

SPECIAL ISSUE

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REPUBLIC OF KENYA

**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

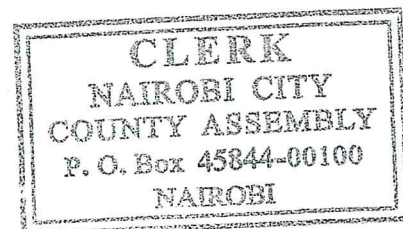
NAIROBI, 25th September, 2015

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**THE NAIROBI CITY COUNTY COMMUNITY AND
NEIGHBOURHOOD ASSOCIATION ENGAGEMENT BILL, 2015**

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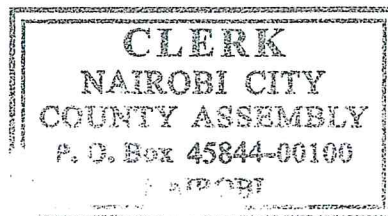
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**THE NAIROBI CITY COUNTY COMMUNITY AND
NEIGHBOURHOOD ASSOCIATIONS
ENGAGEMENT BILL, 2015**

A Bill for

AN ACT of the Nairobi City County Assembly to give statutory recognition to community and neighbourhood initiatives in complementing County Government service delivery; to enable structured co-operation between the County Government, residents and businesses, and to generally regulate and facilitate the activities of the associations and to give further effect to Article 10 of the Constitution as regards the principle of participation of the people and for connected purposes

ENACTED by County Assembly of Nairobi City as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nairobi City County Community and Neighbourhood Associations Engagement Act, 2015. Short title and commencement

2. In this Act, unless the context otherwise requires — Interpretation.
“association” means a residents’ association registered under the laws of Kenya and recognized by the County Government under this Act;

“community” means any interest group registered under any law in 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;

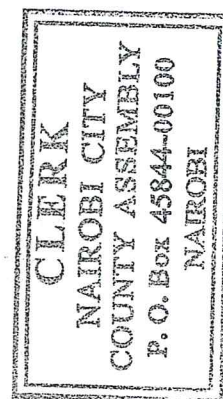
“neighbourhood” includes a grouping representing a common interest not necessarily domiciled in the same locality;

“resident” in respect of a locality or a neighbourhood includes person who carries on 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.

3. The objectives of this Act are to—

Object and purposes
of Act.

- (a) establish a legal framework for the engagement, promotion and facilitation of community and neighbourhood associations in their support and co-operation with the 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 to Article 10 of the Constitution;
- (c) recognize and facilitate community and neighbourhood initiatives in complementing County Government services including in security waste management, water, and sanitation;
- (d) establish a recognition framework for the community and neighbourhood associations;
- (e) provide for the competencies and responsibilities of the neighbourhood initiatives and associations;
- (f) strengthen capacities of associations to enforce regulations aimed at enhancing service provision.



**PART II—RECOGNITION OF, AND
ENGAGEMENT WITH ASSOCIATIONS ETC**

4. The objectives for which a neighbourhood association may be established shall include the co-operation of the residents in the—

Objectives of
Community etc
Initiatives

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

5. Agreement with the County Government under this Act if that association—

Eligibility to enter recognition agreement with County Government.

- (a) is registered as an association under the national Societies Act 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 association and the County Government for the performance of the functions of the County Government;
- (d) demonstrates that it is complying to its objectives and serving the interests of its members;
- (e) where the membership of the 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 property owners in the locality or zone in respect of which it is seeking recognition.

6. The County Government may, where it considers that the relevant residents association has satisfied the criteria for recognition by the County Government, enter into a recognition agreement with the association and such deed may provide for, among other things —

Recognition agreements with neighbourhood Associations..

- (a) the provision by the County Government of such support to the association for the achievement of its objectives;
- (b) an arrangement for the support by the association to the County Government in the collection of revenue;

- (c) the mobilisation by the association of its members and other residents in the neighbourhood to participate in County activities and service in that area neighbourhood;
- (d) the mobilization of 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 neighbourhood;
- (f) protection of public utility land and recreational facilities in the neighbourhood;
- (g) the management of garbage collection and payments through a neighbourhood association where necessary.

7. (1) The County Government may in consultation with associations and residents delineate respective zones within the County which shall be recognized as areas of the respective neighbourhood associations.

Delineation of Zones.

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

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

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

Determination of Community of Interest.

9. Where there is more than one association claiming to be operating in a particular zone, the County Government shall, subject to the requirement of section 5(e), only enter into a recognition agreement with the association most representative of the residents.

Only one Recognition agreement in respect of each other.

10. (1) A recognition agreement between an association and the County Government may be terminated if—

Termination of recognition Agreement.

(a) the association in question ceases to exist or is otherwise unable to transact business as such by operation of the 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 member 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 sixty per cent of the residents of the neighbourhood.

(2) Before terminating an agreement under this section, the executive committee member shall give three months written notice to the respective association, and shall publish such notice in at least one newspaper with countywide circulation indicating intention to terminate and inviting any comments thereon.

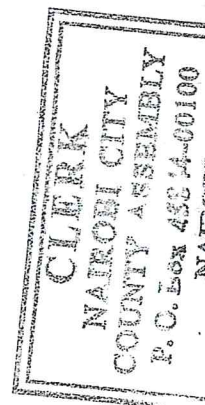
PART III—MISCELLANEOUS

11. The County Government shall at least once every year, and, as need arises convene a forum of at least three officials from each association to discuss County Government programmes of interest to the residents.

Forums with Associations.

12. (1) Nothing in this Act shall permit an association to perform any regulatory function or restrict access to public places, erect 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 perform any other responsibility not specified or contemplated in this Act or a recognition agreement provided for under this Act.

Associations may not assume regulatory Functions etc.



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

13. 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 association which has successfully engaged with the County Government in the implementation of a recognition agreement entered into under this Act.

Benefits and
Incentives.

14. The County Government may, subject to any relevant written law and to such conditions as it may determine, enter into agency arrangements with any association for the purpose of providing services or collecting revenue.

Agency
arrangements
with associations.

15. Any dispute arising from the implementation of the provisions 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—

Dispute Resolution.

- (a) a chairperson to be appointed by the governor;
- (b) one person nominated by each association, or federation of associations, concerned in the matter; and
- (c) one person nominated by the professional association of a profession concerned with the issue in dispute.

16. The executive committee member, with the approval of the governor, may make regulations for the better carrying out of the provisions of this Act.

Regulations.

MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to establish legal framework for the engagement between residents associations and the County Government.

Over the years the residents of Nairobi have organized themselves into neighbourhood or residents associations for their common good including the pooling of resources to provide guard or security services, ensure garbage collection and generally to ensure the habitability and maintenance of the value of their investments and property. Some of these associations and initiatives have oftentimes taken over certain functions that the authorities were meant to perform. However, despite these interventions by citizens directly in service and, sometimes, infrastructure, provision, the authorities have not recognized nor rewarded such initiatives even where that such residents have continued to pay the respective service charges to the government.

The Bill seeks to ensure an arrangement for recognition of these initiatives; their regulation and their engagement with the County Government on the issues that have to do with their objects as resident associations. This will, enable the County Government not only entrench the principle of participation of the people as required by Article 10 of the Constitution but will also enable the regulation of the activities of these associations so that there is an understanding of the expectations and incentives that are intended for them.

Part I provides for preliminary matters including 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 regulate community and neighbourhood initiatives in their support and co-operation with the County Government in the delivery of services.

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

Clause 4 provides for the objectives of community and neighbourhood initiatives which among other things are the protection, generally of their environment and the promotion of the integrity of the member's environment and investments.

Clause 5 provides for the grounds of eligibility to enter recognition agreement with County Government. These include valid registration under the national Societies Act and representation of at least fifty one percent of the residents in a given locality and a demonstration of community of interests.

Clause 6 requires the County Government to enter into recognition agreement with eligible associations.

Clause 7 provides for the manner of determination of community of interest in cases where the association is to further interests which are not necessarily neighbourhood based. These would include business associations comprising members who are not necessarily located in one neighbourhood.

PART III provides for miscellaneous matters including at least one forum every year between the County Government and selected officers of recognised associations.

Clause 11 prohibits associations from undertaking or assuming regulatory functions which is preserved for the County Government.

Clause 12 provides for agency arrangements with associations which the County Government would be authorised to enter into with associations.

Clause 15 provides for a dispute resolution mediation committee that would comprise members nominated by the respective parties and a professional nominated by a professional body.

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

Dated the 26th August, 2015.

MAXWELL ACHAR,
Deputy Chairperson, Planning and Housing Committee.

