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SPECIAL ISSUE

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NYANDARUA COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION ACT, 2016

No. 4 of 2016

Date of Assent: 3rd August,2016

Date of Commencement: See section I

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THE NYANDARUA COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION ACT, 2016

AN ACT of Nyandarua County Assembly to provide a framework for the exercise of citizens' right to public participation, civic education and for connected purposes.

ENACTED by the County Assembly of Nyandarua, as follows—

PART I – PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Nyandarua County Public Participation and Civic education Act, 2015 and shall come into operation upon publication in the Kenya 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 Nyandarua County Assembly established pursuant to Article 179 of the Constitution;

"County Executive Committee" means Nyandarua county executive committee established in accordance with Article 179 of the Constitution;

"County government" means the County Government of Nyandarua as provided for under Article 176 of the Constitution;

"County Secretary" means a person appointed as a County Secretary of Nyandarua County according to section 44 of County Government Act;

"County Public Service Board" means the Nyandarua County Public Service Board established under section 57 of the County Government Act;

"Deputy Governor" means a person nominated by the governor in accordance with Article 180 of the Constitution;

"Governor" means the governor of Nyandarua County elected in accordance with Article 180 of the Constitution;

"Marginalised group" has the meaning assigned to it by Article 260 of the Constitution;

"The public", when used in relation to public participation in this Act, means—

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(a) the residents of Nyandarua County;

(b) the rate payers of Nyandarua County;

(c) any resident civic organisation with an interest in the governance of Nyandarua County;

(d) non-resident persons who because of their temporary presence in Nyandarua 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, 174, 184, 196, 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) The principle of public participation as enshrined under Article 10 of the Constitution and under Section 87 of the County Governments Act binds the County Government, its agencies, organs and departments.

(2) The County Government, its organs and departments shall promote the principle in sub-section (1).

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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 Public Service Board shall, in consultation with the County Secretary, establish such offices and structures that maybe necessary for the proper execution of public participation and civic education programs.

(4) Without prejudice to any structures that may be created under sub-section (3), office or officer responsible for public participation 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) Not withstanding sub-section (2), each member of the County Executive Committee shall promote, facilitate and co-ordinate public participation on matters under the department.

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

8. Each Chief Officer shall provide administrative support for all public participation and civic education activities carried out by the

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respective department for which the Chief Officer is responsible.

9. Sub-County Administrators, Ward Administrators and Village Administrators shall promote, facilitate, and coordinate public participation and civic education 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 held to discuss and receive input all matters shall at least be held at the sub-county level.

(3) Notwithstanding subsection (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 seven days prior to the citizen forum.

(2) 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 wide audience, and broadcasts in Kiswahili and the prevalent local language; and

(c) be placed in notice boards in the offices of the Ward

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Administrator.

(3) In addition to methods required in subsection (3), the county may use any other appropriate method to publicize the Citizen Forum.

(4) 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) conduct roads 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;

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(c) local language publications;

(d) simplified and popular versions; and

(e) large print publications.

(6) The County Government shall establish county resource centers at sub-county and ward levels, to 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 to 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 moderating the forum 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.

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

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

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(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 and 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

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(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 Governments 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 co-ordinate with the department in charge of public participation as they carry out civic education.

(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

County Leaders Forum

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

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

(a) the Governor who shall be the convenor 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;

(g) all Members of the County Assembly;

(h) one representative of National Council of Churches in Kenya (NCCK);

(i) one representative of the business community;

(j) one representative of the civil society;

(k) one representative of the National Chamber of Commerce in the County;

(l) one representative of the Kenya National Union of Teachers;

(m) one representative of the parents association;

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(n) one youth representative; and

(o) one person representing Persons living with disabilities

(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) The County Leaders Forum shall meet at least twice in every calendar year.

(5) The notice and agenda for the meeting of the Leaders Forum shall be circulated to the members at least fourteen (14) days before the meeting.

(6) The Office of the Governor shall provide administrative support to the Forum.

(7) Resolutions of the forum shall be publicized by the Secretary in the County website and made available to the public within thirty (30) days.

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

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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 fourteen 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 sixty days from the date of submission without prejudice to the right of the petitioner or complainant to seek further action.

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 one decimal five percent and not more than two decimal five percent of the annual budget for public participation.

Independently Organized Initiatives

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

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

General penalty

29. A person who contravenes any provisions of this Act that is not specifically provided for in the Act commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Operationalization of the Act

30. The County Secretary may make statutory instruments to operationalize this Act.

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