

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**BUSIA COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2014**

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**NAIROBI, 5th June, 2014**

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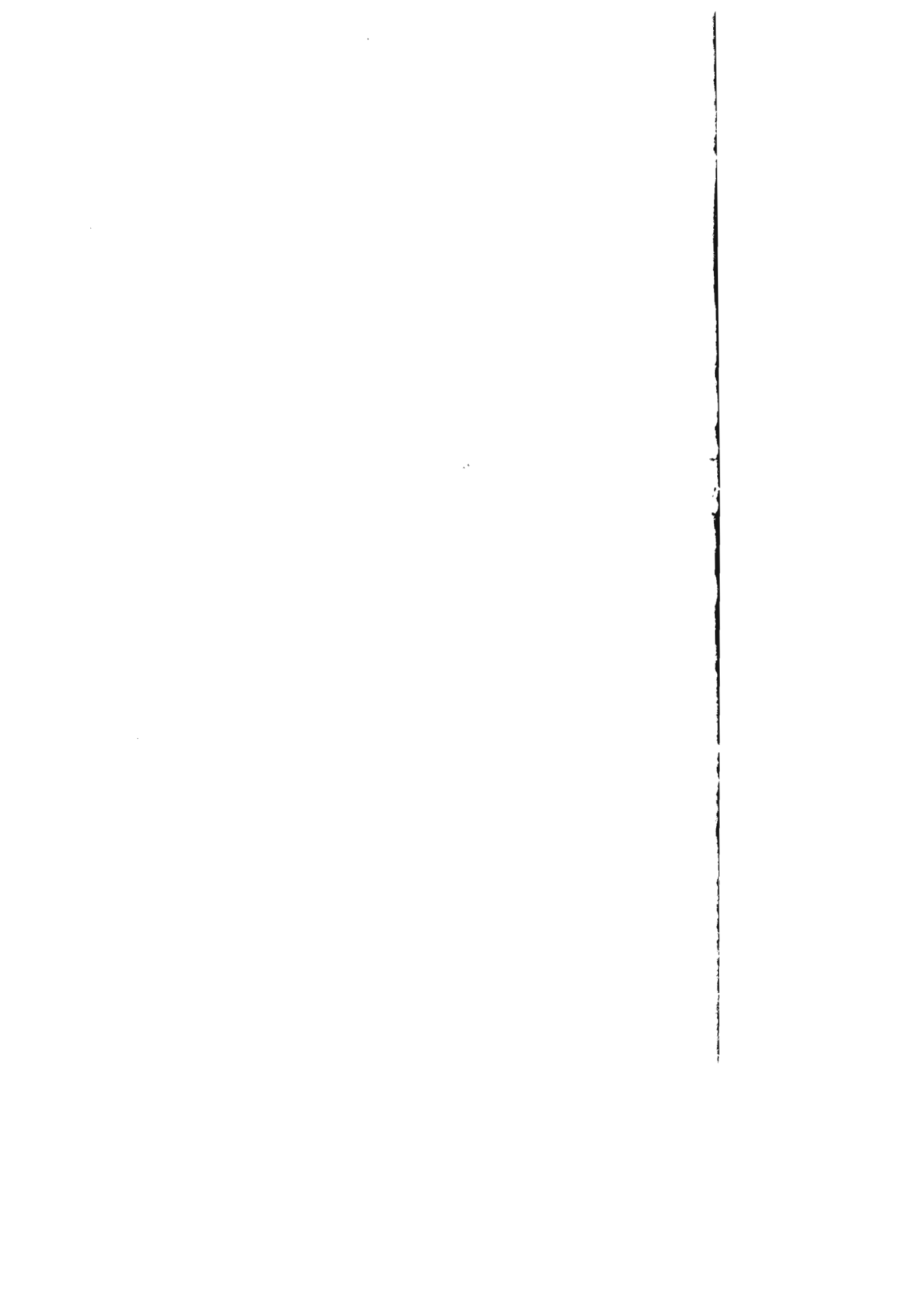
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**THE BUSIA COUNTY PUBLICITY AND  
PUBLIC PARTICIPATION BILL, 2014**

**A Bill for**

**AN ACT of the County Assembly to provide a mechanism for the involvement of and participation by the public in decision-making and governance processes in Busia County; give effect to the provisions of Articles 1, 10, 174, and 232 of the Constitution and Sections 87, 88 and 91 of the County Governments Act and other laws requiring public participation and for matters related and connected thereto.**

**ENACTED** by Busia County Assembly as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Publicity And Public Participation Act, 2014.

Citation and short title.

**2.** In this Act, unless the context imports a contrary meaning—

Interpretation.

“County governance organ” means the Governor and the County Executive Committee and the County Assembly.

“County Public Service Board” means the Busia County Service Board established in accordance with section 57 of the County Government Act.

“Citizen Service Centre” means a citizen service centre established by the County pursuant to section 119 of the County Governments Act.

“Committee” means the Publicity and Participation Committee established pursuant to section 9 of this Act.

“Constitution” means the Constitution of Kenya, 2010.

“County” means Busia County established under the Constitution.

“County Assembly” means the Busia County Assembly as established under Article 176 of the Constitution.

“County Assembly Service Board” means the service board established in accordance with Section 12 of the County Government Act, 2012 for Busia County Assembly.

“County Executive Committee” for the County has the meaning assigned to it in section 2 of the County Government Act and Article 176 Of the Constitution.

“County official” includes the Governor, Deputy Governor, the Senator representing the County, the Woman Member of the National Assembly representing the County, a Member of the County Executive Committee, a member of a County Service Board, member of the County Assembly or a County public officer .

“County public officer” means an officer in the service of the County and includes a person contracted by or on behalf of the County on a special assignment but does not include an independent contractor or agent.

“Director” means the director appointed in accordance with Section 5 of this Act.

“Directorate” means the Communication and Public Participation Directorate established under section of this Act.

“Executive Member” means the Member of the Executive Committee responsible for communication and public participation in the County.

“Governor” means the Governor of the County duly elected under

“Persons with disabilities” has the meaning given to it in the Persons with Disabilities Act.

“Public” means the people, whether or not citizens of Kenya, who reside, own property, carry on business or have some interest, (whether by reason of birth or affiliation) in the County.

3. (1) The objectives and purposes of this Act are to give effect to Articles 1(4), 10, 174, 201 and 232 of the Constitution, sections 87, 88, 89 and 91 of the County Governments Act, 2012, and any other law on the right of the public to be involved in and participate in decision-making in matters affecting them.

Object and purpose.

(2) In furtherance of sub-section (1), this Act shall aim to—

(a) Give due recognition to the principle that all sovereign power belongs to the people and that it shall only be

exercised in accordance with the Constitution;

- (b) Ensure that national values and principles of governance are adhered to by all persons, public officers, institutions and organs;
- (c) Ensure that the County Government promotes the objects and principles of devolved government;
- (d) Ensure that public service in the County shall be guided by the values and principles of public service as stated in section 232 of the County Governments Act.

4. Subject to section 87 of the County Government Act, public involvement and participation in decision-making in the County shall be guided and governed by the principles that—

Guiding principle.

- (a) The public has a right to participate in governance affairs of society on the basis of informed and knowledgeable involvement;
- (b) The public shall have timely access to information, data, documents and other information relevant or related to policy formulation and implementation;
- (c) The public shall have reasonable access to and participate in the process of formulating and implementing policies, laws and regulations;
- (d) The public shall have a reasonable access to the process of development and approval of proposals, projects, budgets, the granting or with-holding of permits or licenses;
- (e) All institutions and persons to whom power and authority have been delegated shall exercise it in a transparent and accountable manner.
- (f) Non-state actors' participation in and governmental facilitation and oversight of decision-making processes shall be promoted in recognition of their reciprocal roles;
- (g) There shall be promotion of the private sector and non-state actors' participation in decision-making processes to promote shared responsibility and partnerships for sustainable development;

## **PART II—RESPONSIBILITY FOR POLICY AND IMPLEMENTATION**

5. (1) The Executive Member shall be responsible for the overall policy on public participation and its implementation in the County.

The Executive Member's responsibility.

(2) In discharging the responsibility for overall policy on public involvement and participation in governance in the County, the Executive Member shall consult and cooperate with other relevant organs, institutions and persons.

6. (1) Every governance organ, institution, public officer and person in the County charged with responsibility for decision-making in which a right or interest of the public may be affected shall ensure that the public is involved and participates in the process.

Other persons' responsibility.

(2) Every governance organ, institution, public officer shall ensure that decision-making processes in which they are engaged shall be transparent, accountable and facilitative.

7. The Executive Member shall, in accordance with the general guidelines and direction of the County Executive, consult and cooperate with other stakeholders and—

Executive member to consult.

(a) Formulate, design and establish the County policy on publicity and public participation in governance in conformity with the national policy.

(b) Develop and implement the County and national strategies for citizen and public participation in governance.

(c) In accordance with the Constitution and or other law, establish appropriate structures, forums and processes to facilitate and co-ordinate public involvement and participation in decision-making in the affairs of the county.

8. (1) The participation forums that may be established by the Executive Member pursuant to and in accordance with section 7 shall ensure—

Aims of participation forums.

(a) reasonable public involvement and participation in the formulation and implementation of policies, laws and regulations;

(b) approval of development plans, projects and budgets; granting of permits and licences;



- (c) protection and promotion of the rights and interests of minority communities, groups and interests;
- (d) promotion public/private partnerships, and cooperation and dialogue; and
- (e) the recognition and promotion of engagement with non-state actors.

(2) A public participation forum under this Act shall not be convened or held for the purpose of promoting, opposing or discussing the election of any person or persons to an office or for other partisan objective.

9. If he shall deem it necessary, the Governor may establish for the County a committee for publicity and public participation.

Governor may establish Participation Committee.

#### **PART IV—PUBLIC PARTICIPATION FORUMS**

10. (1) Every County Governance organ, institution and public officer mandated and engaged in any decision-making process in the County shall, before making a decision that may affect the rights and or interests of other persons, engage and involve those persons whose interests may be affected in the process leading to the decision.

Governance organs to hold public participation forums.

(2) Every County governance organ, institution, public officer and any other person that is required to do so under this Act or any other law, shall convene or cause to be convened and held periodic public participation forums at county, sub county, ward and village level as provided under this Act.

(3) Without prejudice to the generality of sub-sections (1) and (2), the following organs, institutions, officers, officials and persons shall, at least once every three months, convene or cause to be convened and hold a publicity and public participation forum in the county, sub-county, ward or village, as the case may be—

- (a) The Governor or the Deputy Governor;
- (b) The Senator;
- (c) The Speaker and Committees of County Assembly;
- (d) Executive Committee Members;

- (e) The County Public Service Board;
- (f) The County Policing Oversight Authority;
- (g) The Senator representing the County;
- (h) The Woman Member of the National Assembly representing the County;
- (i) The Members of the National Assembly representing National Assembly Constituencies in the County;
- (j) A Sub-county Administrator of a sub-county in the County;
- (k) Town Administrator;
- (l) Members of the County Assembly representing wards in the County;
- (m) Ward Administrators;
- (n) Village Administrators; and
- (o) Any other person that the law may require to hold a public participation forum in the County.

(3) The Executive Member shall facilitate the establishment of structures at the County, Sub-County, Ward, Village and such other levels or forums as may be necessary for effective public participation in decision-making in the County.

**11.** (1) A public participation forum shall be convened for and held whenever—

- (a) There is business or a matter on which it is necessary or appropriate for the county governance organ, institution, public officer or other person required by law to do so, to inform or engage the public and receive their views in relation to administration or service delivery in the County, sub-county, ward or village; or
- (b) The public needs to receive or give feed-back on any matter that is of concern to them or as may be required by law; or
- (c) It is necessary or appropriate to create awareness in the County and the decentralized units and inform the public on the policy and legislative initiatives intended to be commenced or already commenced on

When public participation forums may be held.

which public views, comments and input maybe required; or

- (d) New social, economic and political plans and programs are intended for the county, sub-county, ward or village, to publicise, inform the public and create awareness on such plans and programs and seek their input and opinions thereon; or
- (e) Social and economic development plans, projects and programs have been completed in the county, sub county ward or village, to publicise and create awareness in relation thereto and receive public assessment thereon including comments on service delivery; or
- (f) Necessary or desirable, to inform the public in the county and the decentralized units on how the policy and legislative measures undertaken impact on the public and seek public views, comments and inputs thereon; or
- (g) There is proposed to be introduced on the floor of Parliament or the Assembly a Bill for enactment or any other parliamentary business in which the views, opinion and input of the public is necessary; or
- (h) The County Policing Authority deems it necessary and in accordance with the provisions of the National Police Service Act; or
- (i) Any other issues of interest in the County, Sub-county, Ward or Village.

(2) No forum may be convened by any person for the purpose of promoting, opposing or discussing the election of any person or persons as a member or members of that County Assembly or national parliament.

12. (1) A public participation forum under this Act at the level of the County may be convened and held at any time by—

- (a) The Governor or the Deputy Governor; or
- (b) The Senator; or
- (c) The Speaker or a Committee of the County Assembly; or

Where and by whom a public participation forum may be held.

- (d) The County Public Service Board; or
- (e) The County Policing Oversight Authority; or
- (f) The County National Assembly Women Representative; or
- (g) A member of the County Executive Committee; or
- (h) An officer in the County public service; or
- (i) Any organ, institution or person that the law may require to hold a public participation forum in the County.

(2) A public participation forum under this Act at the level of the Sub-county may be convened and held at any time by—

- (a) the Governor or Deputy Governor;
- (b) Sub-County Administrator;
- (c) Senator;
- (d) Speaker or a Committee of the County Assembly on a matter relating to the Sub-County;
- (e) the County Public Service Board;
- (f) the County Policing Oversight Authority;
- (g) County National Assembly Women Representative on a matter relating to the Sub-county;
- (h) a member of the National Assembly representing a constituency in the Sub-County;
- (i) a member of the County Executive Committee;
- (j) an officer in the County public service.

(3) A public participation forum under this Act at the level of a ward may be convened and held at any time by—

- (a) the Governor or Deputy Governor;
- (b) Sub-County Administrator;
- (c) Ward Administrator;
- (d) the Member of the County Assembly representing the Ward;
- (e) Senator;

- (f)* Speaker or a Committee of the County Assembly on a matter relating to the ward;
  - (g)* the County Public Service Board;
  - (h)* the County Policing Oversight Authority;
  - (i)* County National Assembly Women Representative on a matter relating to the ward;
  - (j)* a member of the National Assembly representing a constituency in the Sub-County in which the ward is situate;
  - (k)* a member of the County Executive Committee;
  - (l)* an officer in the County public service.
- (4) A public participation forum under this Act at the level of a ward may be convened and held at any time by—
- (a)* the Governor or Deputy Governor;
  - (b)* Sub-County Administrator;
  - (c)* Ward Administrator;
  - (d)* Village Administrator;
  - (e)* the Member of the County Assembly representing the Ward;
  - (f)* Senator;
  - (g)* Speaker or a Committee of the County Assembly on a matter relating to the ward;
  - (h)* the County Public Service Board;
  - (i)* the County Policing Oversight Authority;
  - (j)* County National Assembly Women Representative on a matter relating to the ward;
  - (k)* a member of the National Assembly representing a constituency in the Sub-County in which the ward is situate;
  - (l)* a member of the County Executive Committee;
  - (m)* an officer in the county public service.

**PART V—COMMUNICATION AND PUBLIC PARTICIPATION**

13. (1) There shall be a directorate, in the County Executive, called “The Directorate of Communication and Public Participation” (hereinafter called “the Directorate”) that shall be responsible for the facilitation, coordination and communication of public involvement and participation in governance and decision-making in the County.

Directorate of  
Communication  
and Public  
Participation.

(2) The Directorate shall be headed by a Director, which shall be an office in the County public service, and shall report to the Executive Member.

14. Under the direction of the Executive Member, the Directorate shall be responsible for communication on public participation in the County and shall—

Functions of  
the Directorate.

- (a) carry out and coordinate civic education in the county on all or any matter relating to the Constitution, this Act and other relevant laws;
- (b) carry out and co-ordinate awareness creation and sensitization on the public on matters relating to national principles and values ;
- (c) facilitate public education and training programmes on public participation;
- (d) in consultation and cooperation with relevant stakeholders, inform the public of intended, formulated and or enacted policies and laws both at national and county levels;
- (e) in collaboration and cooperation with all the relevant stakeholders, plan and provide structures and contexts through which public participation may be undertaken and public inputs given within reasonable timelines before decisions are made in matters requiring public participation;
- (f) provide logistical support and strategies, including the development of consultation plans and information, to the County governance organs institutions and officers to facilitate public participation in any matter before any of them;
- (g) in collaboration with other stake-holders, establish a feedback process to the public to afford opportunity to

the public to make additional comments or input to the decisions made;

- (h) inform the public on the availability of adequate and sufficient resources to finance development activities and human resources to deliver services effectively;
- (i) develop a monitoring and evaluation framework for public participation plan and carry out research on matters relating to public participation;
- (j) prepare and submit to the Executive Member for report to the County Assembly by the Governor, reports on the status of public participation and involvement in decision-making in the County as required by the Constitution and the County Governments Act; and
- (k) perform any other function as may be assigned to it by the Executive Member, county governance organs, institutions, officers under this Act.

15. (1) The County Executive Committee may require the Director to sign a contract of performance in relation to the mandate of the Directorate under this Act.

Performance contracts for Directorate.

(2) A performance agreement under sub-section (1) shall describe the key outputs that the Director and the Directorate shall achieve in a financial year and such outputs shall be defined in terms of performance indicators and targets.

16. (1) Every governance organ, institution or person intending to convene or hold a public participation forum within the County at any level shall, for the purpose of facilitation and co-ordination, notify the Directorate of the intention to do so and the date and venue thereof.

Convenor to notify the Directorate for coordination and facilitation.

(2) At the request of a governance organ, institution or officer stated in Section 12, and upon notification, the Directorate shall facilitate the convening of a public participation forum and, in the case of section 10, shall do so at least once every three months at the appropriate level.

17. (1) A public participation forum convened pursuant to and in accordance with section 15 shall be open and any person within the County, sub-county, ward or village desiring to attend shall be facilitated to attend, speak and contribute thereat.

Participation forum to be open.

(2) The convenor of the forum under section 15 shall collaborate and cooperate with the Directorate and ensure that the forum is given full publicity to enable attendance and participation by a wide spectrum of the population including marginalised and minority groups.

18. (1) In consultation and collaboration with the convenor, as soon as a public participation forum is convened, the Directorate shall:—

Publicity for forum.

- (a) fully publicise the forum using the national and official languages, such other languages in common use within the county and sign language;
- (b) notify Citizen Service Centres and other forums at which the public may easily access information; and
- (c) ensure accessibility to the forum by the public.

(2) A governance organ, institution or public officer convening a public participation forum or any other person or authority in the County in possession or control of such information or document, shall, subject to any legal limitations prescribed by law, give a member of the public access to such information, data, or documents pertaining to the county government as may be reasonably necessary to the person for effective participation

19. (1) The convenor shall appoint a secretary to keep a record of the proceedings and the decisions of the forum without prejudice to the right of the Directorate to appoint a secretary of its own for that purpose.

Record of proceedings to be kept.

(2) After the forum, the Directorate shall collaborate and cooperate with the convenor of a public participation forum to ensure that the minutes and decision thereof are publicized in all Citizen Service Centres and other forums to enable the public to be aware of the same

20. (1) The County organs, institutions, officials and the Directorate shall ensure that affirmative action programmes are put in place to ensure that minority and marginalised groups are represented and participate in all governance matters in the County.

Affirmative action in programmes.

(2) Special care shall be taken to provide minority, marginalised and persons with special needs opportunities in areas of economic educational social and political feeds and access to employment.



(3) Minorities and marginalised groups and persons with special needs shall be accorded dignity and respect free from abuse and discrimination of any nature and shall be given opportunities for self realisation and development.

#### **PART VI—PETITIONS**

**21.** (1) Any person in the County may present a petition to a County governance organ or institution which shall be registered in a Petitions Register to be kept and maintained by the organ or institution as the case may be.

Right of citizens to petition.

(2) The register kept and maintained pursuant to sub-section (1) shall be accessible by the public during working hours and shall contain particulars of all petitions, the documents in support thereof and the decisions made thereon.

**22.** (1) A petition under section 20 shall be in writing, typed or printed and presented in either the Kiswahili or English language and shall indicate—

Content of a petition.

- (a) The name and address of the petitioner;
- (b) The governance organ, institution or official to whom the petition is addressed;
- (c) The subject matter of the petition;
- (d) A concise statement of the petition;
- (e) Any documentary, evidence that the petitioner may wish to rely upon to support the petition at its hearing or consideration;
- (f) An indication of the relief or action sought.

(2) Upon receipt of a petition under sub section (1), and, on ascertaining and being satisfied that the petition meets the requirements of this Act, the receiving organ or institution may set down the petition for hearing or consideration in accordance with this Act and the organ's or institution's rules of procedure.

(3) Before hearing or considering the petition a County governance organ or institution may appoint a committee to investigate the subject matter of the petition.

**23.** Without prejudice to the generality of section 20, a petition may be presented or submitted to the County Assembly by a petitioner or a member of the County

Petition to County Assembly.

Assembly on behalf of the petitioner in accordance with the Rules of Procedure of the County Assembly.

24. (1) During the hearing or consideration of the petition, the County governance organ, institution or committee thereof may invite individuals to appear before it and testify or submit memoranda in respect thereof.

Procedure at hearing of petition.

(2) The testimony or evidence given by a person invited under sub section (1) shall be taken down in writing and a copy thereof sent to the person who gave the evidence.

(3) The county governance organ or institution or a committee thereof may, at its discretion, refuse to hear any irrelevant evidence or to listen to any unruly or unmanageable person giving evidence

(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) Any document submitted and received at the investigation of a petition shall not be withdrawn, altered or released to the person who submitted it before the conclusion of the deliberations.

(6) 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 governance organ, institution or committee that appointed it for a final decision to be made on the petition

25. (1) The county organ or institution shall, within fifteen days of the decision of the organ or institution, notify the petitioner thereof in writing and, within a further fourteen days—

Petitioner to be notified of decision.

- (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.

(2) The presentations and comments given during a public hearing of a petition shall be recorded publicized by posting a copy in a conspicuous place at the offices of the County government and on its website as the case may be.

26. Any petitioner aggrieved by or dissatisfied with the decision of the organ or institution may appeal to the Commission on Administration Justice pursuant to the Commission on Administrative Justice Act, 2011. Provided that no recourse shall be had to the Commission on Administrative Justice as aforesaid in respect of a decision of the County Assembly or its Committee.

Appeal against decision.

## PART VII—PUBLICITY AND PUBLIC PARTICIPATION COMMITTEE

27. (1) Where the Governor deems it necessary to appoint a committee as contemplated under section 9, the members thereof shall be nominated by the Executive Member and comprise—

Membership of publicity and participation committee where appointed.

- (a) Two persons, one of either gender, proposed by the County Executive Committee;
- (b) Two persons, one of either gender, proposed by the County Assembly;
- (c) One person to represent professional organizations in the County;
- (d) One person to represent the private sector and industry within the county;
- (e) One person to represent the County Public Service Board;
- (f) One person to represent the County Policing Oversight Authority;
- (g) One person to represent urban or town administrations in the County;
- (h) One person to represent each sub-county in the county; and
- (i) One person to represent civil society organisations in the County.

(2) The Director of the Directorate shall be the secretary to the Committee and shall be responsible for the day-to-day operations of the Committee.

**28.** (1) Save as is provided to the contrary in this Act, members of the Committee established under section 27 shall hold office for a term of two years and shall be eligible for re-appointment.

Tenure of  
Committee.

(2) The County governance organ or institution or any other entity proposing a representative for nomination to the Committee may revoke such a proposal and replace the person appointed with another.

**29.** The allowances, costs and other expenses of the Members of the Committee shall be determined and provided by the County Assembly and shall be chargeable out of the County Revenue Fund.

Allowances for  
the Committee.

**30.** (1) The functions of the Committee shall be to:—

Functions of  
the Committee.

- (a) Advise the County Executive Committee, County Assembly, County Public Service Board, and County Policing Oversight Authority on matters related to public participation in decision-making in the county;
- (b) Advise the County governance organs and institutions on policy and implementation of strategies for public participation in decision-making in the county;
- (c) Pursuant to and in accordance with Part X of the County Governments Act, advise on the manner of carrying out and coordinating civic education in the county on all or any matter relating to the Constitution and this Act;
- (d) Create awareness and sensitize the public on the national principles and values ;
- (e) Facilitate public education and training programmes on public participation;
- (f) Ensure that the County governance organs, institutions and officers adhere to and comply with the national principles and values and the requirements of section 87 of the County Government Act;
- (g) to prepare and submit to the Governor and County Assembly reports on the status of the implementation of its functions and obligations under this Act; and
- (h) to perform any other function as may be assigned to it by the county governance organs, institutions, officers or under any legislation.

(2) In the performance of its functions and obligations

under this section, the committee will be guided by the guidelines in the first schedule to this Act and may enter into any agreement or arrangement with any person that it may consider appropriate and establish sub-committees.

(3) A sub-committee established under sub section (2) may comprise members of the Committee and not more than three co-opted members.

31. The Committee shall make quarterly reports of its operations to the Governor who shall, on half yearly basis report to the Assembly on the state of public involvement and participation within the county.

Reports of the Committee.

### **PART VIII—FINANCIAL PROVISIONS**

32. The funds of the Directorate shall consist of—

Funds of the Directorate and committee.

- (a) Monies allocated by the County Assembly for the purposes of this Act; and
- (b) All monies from any other source lawfully provided, donated or advanced to the Directorate.

33. The financial year of the Directorate shall be the period of twelve months ending on the thirteenth day of June in each year.

Financial year.

34. (1) Before the commencement of each financial year of the County, the Director shall cause to be prepared estimates of the revenue and expenditure of the Directorate for that year.

Annual estimates of the Directorate.

(2) The estimates shall make provision for all the estimated expenditure of the Directorate and, in particular, shall provide for—

- (a) Funding of training, research and development of activities of the Directorate;
- (b) The funding for publicity, schedules, transport and organization of public participation meetings;
- (c) The creation of such funds to meet or contingent liabilities in respect of equipment and such other matters as the Directorate may think fit.

(3) The annual estimates shall be approved by the Executive Member before the commencement of the financial year to which they relate and shall be submitted to the County Secretary for tabling in the County Assembly.

(4) No expenditure shall be incurred for the purposes of

the Directorate except in accordance with the annual estimates approved under subsection (3) and allocated by the County Assembly.

**35.** (1) The Directorate shall cause to be properly kept its books and records of accounts of income, expenditure and liabilities.

Books of accounts of the Directorate.

(2) Within a period of three months after the end of each financial year, the director shall submit to the County Auditor-General the accounts of the Directorate in respect of that year together with a—

(a) Statement of the income and expenditure of the directorate during that year; and

(b) Statement of the assets and liabilities of the Directorate as of the last day of that financial year.

(3) The annual accounts of the Directorate shall be prepared, audited and reported upon in accordance with the provisions relating to public audit

#### **PART IX—MISCELLANEOUS**

**36.** (1) The County governance organs and institutions may require the members of the Committee representing them to sign a contract of performance in relation to their mandate under this Act.

Performance contracts generally.

(2) A performance agreement under sub-section (1) shall describe the key outputs that the Committee shall achieve in any financial year and such outputs shall be defined in terms of performance indicators and targets.

(3) A County governance organ, institution or the County Executive Committee may request for an independent report on the implementations of the performance agreements under this section.

**37.** The County Assembly shall oversee the performance of the activities of the Directorate and Committee under this Act and may, in consultation with the Governor, give the Directorate directions on matters of policy not inconsistent with the provisions of this Act.

Supervisory role of the County Assembly.

**38.** (1) The Directorate shall at the end of each financial year cause an annual report to be prepared and submitted to the Governor and the County Assembly, through the Executive Member, not later than three months after the end of the year to which it relates.

Annual reports to the County Assembly.

(2) The annual report shall contain, in respect of the year to which it relates—

- (a) The financial statement of the Directorate and the Committee where applicable;
- (b) A description of the activities undertaken and the outcomes of public participation; and
- (c) Any other information, that the directorate may consider relevant.

(3) The Committee shall cause the annual report to be published and publicized in County Gazette and in at least one newspaper with national circulation and in such other manner as the Committee may determine

**39.** (1) The Directorate shall ensure that all important and essential information affecting or of interest to the people of the County or any part of the County is disseminated in such a manner that it reaches as a wide a section of the County as is feasible.

Disclosure and dissemination of information.

(2) Without prejudice to the generality of sub-section (1), neither the Director nor the Directorate shall be required or obliged to give or disclose information contrary to the Constitution, this Act or any written law and every member of staff of the Directorate shall be required, prior to assumption of office, to take an oath and sign a confidentiality agreement.

(3) Subject to the Constitution, this Act or other written law as to the nature and confidentiality, any person may request the Directorate, Director, County governance organ, institution or public officer for information on the County in their possession or custody.

(4) Unless the organ, institution or public officer from whom information is requested under sub-section (3) has a lawful reason to withhold such information in accordance with a written law, that organ institution or public officer shall furnish the person with the information requested without undue delay. Provided that the person making the request shall bear the reasonable cost and or expense of furnishing such information.

**40.** Any person who—

Offences and penalties.

- (a) Without justification or lawful excuse, threatens, obstructs, hinders or assaults a Member or staff of the Directorate acting in the lawful execution of their mandate under this Act; or
- (b) Withholds or submits false or misleading information; or
- (c) Without lawful or reasonable excuse, fails to appear before the Directorate or a County governance organ or institution or a committee thereof when required to do so; or
- (d) Knowingly misrepresents or misleads a member or staff or public officer of the directorate or County governance organ or institution discharging their or any of their mandate under this Act, commits an offence and shall be liable to a fine, on conviction, not exceeding Kenya Shillings Five Hundred Thousand or to a term of imprisonment not exceeding two years or to both.

**41.** The County Assembly, in consultation with other County organs and institutions, may make regulations for the better carrying out of the provisions of this Act.

County Assembly to make regulations.



## **FIRST SCHEDULE**

### **PUBLIC PARTICIPATION GUIDELINES**

The following guidelines shall guide the county government and the Directorate when 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 purposes.
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 document as widely as possible, including but not limited to providing hard copies, television advertisements, websites, community radio announcement 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 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 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 interested 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 client's desired results where that desired result conflicts with its professional judgement.

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## **EXPLANATORY MEMORANDUM**

### **PART I**

Section 1 provides a short title to the Act while section 2 defines terminologies used in the Act. Generally the purpose of the Act as captured in section 3 is to foster public participation at all levels of governance in the County including public private partnership, co-operation and dialogue.

### **PART II**

At this part, the Act places overall responsibility on the Executive Member in charge of public participation in the County to develop and oversee implementation of policy on public participation. The Executive Member is duty-bound to establish structures, for and processes of public participation. There's a prohibition on convening or holding any forum to discuss the election of any person to any office or for other partisan purpose. Further, the Governor may establish a Publicity & Public Participation Committee.

### **PART III**

This part requires periodic (at least once every month/quarterly) public participation for a at County, Sub-County, Ward and Village levels of administration. The Executive Member is mandated to facilitate establishment of the for a and other structures of public participation at all levels of County Administrative structure.

### **PART IV**

This part establishes and delimits the functional mandate of the Directorate of Communication & Public Participation. The Director, a county public servant, reports to the Executive Member in charge of public participation. The Directorate is given general mandate & responsibility for communication on public participation at all levels of County Administrative Structure.

**PART V**

This part generally provides for the formalities to be complied with in making public participation petitions. It further requires a register to be kept of all the petitions made to all organs of the County Government as well as the procedural requirements thereof.

**PART VI VII AND VIII**

Part VI defines the composition, functions of Public Participation Committee where constituted as well as the tenure of office of members thereof. Parts VII & VIII contain financial provisions. They provide for the sources of funds for the Directorate and the accounting standards required of it among other things

HON. JOSEPHAT WANDERA,  
*Leader of Majority Party.*

