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**NYANDARUA COUNTY ACTS, 2021**

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**No. 3 of 2021**

*Date of Assent: 28th May, 2021*

*Date of Commencement: See Section 1*

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**THE NYANDARUA COUNTY CLIMATE CHANGE ACT, 2021**

**AN ACT of the Nyandarua County Assembly to put in place the framework and mechanisms for mobilization and facilitation of the county government, communities and other stakeholders to respond effectively to climate change through appropriate adaptation and mitigation measures and actions and for connected purposes**

**ENACTED** by the County Assembly of Nyandarua, as follows—

**PART I—PRELIMINARY****Short title and Commencement**

1. This Act may be cited as the Nyandarua County Climate Change Act, 2021 and shall come into force upon publication in the *Kenya Gazette*.

**Interpretation**

2. In this Act unless the context otherwise requires—

“adaptation” means the adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects in order to moderate harm or exploit beneficial opportunities;

“adaptive capacity” means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability;

“Authority” means the National Environment Management Authority established by the Environmental Management and Coordination Act, 1999 as amended by the Environmental Management and Coordination (Amendment) Act, 2015;

“climate change” means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period of time;

“climate change directorate” means the Directorate established under section 6 of this Act;

“climate change unit” means the County Climate Change Coordination Unit established under section 8 of this Act;

“constitution” means the Constitution of Kenya, 2010;

“county” means the County Government of Nyandarua;

"county assembly" means the County Assembly of Nyandarua County;

"county government" means the Nyandarua County Government;

"directorate" means the County Climate Change Directorate in charge of renewable energy and climate change functions in the County;

"environment" has the meaning assigned to it under section 2 of the Environmental Management and Coordination Act, 1999;

"executive committee member" means the County Executive Committee Member for the time being in charge of climate change matters in Nyandarua County;

"fund" means the County Climate Change Fund established under section 50 of this Act;

"fund administrator" means the Administrator of the County Climate Change Fund established and administered under section 50 and 51 respectively of this Act;

"governor" means the Governor of the County Government of Nyandarua;

"mitigation" means preventing, reducing or slowing down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

"private entity" means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organizations Act, 2013;

"public entity" means a body or person with functions of a public nature;

"resilience" means the ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self-organization and the capacity to adapt to stress and change;

"Steering committee" means the County Climate Change Steering Committee established under section 10 of this Act;

"Planning committee" means the County Climate Change Planning Committee established under section 19 of this Act;

"vulnerability" means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a system to the impact of hazards;

"ward committee" means the Ward Climate Change Committee established under section 27 of this Act.



**Objects and purposes**

3. (1) The object of this Act is to enhance climate resilience through development planning, management, implementation, regulation and monitoring of adaptation and mitigation measures and actions.

(2) Without prejudice to sub-section (1) hereinabove, this Act shall be applied by the County Government in all sectors of the economy to—

- (a) mainstream climate change responses into development planning, decision making and implementation;
- (b) implement coordinated and integrated mechanisms to guide responses to climate change and its impacts by all actors and stakeholders;
- (c) facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;
- (d) promote, support and facilitate community-based and community-initiated adaptation and mitigation activities;
- (e) enforce duties and provide incentives for the private sector to contribute to achievement of low-carbon climate resilient development;
- (f) facilitate public participation in climate change responses through capacity development, awareness creation, consultation, representation and access to information;
- (g) establish frameworks and mechanisms for mobilization, transparent, accountable management of financial and other resources for climate change response;
- (h) establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building;
- (i) integrate climate change into the exercise of power and functions of all levels of the county government, including in decentralized units and enhance cooperative climate change governance between the county, neighboring counties and the national government;
- (j) contribute to national efforts to address the adverse impacts of climate change and associated risks.

**Guiding values and principles**

4. The interpretation, application and implementation of this Act and any policy on climate change by the County Government shall be guided by the following values and principles—

- (a) right to a clean and healthy environment in accordance with Article 42 of the Constitution;
- (b) National values and principles of governance spelt out in Article 10 of the Constitution and the values and principles of public service as provided for under Article 232 of the Constitution;
- (c) commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution;
- (d) promotion of sustainable development;
- (e) ensure participation of all stakeholders in planning and implementation of climate change responses;
- (f) enhance access to information, information sharing and knowledge management;
- (g) building partnerships and collaborations in climate change actions and responses;
- (h) promote intra and inter-governmental cooperation and collaboration in climate change actions and responses;
- (i) ensuring equity and social inclusion;
- (j) Mainstreaming gender, special needs and indigenous people in climate change actions and responses;
- (k) recognition, respect and integration of knowledge, perspectives and experiences of communities in climate change responses;
- (l) recognition of the role in research, innovation and application of technology in addressing challenges in climate change;
- (m) ensure integrity, accountability and transparency;
- (n) community driven and bottom-up planning of response to climate change.



**PART II—INSTITUTIONAL FRAMEWORK FOR PLANNING  
AND IMPLEMENTATION**

**A. THE DIRECTORATE**

**Establishment of the Directorate**

5. (1) There is established the Climate Change Directorate as a Directorate within the relevant Department in the County for the time being responsible for climate change and renewable energy.

(2) The Directorate shall be headed by a Director of Climate Change who shall be recruited competitively and appointed by the County Public Service Board.

(3) A person shall be qualified for appointment as a Director of Climate Change if the person—

- (a) is a citizen of Kenya;
- (b) has a postgraduate degree, knowledge and experience in any of the following fields—
  - (i) environmental studies;
  - (ii) engineering;
  - (iii) meteorology;
  - (iv) climatology;
  - (v) law;
  - (vi) economics; or
  - (vii) such other relevant field as may be determined by the County Public Service Board in consultation with the Public Service Commission.
- (c) has at least five years post-graduate work experience at management level;
- (d) meets the requirements of Chapter Six of the Constitution.

(4) The Director appointed under sub-section (3) hereinabove shall be responsible for the performance of specific duties and functions of the Directorate as set out in this Act.

**Functions of the Directorate**

6. The Directorate shall perform the following functions—

- (a) advising the Executive Committee Member on policy and strategic planning and all matters related to Climate Change in the County;

- (b) providing secretarial services to the Steering Committee;
- (c) implementing climate change policies, actions plans and strategies;
- (d) coordinating, mainstreaming and integrating climate change programs into the sectoral strategic plans;
- (e) establishing and maintaining a relationship with the county, regional and international organizations, institutions and agencies as may be appropriate for the implementation of the climate change policy and recommendations;
- (f) promoting and cooperating in the development, application and diffusion, including transfer of technologies and best practices;
- (g) establishment and implementation of an effective and efficient institutional framework for mainstreaming climate change responses across relevant sectors and to integrate it into the planning, budgeting, decision-making process;
- (h) enhance resilience against the negative effects of climate change and develop adaption and mitigation strategies;
- (i) develop alternative cheaper renewable energy for utilization in county operations with the surplus being netted to the national grid for revenue generation;
- (j) undertaking of formulation and implementation of policies related to climate change issues;
- (k) establish and maintain an effective and efficient institutional framework to mainstream climate change responses across relevant sectors and into integrated planning, budgeting, decision-making and implementation at county levels;
- (l) undertake research work on climate change mitigation, adaptation, development, implementation, monitoring and evaluation of programmes and initiatives aimed at enhancing communities' social, economic, and technical resilience while reducing their vulnerability to the impacts of climate change;
- (m) education, training and advocacy work on climate change issues;
- (n) ensure the implementation of the programmes, plans and activities relating to climate change;
- (o) engage in creation of linkages and partnerships with various stakeholders and key-players in the sector;



- (p) take a lead role in the drafting and implementation of a sustainability policy that will guide all the operations of the county government to ensure that all development activities are undertaken in a sustainable manner.

## **B. THE CLIMATE CHANGE UNIT**

### **Establishment of the Climate Change Unit**

7. There is established the Climate Change Unit as a secretariat for coordinating and mainstreaming climate change action across all departments of the county government.

### **Composition of the Climate Change Unit**

8 (1) The Climate Change Unit shall comprise of the following core staff—

- (a) the Executive Committee Member in charge of climate change in the County;
- (b) the Director in charge of climate change;
- (c) the Fund Administrator;
- (d) the Climate change officer in charge of monitoring, evaluation and learning;
- (e) the Climate change officer in charge of communications.

(2) Notwithstanding the provisions of sub-section (1) hereinabove, the Executive Committee Member shall recommend the seconding of the following staff—

- (a) the County Development Planning Officer;
- (b) the County Treasury Officer;
- (c) the County Director of Meteorology;
- (d) any other technical officers to be co-opted on a need-to-need basis from different sectoral departments for defined periods.

### **Functions of the Climate Change Unit**

9 (1) The Climate Change Unit shall coordinate and oversee climate change responses in the county, and in this regard shall—

- (a) set county-specific targets for climate change actions, and develop strategies to achieve the targets;
- (b) mainstream climate change issues into County Integrated Development Plans and regularly update them;



- (c) capture activity data and coordinate their analysis, documentation and dissemination;
  - (d) mainstream disaster risk reduction in development projects and spatial plans;
  - (e) approve and oversee implementation of the county climate change actions;
  - (f) advise departments and the county assembly on legislative and policy measures necessary for climate change response and attaining low-carbon climate-resilient development pathways;
  - (g) develop public education, awareness strategies and implementation programmes;
  - (h) identify research, training needs and methods to disseminate information relating to climate change to all stakeholders;
  - (i) prepare quarterly, functional and annual reports for approval by the County Assembly;
  - (j) establish and manage a climate change registry of actions by sectors, civil society organizations and the private sector;
  - (k) identify low-carbon development strategies and coordinate related measurement, reporting and verification;
  - (l) develop and coordinate strategies for building resilience;
  - (m) co-ordinate with the sub-county and ward administrators to ensure a meaningful impact on the ground;
  - (n) establish knowledge management centres on climate change at the sub-county level;
  - (o) build the inter-county platform, particularly to strengthen policy dialogue on shared resources, peer learning and joint work-planning at the sub-regional and regional levels;
  - (p) identify training and awareness needs related to climate change;
  - (q) data collection and analysis, as well as its communication to counties;
  - (r) establish communication and information dissemination channels on climate change matters.
- (2) Notwithstanding the provisions of sub-section (1) hereinabove, the Climate Change Unit shall coordinate climate change actions together with the Steering Committee, the Planning Committee, the Sub-County Committee and the Ward Committee.

**C. THE STEERING COMMITTEE****Establishment of the Steering Committee**

10 There is established the Steering Committee in the County.

**Functions of the Steering Committee**

11 The Steering Committee shall coordinate and oversee climate change responses in the county, and in this regard shall—

- (a) ensure mainstreaming of climate change into county operations, planning, decision making and budgetary processes;
- (b) establish sub-committees on a need basis;
- (c) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
- (d) mobilize funds into and administer the County Climate Change Fund established under this Act;
- (e) review, approve and monitor implementation of Regulations for administration and management of the County Climate Change Fund;
- (f) review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county;
- (g) advise the county government on legislative, policy and other measures necessary for climate change responses and attainment of low-carbon climate resilient development;
- (h) approve and oversee the implementation in the county of a comprehensive programme of climate change education, awareness creation and capacity building;
- (i) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders in the county;
- (j) ensure positive linkages, interactions and synergy between the county, neighbouring counties and the national government in climate change response programming and action;
- (k) ensure a coordinated approach to climate change response programming and action between the county government, the



national government and among the different stakeholders in the county;

- (l) coordinate the formulation of a climate change reporting framework, preparation and dissemination of an annual report on climate change response activities in the county;
- (m) perform any other functions that may further the foregoing objectives and/or as may be assigned by the Governor.

#### **Composition of the Steering Committee**

12 (1) The Steering Committee shall comprise of members who shall be appointed by the Governor.

- (2) The members of the Steering Committee shall be—
  - (a) Deputy Governor who shall be the chairperson;
  - (b) Executive Committee Member in charge of Climate Change who shall be the Secretary;
  - (c) Executive Committee Member in charge of the County Treasury;
  - (d) Executive Committee Member in charge of Agriculture, Livestock and Fisheries;
  - (e) Executive Committee Member in charge of Health;
  - (f) Executive Committee Member in charge of Water;
  - (g) County Drought Coordinator or the national government official for the time being responsible for coordination of drought response in the county;
  - (h) County representative of the National Environment Management Authority;
  - (i) One representative of a duly registered public benefit organizations working in the county nominated by the umbrella organization representing the largest number of public benefit organizations in the county;
  - (j) One representative of the private sector in the county nominated by the umbrella organization representing the private sector in the county;
  - (k) One representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;



(l) One representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county;

(m) Fund Administrator, as an *ex-officio* member with no voting rights.

(3) A person shall only qualify to be nominated for appointment under subsections 12(2)(k), (l), (m) and (n) if the person has demonstrable experience, expertise and interest in issues of climate change, natural resource management and/or environmental conservation and has actively and publicly engaged with these issues in the county.

(4) Without prejudice to the provisions of sub-section (3) herein above, a person shall not qualify to be nominated for appointment under section 12(2)(k), (l), (m) and (n) unless such person is—

(a) a citizen of Kenya;

(b) fulfils the requirements of Chapter 6 of the Constitution; and

(c) has at least five years' experience in the relevant field.

(5) The Governor shall ensure compliance with the two-thirds gender principle in the appointment of members of the Steering Committee.

#### **Term of the Steering Committee**

13 Members of the Steering Committee appointed under section 12(2) (k), (l), (m) and (n) shall serve for a term of five years renewable once.

#### **Removal of a Member of the Steering Committee**

14 (1) A member of the Steering Committee may resign from the Committee by issuing a thirty days notice in writing to the Governor.

(2) A member of the Steering Committee may be removed from the Committee by the Governor on any one or a combination of the following grounds—

(a) failure to attend two consecutive meetings of the Steering Committee without reasonable cause duly communicated to the chairperson of the Committee;

(b) serious violation of the Constitution or any other written law;

(c) gross misconduct;

(d) physical or mental incapacity;

(e) bankruptcy.

(3) A person who is a member of the Steering Committee by virtue of their office under section 12(2) (a), (b), (c), (d), (e), (f), (g), (h) (i) or (j) shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Steering Committee under section 12(2) (k), (l), (m) or (n) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the chairperson of the Committee.

(5) Whenever a member of the Steering Committee is removed or otherwise ceases to be a member of the said Committee, the Executive Committee Member shall advise or propose a replacement to the Governor within 30 days of the vacancy arising.

#### **Secretariat of the Steering Committee**

15 The Climate Change Unit shall serve as the Secretariat of the Steering Committee.

#### **Meetings of the Steering Committee**

16 (1) Members of the Steering Committee shall at their first meeting elect a vice-chairperson from amongst the members appointed under section 12(2)(k), (l), (m) and (n).

(2) The Steering Committee shall meet at least once every quarter in each financial year.

(3) The quorum for meetings of the Steering Committee shall be two thirds of the membership.

(4) A resolution of the Steering Committee shall require an affirmative vote of at least one-half of the members present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(5) In the absence of the chairperson, the vice-chairperson shall chair meetings of the Steering Committee, and in the absence of both the chairperson and the vice-chairperson members in attendance shall elect one of them to chair the meeting.

(6) The Steering Committee may invite to its meeting(s) any technical staff of the national or county government who it considers will contribute to its deliberations and the attendance and participation of such person(s) shall be recorded in the Minutes of the Steering Committee.



**No. 3***Nyandarua County Climate Change***Allowances for Members of the Committee**

17 Members of the Steering Committee shall be paid such allowances as are stipulated by the Guidelines from the Salaries and Remuneration Commission as revised from time to time.

**Delegation of powers by the Steering Committee**

18 Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate the exercise of any of its functions under this Act to any Sub-committee, any member of the Steering Committee, officer or agent thereof.

**D. THE PLANNING COMMITTEE****Establishment of the Planning Committee**

19. There is established the Planning Committee which shall comprise of 14 members appointed by the Executive Committee Member.

**Functions of the Planning Committee**

20. The functions of the Planning Committee shall be—

- (a) to coordinate planning and implementation of projects and activities for climate change responses in the county;
- (b) to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;
- (c) to establish guidelines to be used by the Ward Committees in formulating climate response projects for funding by the County Climate Change Fund;
- (d) to support the Ward Committees in development and implementation of climate response projects;
- (e) to coordinate development and implementation of the County Climate Change Fund Regulations;
- (f) to advise the Steering Committee on strategies, priority programmes, projects and activities for climate change responses in the county;
- (g) to formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;
- (h) to coordinate research and knowledge management on climate change, its impact and strategies for responding thereto;
- (i) to prepare and disseminate an annual report on climate change response activities in the county;



- (j) to formulate and implement a county monitoring, evaluation and reporting framework for climate change responses;
- (k) to perform any other functions assigned to it by the Steering Committee.

#### **Composition of the Planning Committee**

21. (1) Members of the Planning Committee shall be—

- (i) the Chief Officer in charge of climate change matters who shall be the chairperson;
- (ii) the County Director in charge of climate change who shall be the Secretary;
- (iii) the County Director in charge of economic planning;
- (iv) the County Director in charge of agriculture;
- (v) the County Director in charge of public health;
- (vi) the County Director in charge of water and sanitation;
- (vii) the County Director in charge of land;
- (viii) the County Director in charge of environment;
- (ix) the County Director in charge of tourism;
- (x) the County representative of the National Environment Management Authority or a designated representative;
- (xi) the County Director of Meteorology;
- (xii) one representative of a duly registered public benefit organization working in the county nominated by the umbrella organization representing the largest number of public benefit organizations;
- (xiii) one representative of the private sector in the county nominated by the umbrella organization representing the largest number of private sector organizations in the county;
- (xiv) one representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;
- (xv) one representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county;
- (xvi) the Administrator of the Fund, who shall be an *ex-officio* member with no voting rights.

(2) Members of the Planning Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment under section 21(1)(xii), (xiii), (xiv) and (xv).

### **Appointment and Term of the Planning Committee**

22. (1) Members of the Planning Committee shall be appointed by the Executive Committee Member.

(2) Members of the Planning Committee appointed under section 21(1)(xii), (xiii), (xiv) and (xv) shall serve for a term of five years renewable once.

### **Removal of a Member of the Planning Committee**

23. (1) A member of the Planning Committee may at any time resign from the said Committee by giving a thirty-day notice to the Executive Committee Member.

(2) A member of the Planning Committee may be removed from the said Committee by the Executive Committee Member on any one or a combination of the following grounds—

- (i) failure to attend two consecutive meetings of the Planning Committee without reasonable cause duly communicated to the chairperson of the said Committee;
- (ii) serious violation of the Constitution or any other written law;
- (iii) gross misconduct;
- (iv) physical or mental incapacity;
- (v) bankruptcy.

(3) A person who is a member of the Planning Committee by virtue of their office under section 21 (1) (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) shall cease to be a member of the said Committee by ceasing to hold that office.

(4) A person who is a member of the Planning Committee under section 21(1) (xii), (xiii), (xiv) or (xv) shall cease to be a member of the Committee on any or a combination of the following grounds—

- (a) cease to be a member of the interest group;
- (b) being recalled by the interest group referred to in sub-clause (a); and
- (c) through a written communication from an authorized official of the interest group to the Executive Committee Member.

(5) Whenever a member of the Planning Committee is removed or otherwise ceases to be a member of the said Committee, the Executive



Committee Member shall ensure that a replacement is appointed within 30 days of the vacancy arising.

#### **Secretariat of the Planning Committee**

24. The Climate Change Unit shall serve as the Secretariat of the Planning Committee.

#### **Meetings of the Planning Committee**

25. (1) The Planning Committee shall meet at least once every quarter in each financial year.

(2) The Planning Committee may choose to rotate the location of its regular meetings to different wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges.

(3) The quorum for meetings of the Planning Committee shall be two-thirds of the members as provided for under section 21(1).

(4) A resolution of the Planning Committee shall require an affirmative vote of more than one-half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(5) In the absence of the chairperson, the vice-chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting, provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present.

(6) The Planning Committee may invite to its meeting(s) any technical person(s) with relevant expertise from the national, county government or any other entity who it considers will contribute to its deliberations and the attendance and participation of such person(s) shall be recorded in the Minutes of the Planning Committee.

#### **Allowances for Members of the Planning Committee**

26. Members of the Planning Committee shall be paid such allowances as are stipulated by the Guidelines from the Salaries and Remuneration Commission as revised from time to time.

### **E. THE WARD CLIMATE CHANGE PLANNING COMMITTEE.**

#### **Establishment of the Ward Climate Change Planning Committees**

27. There shall be established a Ward Climate Change Planning Committee in each ward.

#### **Functions of the Ward Climate Change Planning Committee**

28. The functions of the Ward Climate Change Planning Committee shall be—



- (a) to coordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities;
- (b) to facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;
- (c) to facilitate public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto;
- (d) to coordinate, facilitate and manage community consultations on priority climate change response activities;
- (e) to participate in county planning and budgeting processes with a view to ensuring the mainstreaming of climate change and prioritization of climate change responses in county development plans;
- (f) to facilitate public participation in climate change governance, implementation of agreed climate change response activities and monitoring of those activities;
- (g) to coordinate and facilitate provision of technical support to communities in the ward in developing proposals on climate change response projects for funding by the County Climate Change Fund;
- (h) to oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the Planning Committee;
- (i) to prepare climate change action plans reports and forward the same to the Planning Committee;
- (j) to perform any other functions that may be assigned to it by the Planning Committee.

#### **Composition of the Ward Committee**

29. (1) The Ward Climate Change Planning Committee shall comprise of 9 members representing the diverse interests in the community, namely—

- (i) one male elder;
- (ii) one female elder;
- (iii) one male youth;
- (iv) one female youth;
- (v) one person living with disability;

- (vi) a representative of relevant sectors appointed by the Ward Member of County Assembly;
  - (vii) a representative of relevant sectors appointed by the Ward Administrator;
  - (viii) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities who shall be nominated by an umbrella organization representing the largest number of such organizations in the Ward;
  - (ix) the Ward Administrator who shall be the Secretary, and an *ex-officio* member with no voting rights.
- (2) Nomination of members falling under sections 36(1)(i), (ii), (iii), (iv), (v), (vi) and (vii) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator at the Ward headquarters for that purpose and presided over by the Sub-County climate change Officer or a representative thereof.
- (3) The Ward Administrator shall ensure that all interest groups are equitably represented by location at the nomination meeting and the list of persons attending the meeting disaggregated by interest groups and location shall constitute part of the record of the meeting.
- (4) The notice convening the meeting under sub-section (2) hereinabove shall be issued not less than 14 days prior to the date thereof and shall be publicized through various public information platforms and forums in the ward.
- (5) Nomination of the representative of Community-Based Organizations shall be done through a meeting convened by the relevant network for that specific purpose and communicated to the Ward Administrator in writing with a certified copy of the minutes making the resolution.
- (6) Where there is no officially recognized ward level network of Community-Based Organizations, the Ward Administrator shall consult with the Member of County Assembly in the ward to agree on the appropriate representative under section 36(1)(viii).
- (7) Within 30 days of the conclusion of the nomination, the Ward Administrator shall present the list of nominees to the Planning Committee who shall formally appoint the members and publicize the list within the wards.

#### **Officers of the Ward Committee**

**30. (1)** The first activity of the Ward Committee at its first sitting shall be the election of a chairperson and a vice-chairperson from among the members.



(2) The chairperson and the vice-chairperson shall not be members of the same gender.

### **Qualifications for appointment to the Ward Committee**

**31.** (1) A person shall qualify for appointment to serve on the Ward Committee, if the said person—

- (a) is a resident of the ward;
- (b) fulfils the requirements of Chapter Six of the Constitution on leadership and integrity;
- (c) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the ward;
- (d) has demonstrated willingness to serve the community.

(2) Without prejudice to the provisions of sub-section (1) hereinabove, persons nominated under section 36(1)(iii), (iv), and (vii) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the Executive Committee Member shall determine the appropriate educational qualification.

### **Term of the Ward Committees**

**32.** (1) Save for the Ward Administrator and subject to sub-section (2) hereof, members of the Ward Committee shall serve for one non-renewable term of five years.

(2) Without prejudice to the provisions of sub-section (1) hereinabove and in order to ensure continuity, the members of the Ward Committee shall at their first meeting decide by lot who will be the first five persons to retire at the end of three years.

### **Removal of a Member of the Ward Committee**

**33.** (1) A member of the Ward Committee may at any time resign from the said Committee by giving a one month's notice in writing to the Sub-County Administrator.

(2) A member of the Ward Committee may be removed from the said Committee by the Sub-County Administrator on the recommendation of the Ward Administrator on any one or a combination of the following grounds—

- (a) failure to attend two consecutive meetings of the Ward Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;
- (c) gross misconduct;

(d) physical or mental incapacity;

(e) bankruptcy.

(3) A person who is a member of the Ward Committee by virtue of their office under section 36(1)(vii) shall cease to be a member of the said Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Ward Committee under section 36(1)(viii) shall cease to be a member of the said Committee upon ceasing to be a member of the Community-Based Organization or upon being recalled by the umbrella organization through written communication from an authorized official of the umbrella organization addressed to the Sub-County Administrator.

(5) Whenever a member of the Ward Committee is removed or otherwise ceases to be a member of the said Committee, the Sub-County Administrator shall ensure that a replacement is appointed within 30 days of the vacancy arising.

#### **Meetings of the Ward Climate Change Planning Committee**

34. (1) The Ward Committee shall meet at least once in every quarter.

(2) Save for the inaugural and emergency meetings which shall be held at the ward headquarters, regular meetings of the Ward Committee shall be convened and held in the different locations of the ward on a rotational basis.

(3) The quorum for meetings of the Ward Committee shall be two-thirds of the members.

(4) A resolution of the Ward Committee shall require an affirmative vote of more than one-half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(5) In the absence of the chairperson, the vice-chairperson shall preside over a meeting and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting.

(6) Regular meetings of the Ward Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Ward Committee.

(7) A Ward Committee may invite to its meeting(s) any technical staff whose expertise and skills may be needed for purposes of a matter before the said Committee and the Ward Administrator shall ensure that technical staff in the ward are available to advise the Committee as and when necessary.



**Reimbursement for Members of the Ward Committee**

35. Members of the Ward Committee shall serve on a voluntary basis, but may be reimbursed reasonable facilitative costs at a rate to be determined by the County Treasury and the Fund Administrator in consultation with the Steering Committee.

**PART III—THE MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE****The County Climate Change Action Plan**

36. (1) The Executive Committee Member shall in consultation with the Steering Committee and in accordance with Article 10 of the Constitution and section 4 of this Act, and through a participatory process involving relevant stakeholders, formulate a County Climate Change Action Plan.

(2) In formulating the County Climate Change Action Plan, the Executive Committee Member shall be informed by—

- (a) scientific knowledge about climate change;
- (b) technology and technological innovations relevant to climate change;
- (c) economic circumstances, in particular the likely impact of the action plan on the following—
  - (i) the economy;
  - (ii) the competitiveness of particular sectors of the economy;
  - (iii) small and medium-size enterprises;
  - (iv) employment opportunities; and
  - (v) the socio-economic well-being of any segment or part of the population;
- (d) fiscal circumstances, in particular, the likely impact of the action plans, strategies and policies on the marginalised and disadvantaged communities;
- (e) social circumstances in particular, the likely impact of the action plans, strategies and policies on biodiversity and ecosystem services;
- (f) international law and policy relating to climate change; and
- (g) indigenous knowledge related to climate change adaptation and mitigation.

(3) The Executive Committee Member, all public bodies and any person or entity engaged in climate change governance and administration functions shall be guided by the contents of the County Climate Change Action Plan.

(4) The County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan and County Integrated Development Plan.

(5) Without prejudice to the provisions of sub-section (4) hereinabove, the Executive Committee Member shall within one year of the coming into force of this Act, coordinate the development of an interim County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan.

(6) The County Climate Change Action Plan shall be reviewed and updated every five years through the same participatory process as the one followed in its formulation.

#### **Contents of the County Climate Change Action Plan**

**37.** The County Climate Change Action Plan shall—

- (a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;
- (b) contain a climate change needs and response assessment for the county;
- (c) map out and document climate change related risks and disasters and prescribe actions or reduction actions;
- (d) articulate a climate change response implementation plan informed by the climate change needs and response assessment and specifying measures and mechanisms for—
  - (i) guiding the county toward the achievement of a low-carbon climate resilient sustainable development;
  - (ii) mainstreaming climate change into county development plans, programmes, strategies and projects;
  - (iii) adaptation to and mitigation of climate change;
  - (iv) identifying actions required as enablers to county climate change actions and response;
  - (v) enhancing research, innovation and technology application;



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- (vi) promoting collaboration in training, capacity building, education and knowledge management on climate change response;
- (vii) enhancing public awareness for effective participation in climate change responses;
- (viii) monitoring, evaluation and periodic review to integrate learning and best practices in the implementation of the County Climate Change Action Plan.

#### **Approval and publication of the County Climate Change Action Plan**

38. (1) The County Climate Change Action Plan shall be approved by the Steering Committee and tabled before the County Assembly for adoption.

(2) Upon the adoption of the County Climate Change Action Plan by the County Assembly, the Executive Committee Member shall publish the same in the county website.

#### **Biennial review of the County Climate Change Action Plan**

39. The Planning Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the Steering Committee.

### **PART IV —THE DUTIES RELATING TO CLIMATE CHANGE**

#### **Climate change duties of public entities**

40. (1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any public entity operating within the county.

(2) Any public entity on which a climate change duty has been imposed shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.

(3) Without prejudice to the provisions of sub-section (1) hereinabove, every public entity operating in the county shall have the duty to—

- (a) mainstream climate change into sectoral strategies, plans and other frameworks for implementing its statutory functions;
- (b) perform its statutory functions in a manner that contributes to the implementation of the County Climate Change Action Plan;

- (c) support the Steering Committee and the County Government in its Steering, programming, implementation and monitoring of climate change response in the county; and
- (d) report annually to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

**Climate change duties of private entities**

41. (1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any private entity operating within the county.

(2) The Steering Committee shall make guidelines governing the nature and procedure for reporting on performance of climate change duties by private entities, including monitoring and evaluation on compliance.

**Monitoring and reporting on compliance**

42. (1) The Directorate shall on behalf of the Steering Committee, monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties.

(2) In performance of this function the Directorate shall—

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function;
- (c) if need be the Directorate may seek assistance from the National Environment Management Authority.

(3) The County Director in charge of Climate Change shall report to the Steering Committee on the performance of functions under sub-section (2) herein above on an annual basis and such report shall form part of the report by the Steering Committee to the County Assembly.

**The private entity to report on performance**

43. Notwithstanding the provisions of section 11, the Steering Committee may—



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- (a) by notice in the Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and
- (b) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.

**The Annual County Climate Change Response Report**

44. (1) The Steering Committee shall, within three months after the end of every financial year, publish publicly and submit a report on the implementation of the County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.

(2) The County Assembly shall, within three months of receiving the report, provide recommendations and proposed actions to the Planning Committee.

(3) A copy of the report issued under sub-section (1) hereinabove shall be forwarded to the National Climate Change Directorate for information purposes.

**PART V—PUBLIC PARTICIPATION AND ACCESS TO  
INFORMATION**

**Values and principles applicable to Steering and Implementation**

45. The Steering and implementation of climate responses in the county shall be informed by the values and principles specified in section 5 of this Act.

**Public engagement strategy**

46. (1) Within one year of this Act coming into force, the Planning Committee shall develop a comprehensive county strategy for public education and awareness creation on climate change in accordance with the Nyandarua County Citizen Petition and Participation Act, 2016.

(2) The strategy shall be developed through a participatory process involving all stakeholders in the county and validated at public meetings organised by the Ward Committees in every ward as encapsulated under section 35 of this Act.

(3) The strategy shall be approved by the Steering Committee and its implementation mainstreamed into the County Climate Change Action Plan.

**Public sensitization to precede formulation of climate change response plans**

47. (1) The Planning Committee and the Ward Committees shall ensure that the development of any climate change response programmes, plans, projects and or activities in the county is preceded by comprehensive campaigns of public sensitization and awareness creation to facilitate informed public participation.

(2) The Planning Committee and the Ward Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to sub-section (1) hereinabove and demonstrate how the said sensitization has made an impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 11, 50 and 67 of this Act.

**Capacity building for effective public participation**

48. (1) The Steering Committee shall ensure that the Planning Committee and the Ward Committees implement comprehensive programmes of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and responses.

(2) The Planning Committee and the Ward Committees shall support and facilitate communities to establish Community-Based Organizations and other frameworks for mobilization and engagement with climate governance and response issues in the county.

**Access to information**

49. The Steering Committee, the Planning Committee, the Sub-County Committee and the Ward Committee shall publish, publicise and ensure access to climate change information in their possession.

**PART VI—THE COUNTY CLIMATE CHANGE FUND****Establishment of the County Climate Change Fund**

50. (1) There is established the County Climate Change Fund in accordance with section 116(1) of the Public Finance Management Act, 2012.

(2) The Fund shall consist of—

- (a) initial capital appropriated by the County Assembly, being not less than two percent of the county development budget;



- (b) money appropriated annually by the County Assembly, which shall be not less than two percent of the annual development budget of the county;
  - (c) money received from the National Climate Change Fund;
  - (d) international Climate Finance received by the county directly or through the National Designated Authority, National Implementing Entity or other agency;
  - (e) donations, endowments, bequests, grants and gifts from individuals, public and private entities, either local or foreign;
  - (f) charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate matters in the county;
  - (g) revenue generated from research, innovations and technology investments that enhance low-carbon climate resilient development;
  - (h) public private partnerships, privately initiated investments programs and technical assistance;
  - (i) interest and any other money that may lawfully accrue to the Fund referred to in sub-section (1) hereinabove in any form;
  - (j) all other sums of money which become payable to or vested in the Fund referred to in sub-section (1) hereinabove.
- (3) Without prejudice to the underlying provisions of sub-section (1) hereinabove, the Fund shall be used for—
- (a) meeting the functions of the Climate Change Unit;
  - (b) provision of funding for research, innovations and technology applications on climate change actions and interventions;
  - (c) provision of incentives for the promotion of climate change initiatives;
  - (d) training, capacity building and awareness creation in climate change matters;
  - (e) monitoring, evaluation, reporting and learning;
  - (f) development of climate change information management systems;
  - (g) development of project concepts and proposals and application for and disbursement of money from the Fund;

- (h) provision of funds for purposes of compliance and enforcement of climate change actions;
- (i) procurement of goods and services;
- (j) complaints reporting and grievance redress mechanisms;
- (k) any other matter related to the implementation of this Act.

#### **Administration of the County Climate Change Fund**

51. (1) The Fund shall be administered by the Steering Committee and managed by the Chief Officer for the time being responsible for climate change affairs.

(2) The Fund shall be vested in the county treasury under a special purpose account.

(3) In administering the Fund, the Steering Committee shall determine the application, criteria and procedures for disbursement and use of the funds.

(4) The County Executive Member responsible for finance shall designate an officer known as the Fund Administrator.

(5) The Fund Administrator shall be the Fund Accountant responsible for the day-to-day operations of the Fund in consultation with the Steering Committee.

#### **The County Climate Change Fund Regulations**

52. The Executive Committee Member in charge of treasury may develop Regulations to enhance the administration and management of the Fund.

### **PART VII—FINANCIAL PROVISIONS**

#### **Funding operations of the Climate Change Unit**

53. (1) Functions of the Climate Change Unit and the secretariats thereof shall be financed through a vote in the County Climate Change Fund.

(2) Participation of representatives of the State and County Executive Departments in the Climate Change Unit shall be financed by the Fund in accordance with the Guidelines from the Salaries and Remuneration Commission as may be revised from time to time.

(3) Finances and accounts of the Climate Change Unit shall be administered and managed in accordance with the provisions of the Public Finance Management Act, 2012.



**Annual estimates of the Climate Change Unit**

54. At least three months prior to the commencement of each financial year, the Executive Committee Member shall cause to be prepared the annual estimates of revenue and expenditure of the Climate Change Unit.

**Financial year of the Climate Change Unit**

55. The financial year of the Climate Change Unit shall be the period of twelve months ending the thirtieth June in each year.

**Accounts and audit of the Climate Change Unit**

56. The Climate Change Unit shall cause to be kept all proper books and records of account, revenue, investments, expenditure and assets and shall cause the accounts to be audited within a period of three months after the end of each financial year.

**PART VIII—MISCELLANEOUS PROVISIONS****Protection from personal liability**

57. (1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Planning Committee, the Sub-county Committee or the Ward Committee in good faith and in performance of the functions or execution of powers vested in the said committees by this Act, shall render the member, officer, agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

(2) The provisions of sub-section (1) hereinabove shall not relieve the Steering Committee, the Planning Committee, the Sub-county Committee or Ward Committees of liability to pay compensation or damages to any person for any injury to them, their property or any of their interests caused by negligence in the exercise of any power conferred by this Act or any other written law.

**Declaration of interest**

58. (1) A member of the Climate Change Unit who has an interest in any business before the Committee(s) specified under section 64 of this Act and is present at the meeting(s) thereof, shall as soon as it is reasonably practicable, declare their interest(s) and shall thereupon be excused from the meeting(s) and consequently not take part in the consideration(s) or discussion(s) of, or vote on the matter(s) arising therefrom.

(2) A disclosure of interest made under sub-section (1) hereinabove shall be recorded in the minutes of the meeting(s) at which it is made.

**Offences and penalties**

59. (1) Any person who—

- (a) without lawful excuse ignores or fails to obey any instruction issued by any member of the Climate Change Unit, officer or agent thereof in exercise of the powers or the performance of the functions of the Climate Change Unit under this Act; or
- (b) wilfully obstructs any member of the Climate Change Unit, officer or agent of the Climate Change Unit in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any member of the Climate Change Unit, officer or agent thereof in exercise of the powers or the performance of the functions of the Climate Change Unit under this Act,

commits an offence and is liable, upon conviction, to a fine not exceeding Ten Million Kenyan Shillings or to imprisonment for a period not exceeding five years, or to both such fine and imprisonment.

(2) Where an offence under sub-section (1) hereinabove is committed by a body corporate, every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under the aforesaid sub-section (1).

(3) Where an offence under sub-section (1) hereinabove is committed by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under sub-section (1) hereinabove.

**Reports**

60. (1) The Steering Committee shall prepare annual reports setting out the progress towards mainstreaming of climate change actions.

(2) The Executive Committee Member shall submit a Report prepared under sub-section (1) hereinabove to the Governor and the County Assembly and shall publish the said Report in the County Website and in such other manner as they consider appropriate.

(3) The Governor or the County Assembly may at any time require the Steering Committee to submit a Report on a particular issue.

**Regulations**

61. The Executive Committee Member may make Regulations for the proper administration of this Act.