

SPECIAL ISSUE

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**NAIROBI CITY COUNTY GAZETTE
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No. 4 of 2016

Date of Assent: 14th March, 2016

Date of Commencement: See Section 1

ARRANGEMENT OF CLAUSES

Clause

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**THE NAIROBI CITY COUNTY COMMUNITY AND
NEIGHBOURHOOD ASSOCIATIONS ENGAGEMENT ACT, 2016**

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 the County Assembly of the Nairobi City County, as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Nairobi City County Community and Neighbourhood Associations Engagement Act, 2016 and shall come into operation upon the expiry of ninety days from the date of its publication.

Interpretation

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

“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;

“policing” means activities related to community policing as defined by Section 2 of the National Police Service Act (Cap 84).

“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.

Objects of the Act

3. The objectives of this Act are to—

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- (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 AND ENGAGEMENT WITH
ASSOCIATIONS, ETC**

Objectives of community, etc initiatives

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

- (a) conservation, 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;

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- (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.

Eligibility to enter recognition agreement with county government

5. A neighbourhood association shall be eligible to enter into a recognition agreement with the county government under this Act if that association—

- (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 ten 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 seventy five per cent of the residents and property owners in the locality or zone in respect of which it is seeking recognition.

Recognition agreements with neighbourhood associations

6. The county government shall, 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 —

- (a) the provision by the county government of such support to the association for the achievement of its objectives;
- (b) 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;
- (c) the mobilization of members to pay to the county government rates and other fees;
- (d) monitoring compliance with county planning regulations and

zoning requirements in respect of the neighbourhood;

- (e) protection of public utility land and recreational facilities in the neighbourhood;
- (f) the management of garbage collection and payments through a neighbourhood association where necessary.

Delineation of zones

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.

(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.

Determination of community of interest

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.

Only one recognition agreement in respect of each zone

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.

Termination of recognition agreement

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

- (a) the association in question ceases to exist or is otherwise unable to transact business as such by operation of the national Societies Act or any other written law;

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- (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(c), the membership of the association in question reduces so that the association is no longer representing seventy five per cent of the residents of the neighbourhood.
- (d) the association decides to opt out of the agreement in which case it shall give a three months' notice to the Executive Committee member.

(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

Forum with associations

11. The county government shall at least twice 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.

Associations may not assume regulatory functions etc.

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.

(2) Where two thirds 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.

Benefits and incentives

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 recognised association which has successfully engaged with the county government in the implementation of a recognition agreement entered into under this Act.

Agency arrangements with associations

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.

Dispute resolution

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—

- (a) a chairperson to be appointed by the governor who shall be a person knowledgeable in arbitration matters;
- (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.
- (d) not more than two-thirds of the members of the committee established under this section shall be of the same gender.

Regulations

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

