into operation upon publication in the Gazette.

Interpretation

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

“Civic education” means the provision of information and learning experiences to equip and empower citizens to participate in democratic governance processes;

“Constitution” means the Constitution of Kenya, 2010;

“county assembly” means Nandi County Assembly established pursuant to Article 176 of the Constitution;

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

“county government” means the County Government of Nandi as provided for under Article 176 of the Constitution;

“department” means the County Department responsible for matters of public participation and civic education;

“deputy governor” means a person nominated by the Governor in accordance with Article 180 of the Constitution;

“governor” means the Governor of Nandi County elected in accordance with Article 180 of the Constitution;

“marginalised group” has the meaning assigned to it by Article 260 of the Constitution of Kenya 2010;

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

- (a) the residents of Nandi County;
- (b) the rate payers of Nandi County;
- (c) any resident civic organization with an interest in the governance of Nandi County;
- (d) non-resident persons who because of their temporary presence in Nandi County make use of services or facilities provided by the county.

“participation” means the involvement of individuals and groups that are positively or negatively affected by, or that are interested in a proposed project, program, plan, legislation or policy that is subject to a decision-making process.

Objects and Purpose of the Act

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

- (a) provide for matters necessary or convenient to give effect to Chapter Eleven of the Constitution;
- (b) provide a framework for the direct exercise of sovereignty by the people, through actively informing the form and content of legislation, policy and development plans to be adopted by the government;
- (c) provide for a framework for informed, effective, efficient and sustainable engagement of the public in policy, legislation and development plans and programmes;
- (d) provide for a framework for public participation in service delivery by the County government;
- (e) give effect to the principles of public participation as set out in Articles 1(2), 10, Article 35, 69, 196, 174, 184, 201, 232, Fourth Schedule of the Constitution; Part II (14); and
- (f) provide for written and oral submissions on draft county policies, legislation and development plans.

Principles of Public Participation

4. (1) Subject to section 87 of the County Governments Act, 2012, public participation in the activities of the County Government shall be guided by the following principles—

- (a) the communities, organizations and citizens to be affected by a decision shall have a right to be consulted and involved in the decision-making process;

- (b) Contributions by the public shall be taken into consideration when making decisions;
 - (c) Promotion of sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers;
 - (d) Facilitation of the involvement of community organizations and citizens potentially affected by or interested in a decision;
 - (e) The public shall be consulted in designing how public participation shall be conducted;
 - (f) The public shall have access to information to enable their participation in a meaningful manner;
 - (g) Communication to the public 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 national values and principles of public service set out by article 232 of the constitution;
 - (j) Adherence to the principle of leadership and integrity set out in chapter six of the constitution; and
 - (k) Adherence to the principles of public participation set out in section 87 of the County Government Act, 2012.
- (2) The County Government, its organs and departments shall promote the principles in Sub-section (1).

PART II—ROLES AND RESPONSIBILITIES OF THE COUNTY GOVERNMENT

Roles and Responsibilities

5. (1) The Governor shall promote and facilitate public participation and civic education in the county.

(2) The Governor shall designate the County Secretary to be in charge of matters of Public Participation and Civic Education.

(3) The County Secretary shall, in consultation with the County Public Service Board, establish such structures within the relevant departments that maybe necessary for the proper execution of public participation programs.

(4) Without prejudice to any structures that may be created under Sub-section (3), the relevant department shall—

- (a) co-ordinate public participation by all County departments or agencies;

- (b) facilitate capacity building and provide support to other county government departments on public participation processes;
- (c) monitor and evaluate public participation processes undertaken by each department or agency;
- (d) subject to Section 100 of the County Governments Act, develop and execute an appropriate civic education program;
- (e) ensure co-ordination with non-state actors in public participation processes and civic education;
- (f) prepare an annual report on public participation in accordance with the County Governments Act; and
- (g) manage the day to day running of civic education in the county.

(5) Notwithstanding Sub-section (2), each member of the County Executive Committee shall promote, facilitate and co-ordinate public participation on matters under the department.

The Speaker

6. The Speaker of the County Assembly shall promote and facilitate public participation in the proceedings and other activities of the County Assembly.

Clerk of the County Assembly

7. The Clerk of the County Assembly shall provide administrative support for all public participation activities carried out by the County Assembly.

Chief Officer

8. The Chief Officer of the relevant department shall provide administrative support for all public participation activities carried out by the respective department.

Sub-County Administrators, Ward Administrators and Village Administrators

9. Sub-County Administrators, Ward Administrators and Village Administrators shall promote, facilitate, and coordinate public participation activities in their respective administrative units.

PART III—PUBLIC PARTICIPATION FORUMS

Citizen Forums

10. (1) Public participation meetings shall be known as Citizen Forums, and shall be conducted to—

- (a) provide opportunity for consultation with the widest possible cross-section of the society;
- (b) build a climate of trust, collaboration and mutual respect in public participation processes; and
- (c) ensure that public participation process is carried out within reasonable time.

(2) Citizen Forums shall be held within County Administrative units.

(3) Notwithstanding Sub-section (2), Citizen Forums held to discuss and receive input on the Budget, the Finance Bill, County Development Plans and any other matter may be held at the ward and village level.

(4) Where a policy, regulation, legislation or development plan is deemed to have a significant impact on a section of the society, the County Government shall take steps to ensure that the views of that section of the society are received.

(5) The county government shall ensure citizen participation by its decentralized units through the provision of guidelines and allocation of adequate resources to the decentralized units.

Notices

11. (1) A notice for a Citizen Forum shall be issued at least fourteen days prior to the citizen forum.

(2) Notwithstanding the provision of Sub-section (1), in respect to the County Executive, the County Executive Member responsible for the matter under consideration; and in respect to the County Assembly, the Speaker, may, in writing, reduce the notice period to seven days.

(3) A notice for a Citizen Forum shall—

- (a) be published in at least a newspaper of national circulation;
- (b) be carried in an announcement by a radio that has county audience; and
- (c) be placed in notice boards in the offices of the Ward Administrator.

(4) In addition to the methods mentioned in Sub-section (3), the County may use any other appropriate method to publicize the Citizen Forum.

(5) A notice of a Citizen Forum shall be written in English or Kiswahili and shall provide for—

- (a) information on the instrument under consideration;
- (b) a short rationale of the instrument and its importance to the county;
- (c) the date and the venue(s) of the Citizen Forum;
- (d) information on how citizens may give their input on the matter under consideration; and
- (e) information on how copies of the instrument under consideration may be obtained.

Provision of Information

12. (1) Unless otherwise provided by any written law, copies of the instrument under consideration shall be made available at the office of each Ward Administrator for perusal and information.

(2) Any person requiring a copy of the instrument under consideration shall meet the cost.

(3) Where an instrument under consideration is of technical nature, the county shall publish a simplified version of the instrument under consideration.

(4) In addition to providing a copy of the instrument under consideration, the County may provide further information through-

- (a) publishing and distributing information packages;
- (b) conducting road shows, workshops and radio shows; and
- (c) any other activity aimed at informing and educating the public on the matter under consideration.

(5) Communication on public participation shall be tailored to meet the needs of persons with disabilities, aged members of the society and the less educated residents of the County, and may include the following forms—

- (a) communication forms for persons with hearing impairments;
- (b) braille;
- (c) local language publications;
- (d) simplified and popular versions; and
- (e) large print publications.

(6) The County Government shall, through county administrative units, make available to county residents all notices, county documents, records and reports of the government.

(7) Documents and records required for public participation shall be made accessible to county residents.

(8) The county government may use information technology platforms as additional channels to provide public information.

13. Citizen Forums shall be held in venues that are easily accessible to citizens, including persons living with disabilities.

14. Proceedings of Citizens Forums shall be managed in such a manner as to allow time for citizens to present their views.

Input by Facilitators, Public and State Officers

15. Input by facilitators, public and state officers during Citizen Forums shall be limited to giving instructions and making clarification on issues raised in the instrument under consideration.

Right to Contributions

16. Every Citizen has a right to attend and make contributions during a Citizen Forum.

Sanctions

17. No person shall face any sanctions for attending and making submissions during a Citizen Forum.

Information on Allegations

18. (1) Information that contains allegations of wrong-doing against another person shall not be received in a Citizen Forum, unless accompanied by a sworn statement by the person making the allegation.

(2) The sworn statement must be made available to the public officers in charge of a Citizen Forum at least one hour before the submission containing such allegations is made.

(3) Public order shall be observed at all times during the proceedings of a Citizen Forum.

Recording of Proceedings

19. The proceedings of a Citizen Forum shall be recorded in written and electronic form.

Written Submissions

20. (1) An office that receives written submissions received during the Citizen Forum shall keep a register of the submissions.

(2) A citizen may at any time request to view the register of submissions.

Reporting

21. (1) Within thirty (30) days after the conclusion of public participation activities on an instrument, the public officer responsible shall publicize a report with information on-

- (a) number of Citizen Forums held;
- (b) number of people reached;
- (c) summary of submissions given by citizens; and
- (d) consideration and use of the public input received.

Governors Report

22. (1) Every year, the Governor shall submit a report to the County Assembly pursuant to Section 92 (2) of the County Governments Act, with information on—

- (a) methods of public participation used;
- (b) budget spent;
- (c) platforms for public participation availed;
- (d) content generated from public participation; and
- (e) final use of input from the people by the County Executive.

• (2) The Clerk of the County Assembly shall prepare and submit to the County Assembly an annual report on the final use of the input from the people on public participation conducted by the County Assembly.

PART IV—PUBLIC INFORMATION AND CIVIC EDUCATION

Public Information Forums

23. (1) Every financial year, the County Secretary, in consultation with the County Executive Committee, shall conduct at least two forums at the Sub-County or where necessary, the Ward level to inform county residents on issues including but not limited to—

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

(2) The County Government shall use the forums referred to in Sub-section (1) to receive feedback on service delivery from the citizens.

(3) Subject to Section 100 of the County Government Act, certified civic education providers who are non-state actors may conduct civic education in the county as per county civic education guidelines.

(4) Non-state actors may coordinate with the department in charge of public participation as they carry out civic education in the county.

(5) The County Secretary shall publish a quarterly report on—

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

PART V—LEADERS FORUM

24. (1) There is established the Nandi County Leaders Forum pursuant to Section 91 (f) of the County Government Act.

(2) The County Leaders Forum shall be composed of—

- (a) the Governor who shall be the Convener of the Forum;
- (b) the Deputy Governor;
- (c) the County Secretary who shall be the secretary to the forum;
- (d) the Senator (or Senators where applicable);
- (e) the Members of the National Assembly from the County;
- (f) the Speaker of the County Assembly; and
- (g) all Members of the County Assembly.

(3) The County Leaders Forum shall—

- (a) ensure integration of national and constituency development plans in the county development plan and assess effectiveness of the implementation of the county development plan;
- (b) integrate the national legislative agenda with the county development plan and propose a common legislative agenda;
- (c) determine issues and strategies for engagement with the national government, independent commissions and offices, on matters that affect the county development;

- (d) recommend socio-economic development goals and provide policy advice to the County Government;
 - (e) study measures to improve the implementation of official development assistance to the county;
 - (f) assess effectiveness of the implementation of the national development plan in the county;
 - (g) integrate environmental principles and practices into the county development plan; and
 - (h) recommend to the Governor sources of revenue and measures to reduce unnecessary expenditures in county government.
- (4) (1) The County Leaders Forum shall meet at least twice in every calendar year.
- (2) The notice and agenda for the meeting of the Leaders Forum shall be circulated to the members at least fourteen days before the meeting.
- (5) The Office of the Governor shall provide administrative support to the Forum.
- (6) Resolutions of the forum shall be publicized by the Secretary and made available to the public.

PART VI—PETITIONS AND COMPLAINTS

Petition to County Executive

- 25.** (1) A citizen may present a petition or a complaint to the County Government or any of its organs, departments, agencies or officers.
- (2) The petition or complaint may be presented in a general letter or may be put in a specific format that may be prescribed by any written law or order.
- (3) A petition or complaint shall be received, acknowledged and recorded in a register of petitions and complaints by the respective organ, department or agency, and a copy sent to the County Secretary.
- (4) A petition or complaint shall be acted upon promptly by—
- (a) resolving the issue raised in the petition or complaint;
 - (b) referring the matter to the relevant organ of state for action; or
 - (c) taking any other step that may be necessary for effective and prompt resolution of the issue raised.

(5) Within thirty days of receipt of a petition or complaint, a designated officer in the department or agency shall formally write to the petitioner or complainant to provide information on the action taken.

(6) A petition or complaint shall be resolved and the matter closed within ninety days from the date of submission without prejudice to the right of the petitioner or complainant to seek further action.

(7) An officer of the county government who fails to act or respond to a petition or complaint shall be liable to disciplinary action in accordance with laid down procedures.

Petition to County Assembly

26. Petition to the County Assembly shall be processed in accordance with the Standing Orders of the Assembly or any other written law.

PART VII—GENERAL PROVISIONS

Budget

27. The County Government, through its organs and departments shall set aside at least zero decimal five percent and not more than one decimal five percent of the annual budget for public participation.

Independently Organized Initiatives

28. (1) No provision in the Act precludes the private mobilization of citizens for purposes of public participation.

(2) County Government may work in cooperation with independent citizen forums.

Offences and penalty

29. A person who—

- (a) without justification or lawful excuse, obstructs hinders, threatens an employee of the County Government acting under this Act;
- (b) submits false or misleading information;
- (c) misrepresents to or knowingly misleads an employee of the County Government acting under this Act;

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Operationalization of the Act

30. The County executive committee member may make regulations for the better carrying into effect of the provisions of this Act.

SCHEDULE

FORM OF A PUBLIC PETITION

TO: The Nandi 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 marginalized group etc.)

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

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

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

THEREFORE your humble petitioners **PRAY** that the Government / Assembly/ Office - (Here, set out the prayer, by stating in summary what action the petitioners wish the Government/ Assembly to take or refrain from)

And your PETITIONERS will ever Pray.

Name of petitioner

Full Address National ID or Signature/Thumb

Passport No. print

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

The Bill seeks to provide for the implementation of paragraph 14 of Part 2 of the Fourth Schedule of the Constitution; to establish modalities and platform for public participation in the governance of the county and for connected purposes. The Bill further seeks to implement the objects and principles of devolution set out under Article 174 (c) and (d) of the Constitution. Further, the Bill seeks to provide a framework for the implementation of Part VIII and Part X of the County Governments Act, 2012.

Part I—of the Bill provides for the preliminaries, which include the interpretation of terms used in the Bill the objects and purpose of the Bill as well as the Guiding Principles. The objects include to establish a legislative framework to give effect to paragraph 14 of part 2 of the Fourth Schedule of the Constitution; the objects and principles of devolution set out under Article 174 (c) and (d) of the Constitution; and Part VIII and X of the County Governments Act, 2012.

Part II—is on the roles and responsibilities of the officers of the county Government on Public participation.

Part III—provides for citizens' participation forums.

Part IV—Provides for public Information and Civic Education

Part V—Provides for Leaders Forum

Part VI—contains provisions on petitions. It provides for the form of petitions, procedure for presenting petition, consideration of petition, procedure in the investigations, publication of decision on petition, register of petitions, appeal against decision on a petition and petitions to Assembly.

Part VII—provides for the general provisions and regulations.

Dated the 18th day of October, 2018.

ELPHAS CHERUIYOT,

Chairperson Administration And Public Service.