

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 5 (Nairobi City County Bills No. 4)*.....

NAIROBI CITY COUNTY ASSEMBLY  
OFFICE OF THE CLERK  
TABLES & JOURNALS  
BILLS FIRST READING  
  
29 MAR 2022  
*[Signature]*  
SIGN:.....  
P. O. BOX 45844 - 00100 NAIROBI  
TEL: 020 2216151



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NAIROBI CITY COUNTY BILLS, 2022**

**NAIROBI, 16th March, 2022**

CONTENT

Bill for Introduction into the Nairobi City County Assembly—	PAGE
The Nairobi City County Accountability Bill, 2022.....	1

NAIROBI CITY COUNTY ASSEMBLY  
OFFICE OF THE CLERK  
TABLES & JOURNALS  
BILLS FIRST READING  
  
29 MAR 2022  
*[Signature]*  
SIGN:.....  
P. O. BOX 45844 - 00100 NAIROBI  
TEL: 020 2216151

**THE NAIROBI CITY COUNTY ACCOUNTABILITY  
BILL, 2022**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART 1—PRELIMINARY PROVISIONS**

- 1—Short title.
- 2—Interpretation.
- 3—Application.
- 4—Objects and purpose of the Act.

**PART 11—GENERAL ACCOUNTABILITY CODE**

- 5—Service charters.
- 6—Public participation.
- 7—Civic education.
- 8—Performance of duties and functions.
- 9—Professionalism.
- 10—Rule of law.
- 11—Public trust.
- 12—Responsibility for actions.
- 13—Financial Integrity.
- 14—Gifts or benefits in kind.
- 15—Wrongful or unlawful acquisition of property.
- 16—Conflict of interest.
- 17—Participation in tenders.
- 18—Public collection.
- 19—Care of property.
- 20—Misuse of official information.
- 21—Political neutrality.
- 22—Impartiality.
- 23—Giving advice.
- 24—Gainful employment.
- 25—Offers of future employment.

NAIROBI CITY COUNTY ASSEMBLY  
OFFICE OF THE CLERK  
TABLES & JOURNALS  
BILLS FIRST READING

29 MAR 2022

SIGN:.....

P. O. BOX 45844 - 00100 NAIROBI.  
TEL: 020 2216151

- 26—Former county officers acting in a public entity matter.
- 27—Conduct of officers of the Nairobi Metropolitan Service.
- 28—Misleading the public.
- 29—Falsification of records.
- 30—Conduct of private affairs.
- 31—Tax, financial and legal obligations.
- 32—Bullying.
- 33—Acting through others.
- 34—Reporting improper orders.

### **PART III—SPECIFIC ACCOUNTABILITY CODES**

- 35—Establishment of specific codes.
- 36—Approval and publication.

### **PART IV—ENFORCEMENT OF THE ACCOUNTABILITY CODE**

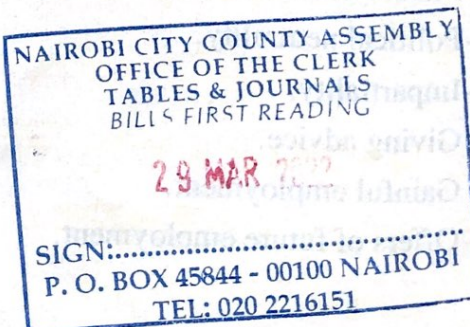
- 37—Signing of specific codes.
- 38—Breach of the Code.
- 39—Lodging of complaints and investigations.
- 40—Referral for possible civil or criminal proceedings.
- 41—Advisory opinion.

### **PART V—OFFENCES AND PENALTIES**

- 42—Offences.
- 43—General penalty.
- 44—Forfeiture and compensation.

### **PART VI—GENERAL PROVISIONS**

- 45—Protection of officers of the County.
- 46—Regulations.



**THE NAIROBI CITY COUNTY ACCOUNTABILITY BILL,  
2022**

**A Bill for**

**AN ACT of the Nairobi City County Assembly to provide for accountability measures for the performance of the duties and functions of officers in the County, and for connected purposes.**

**ENACTED** by the Nairobi City County Assembly, as follows—

**PART 1—PRELIMINARY PROVISIONS**

**Short title**

1. This Act may be cited as the Nairobi City County Accountability Act, 2022 and shall come to effect on a date, not earlier than the financial year 2022-2023.

**Interpretation**

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

“asset” means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a person, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return;

“authorized officer” means an authorized officer of the County Government having jurisdiction under the Constitution or any other law to discipline the officer of the county in relation to whom the expression is used;

“bank account” means an account maintained by a bank or any other financial institution for and in the name of, or in the name designated by, a customer of the bank or other financial institution and into which money is paid or withdrawn by or for the benefit of that customer or held in trust for that customer and in which the transactions between the customer and the bank or other financial institution are recorded;

“business associate” means a person who does business with or on behalf of an officer and has express or implied authority from that officer;

“Code” means the General Accountability Code and includes a specific Accountability Code prescribed under Part III of this Act;

“County” means the Nairobi City County government as established under Article 176 of the Constitution of Kenya, 2010;

“County Assembly” means the Nairobi City County Assembly;

“Commission” means the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act No. 22 of 2011;

“dependant” means a person whose means of support is partially or wholly derived from an officer;

“spouse” means a wife or husband.

### **Application**

3. (1) The provisions of Part II, III, IV, V and VI shall apply to officers of the Nairobi City County Public Service.

(2) The provisions of Part VII shall apply to the County Assembly of Nairobi.

### **Object of the Act**

4. The object of this Act is to provide for improved efficiency of the County government operations by—

- (a) giving effect to Article 174 and Article 175 of the Constitution;
- (b) enhancing accountability of county officers in the performance of their functions;
- (c) enhancing public financial accountability; and
- (d) promoting enhanced communication with the public on service delivery.

## **PART II—GENERAL ACCOUNTABILITY CODE**

### **Service charters**

5. (1) Every department, office, entity or corporation of the County shall cause to be published a service charter.

(2) A service charter shall state the service, the time and the fee payable for the service.

### **Public participation**

6. The County shall facilitate public participation in the process of formulating and implementing policies, laws and regulations.

### **Civic education**

7. The County shall conduct civic education to promote empowerment and enlighten of the citizen.

### **Performance of duties and functions**

8. An officer of the County shall to the best of his or her ability—

- (a) carry out the duties of the office efficiently and honestly;
- (b) be accountable for their actions;
- (c) carry out duties in a transparent manner; and
- (d) keep accurate records and documents relating to the office.

### **Professionalism**

9. Every officer of the County shall—

- (a) carry out duties of the office in a manner that maintains public confidence in the office;
- (b) treat members of the public and other public officers with courtesy and respect;
- (c) not discriminate against any person, unless expressly provided by the law;
- (d) maintain high standards of performance and levels of professionalism, to the extent appropriate to the office;
- (e) if he or she is a member of a professional body, observe and subscribe to the ethical and professional requirements.

### **Rule of law**

10. Every officer of the County shall respect and abide by the Constitution and the law.

### **Public trust**

11. Every office in the County is a position of public trust and the authority and responsibility vested in an officer of the County shall be exercised in the best interest of the people.

### **Responsibility for actions**

12. Subject to the Constitution any other law, an officer of the County shall take personal responsibility for the reasonably foreseeable consequences of any action or omissions arising from the discharge of the duties of the office.

**Financial integrity**

13. (1) An officer of the County shall not use the office to unlawfully or wrongfully enrich himself or herself.

(2) An officer of the County shall not accept a personal loan or benefit which may compromise the officer in the carrying out of his or her duties.

**Gifts or benefits in kind**

14. (1) A gift or donation given to an officer of the County on a public or official occasion shall be treated as a gift or donation to the County.

(2) Without prejudice to subsection (1), an officer of the county may receive a gift given to the officer in an official capacity, if—

(a) the gift is within the ordinary bound of propriety, a usual expression of courtesy or protocol and within the standards of hospitality;

(b) the gift is not monetary; or

(c) the gift does not exceed the prescribed amount in value.

(3) Without limiting the generality of subsection (2), an officer of the County shall not—

(a) accept or solicit gifts, hospitality or other benefits from a person who—

(i) has an interest that may be achieved by carrying out or not carrying out of the officer's duties;

(ii) carries on regulated activities with respect to which the officer's office has a role; and

(iii) has a contractual or legal relationship with the officer's department or entity;

(b) accept gifts or jewelry or other gifts comprising of precious metal or stones ivory or any other animal part protected under the convention on international Trade in Endangered Species of Wild Fauna and Flora; and

(c) any type of gift as may be prescribed.

(4) An officer of the County shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the officer.

(5) An officer of the County who receives a gift or donation shall declare the gift or donation to the Commission and the County entity which he or she represents.

(6) The County shall keep a register of—

(a) gifts received by an officer serving in the county entity; and

(b) gifts given by the county entity to other public officers.

### **Wrongful or unlawful acquisition of property**

15. An officer of the County shall not use the office to wrongfully influence the acquisition of property.

### **Conflict of interest**

16. (1) An officer of the County shall use his or her best efforts to avoid being in a position in which his personal interests' conflict with his official duties.

(2) An officer of the County shall not hold shares or have any other in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict if the officer's personal interests and official duties.

(3) An officer of the County whose personal interests' conflict with their official duties shall declare the personal interests to the County entity.

(4) The accounting officer of the County entity may direction on the appropriate action to be taken by the officer to avoid the conflict of interest and the officer shall—

(a) comply with the directions; and

(b) refrain from participating in the deliberations with respect to the matter.

(5) An officer of the County shall not award or influence the award of a contract to—

(a) himself or herself;

(b) the officer's spouse or child;

(c) a business associate or agent; or

(d) a corporation, private company, partnership or other body in which the officer has s substantial or controlling interest.



(6) In this section “personal interest” includes the interest of a spouse, child, business associate or agent or any other matter in which the officer has direct or indirect pecuniary or non-pecuniary interest.

(7) Where an officer is present at a meeting, where an issue which is likely to result in a conflict of interest is to be discussed, the officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest shall be recorded in the minutes of that meeting.

(9) Every entity of the County shall maintain an open register of conflict of interest in the prescribed form in which the affected officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

(10) The registrable interests include the prescribed interests.

(11) The County entity shall keep a register of conflicts of interest for years.

#### **Participation in tenders**

17. An officer of the County shall not participate in a tender for the supply of good or services to a public entity in which he or she is serving or is otherwise similarly associated, but the holding of shares by an officer of the county in a company shall not be construed as participating in the tender of a public entity unless the officer has a controlling shareholding in the company.

#### **Public collection**

18. (1) An officer of the County shall not solicit for contributions from the public for a public purpose unless the President, has by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

(2) An officer of the County shall not participate in a public collection of funds in a way that adversely reflects on that officer’s integrity, impartiality or interference with the performance of the official duties.

#### **Care of property**

19. (1) An officer of the County shall take reasonable steps to ensure that public property in the officer’s custody, possession or control is taken care of and is in good repair and condition.

(2) An officer of the County shall not use public property, funds or services that are acquired in the course of or as a result of the official duties, for activities that are related to the official work of the officer.

(3) An officer of the County shall return to the issuing authority all the public property in their custody, possession or control at the end of the appointment.

(4) An officer of the County who contravenes the provisions of this section shall, in addition to any other penalties provided in the Constitution, this Act or any other law be personally liable for any loss or damage to the public property.

#### **Misuse of official information**

20. (1) An officer of the County shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) The provisions of subsection (1) shall not apply where the information is to be used for the purposes of—

- (a) furthering the interests of this Act; or
- (b) educational, research, literary, scientific or other purposes not prohibited by law.

#### **Political neutrality**

21. (1) An officer of the County shall not in the performance of their duties—

- (a) act as agent for or further the interests of a political party or candidate in an election; and
- (b) manifest support for or opposition to any political party or candidate in an election.

(2) An officer of the County shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.

#### **Impartiality**

22. An officer of the County shall, at all times carry out the duties of the office with impartiality and objectivity in accordance with the Constitution and shall not practice favoritism, nepotism,

tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

#### **Giving advice**

23. An officer of the County who has a duty to give advice shall give honest, accurate and impartial advice without fear or favor.

#### **Gainful employment**

24. An officer of the County who is serving on a full-time basis shall not participate in any other gainful employment.

#### **Offers of future employment**

25. (1) An officer of the County shall not allow himself or herself to be influenced on the performance of their duties by plans or expectations for or offers of future employment or benefits.

(2) An officer of the County shall disclose, in writing, to the public entity and the Commission, all offers of future employment or benefits that could place the officer in a situation of conflict of interest.

#### **Former county officer acting in a public entity matter**

26. A former officer of the County shall not be engaged by or act for a person or entity in a matter in which the officer who originally engaged in as an officer of the county, for at least two years after leaving the office.

#### **Conduct of officers of the Nairobi Metropolitan Service**

27. (1) For the purpose of this Act, every officer of the Nairobi Metropolitan Service shall be deemed to be an officer of the County.

(2) The officers of the Nairobi Metropolitan Service shall be bound by this Act, the Public Officer Ethics Act and any rule and regulations affecting officers of the County.

#### **Misleading the public**

28. An officer of the County shall not knowingly give any false records or misrepresent information to the public.

#### **Falsification of records**

29. An officer of the County shall not falsify any records or misrepresent information to the public.

**Conduct of private affairs**

30. An officer of the County shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

**Tax, financial and legal obligations**

31. (1) An officer of the County shall pay any taxes due from him or her within the prescribed period.

(2) An officer of the County shall not neglect their financial or legal obligations.

**Bullying**

32. (1) An officer of the County shall not bully any person.

(2) For purposes of subsection (1), "bullying" includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

**Acting through others**

33. (1) An officer of the County who contravenes the Code if the officer—

(a) causes anything to be done through another person that would constitute a contravention of the Code if done by the officer; or

(b) allows or directs a person under their supervision or control to do anything that is in contravention of the Code.

(2) Subsection (1) (b) shall not apply where anything is done without the officer's knowledge or consent or if the officer has taken reasonable steps to prevent it.

(3) An officer who acts under an unlawful direction shall be responsible for his or her action.

**Reporting improper orders**

34. (1) If an officer of the County considers that anything required of them is in contravention of the Code or is otherwise improper or unethical, the officer shall report the matter to Executive Committee Member responsible for Devolution, Public Service and Administration for officers of the County Public Service and the Director in charge of the Accountability department for officers of the County Assembly but in any case, it is not a requirement for such an officer to identify themselves while reporting.

(2) If no action is taken then the officer may report the matter to the Commission.

(3) The Commission shall investigate the report and take appropriate action within sixty (60) days of receiving the report.

### **PART III—SPECIFIC ACCOUNTABILITY CODES**

#### **Establishment of specific codes**

35. (1) The Nairobi City County Government shall develop and prescribe specific Accountability Codes for the officers of the County Public Service and the County Assembly Service.

(2) Without prejudice to subsection (1), the County Government shall in consultation with the sectors, entities, directorates or departments of the Service(s) develop a Specific Accountability Code for that sector, entity, directorate or department.

(3) The accounting officer of that sector, entity, directorate or department of that Service shall publish the accountability codes developed under subsection (2).

#### **Approval and publication**

36. (1) The County Government shall be responsible for all Specific Accountability Codes and shall submit the same to the Commission for approval.

(2) The County Government shall cause the approved Specific Accountability Codes to be published in the Gazette within ninety days from the date of receipt of the approval from the Commission.

### **PART IV—ENFORCEMENT OF THE ACCOUNTABILITY CODE**

#### **Signing of Specific Codes**

37. Upon appointment every officer of the County shall sign and commit to the Specific Accountability Code.

#### **Breach of the Code**

38. (1) A breach of the Code amounts to misconduct for which the officer may be subjected to disciplinary proceedings.

(2) Where an allegation of breach of the Code has been made against an officer of the County in respect of whom the Constitution or any other law provides the procedure for removal or dismissal, the question of removal or dismissal shall be determined in accordance with the Constitution or other written law.

(3) Where there is no procedure provided for removal by the Constitution or any other written law, the relevant disciplinary

mechanism in the County Public service and County Assembly Service shall apply.

### **Lodging of complaints and investigations**

39. (1) A person who alleges that an officer of the County has committed a breach of the Code, may lodge a complaint with the County Government and the complaint shall be registered and an inquiry into the complaint conducted by the office.

(2) The Heads of the County Government Entities shall authorize any of its officers to inquire into a complaint on behalf of the office and determine whether the officer has contravened the Code.

(3) An investigation may also be made at the instance of the County.

(4) An officer who is being investigated shall be informed by the investigating authority, of the complaint made against that officer and shall be given a reasonable opportunity to make a representation relating to the issue before the investigation is concluded.

(5) A person who has lodged a complaint against an officer shall be entitled to be informed of any action taken or to be taken in respect of the complaint and may be afforded a hearing.

(6) Where an investigation under this section is initiated while the officer is in office, it may be continued even after the person under investigation has ceased to be an officer.

(7) Subject to the Constitution and any regulations for enforcement of the Code made under this Act, an officer may be suspended from office pending the investigation and determination of allegations made against the officer where such suspension is considered necessary.

(8) The Commission may prescribe disciplinary mechanism and procedures to be followed in the event of contravention of the Code, and those mechanisms and procedures shall comply with Article 47 of the Constitution and any other applicable written law for the time being in force.

(9) The County may take disciplinary action against an officer serving in the County.

(10) Notwithstanding subsections (2) and (3), the Commission may inquire into and investigate an alleged breach of the Code either upon receipt of a complaint or on its own motion.

### **Referral for possible civil or criminal proceedings**

**40.** (1) If upon investigation under this Part, the heads of County Entities are of the opinion that civil or criminal proceedings ought to be preferred against the respective officer, it shall refer the matter to —

- (a) the Commission with respect to civil matters;
- (b) the Director of Public prosecutions, with respect to criminal matters; or
- (c) such other appropriate agency.

(2) Referral of a matter under subsection (1) shall not preclude the person or the County from referring the matter from undertaking further investigations or action into the matter.

(3) If a matter is referred to the Commission under subsection (1) (a) and in the opinion of the Commission, criminal proceedings ought to be preferred against the respective officer, the matter shall be referred to the Director of Public Prosecutions.

(4) In addition to prosecution of an officer, the Commission may take any other action that it considers necessary.

(5) The prosecution of an officer of the County is not a bar to other steps that the Commission may consider necessary.

### **Advisory opinion**

**41.** Any officer of the County may request the duly authorized officer(s) of the County government to give an advisory opinion on any issue relating to the application of Chapter Six of the Constitution.

## **PART V—OFFENCES AND PENALTIES**

### **Offences**

**42.** (1) A person shall not—

(a) without justification or lawful excuse, obstruct, hinder, assault or threaten a person undertaking his or her duties under this Act;

(b) deceive or knowingly mislead the Commission, the County or any entity of the County or person undertaking his or her duties under this Act;

(c) destroy, alter, conceal or remove documents, records or evidence that the person believes, or has grounds to believe

may be relevant to an investigation or proceedings under this Act; or

- (d) provide false information to the commission, the County or County entity acting under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings, or to imprisonment for a term not exceeding five years, or to both.

### **General penalty**

43. Any person who is convicted of an offence under this Act, for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding five years, or to both.

### **Forfeiture and compensation**

44. (1) Where an officer is proven to have obtained any property in breach of this Act, the officer shall, subject to any appeal which the officer may make, forfeit the property and the property shall be held by the Commission or by an agent appointed by the Commission in trust for the Republic, until it is lawfully disposed of.

(2) The Commission may order an officer referred to in subsection (1) to pay by way of compensation to the State such sum, including interest, as may be determined by the Commission as just, having regard to the loss suffered by the Government or County entity and such order shall be deemed to be a decree under section 25 of the Civil Procedure Act and shall be executed in the manner prescribed.

(3) For the purposes of subsection (2), the rate of interest on any property or money irregularly obtained shall not be less than the prevailing lending rates and shall be payable with effect from the day such property or money was obtained.

(4) The money or proceeds of the sale of property which is forfeited to the Government under this section shall be paid into the County Revenue Fund.



**PART VI—GENERAL PROVISIONS**

**Protection of officers of the County**

45. Subject to this Act, no civil or criminal liability shall attach to an officer of the County acting on instructions for anything done in good faith by that officer in the performance of the duties under this Act.

**Regulations**

46. The County Executive may make regulations for the better carrying out of the provisions of this Act.

NAIROBI CITY COUNTY ASSEMBLY  
OFFICE OF THE CLERK  
TABLES & JOURNALS  
BILLS FIRST READING  
  
29 MAR 2022  
  
SIGN:.....  
P. O. BOX 45844 - 00100 NAIROBI  
TEL: 020 2216151

## MEMORANDUM OF OBJECTS AND REASONS

This Bill is intended to provide guidance to officers of the Nairobi County in the performance of their duties. It sets out a General Accountability Code. Further it requires the development of a specific accountability Code.

**Part 11** sets out the General Accountability Code.

**Clause 5** provides for service charters to be published.

**Clause 6** set out the requirement for public participation.

**Clause 7** provides for conduct of civic education in the County.

**Clause 8** makes provision for the performance of duties and functions by officers of the County.

**Clause 9, 10 and 11** make provision for professionalism, the rule of law and public trust.

**Clause (12 to 20)** provide for responsibility for actions, financial integrity, gifts to an officer, conflict of interest, participation of tenders, public collections, and misuse of information.

**Clause (21 to 34)** make general provisions including impartiality, gainful employment, provisions on former county officers, conduct of NMS officers, tax and financial obligations and reporting improper orders.

**Part 111** provides for establishment of Specific Accountability Codes by the County or an entity of the County.

**Part IV** sets out provisions on enforcement of the Accountability Code.

**Part V** contains offences and penalties.

**Part VI** contains general provisions including the regulation making powers.

Dated the 10th March, 2022.

GEOFFREY MAJIWA,  
*Member of County Assembly.*

