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NAKURU COUNTY ACTS, 2018

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THE NAKURU COUNTY REVENUE ALLOCATION ACT

No. 2 of 2018

Date of Assent: 2nd May, 2018

Date of Commencement: See Section I

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THE NAKURU COUNTY REVENUE ALLOCATION ACT, 2018

AN ACT of County Assembly of Nakuru to provide for the equitable allocation and use of county resources and for connected purposes

ENACTED by County Assembly of Nakuru as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Nakuru County Revenue Allocation Act, 2018, and shall come into operation upon the expiry of 30 days after publication.

Interpretation

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

“clerk” means the Clerk to the Nakuru County Assembly;

“community” means residents of a particular area or locality such as a Ward, location or sub-location within Nakuru County and having common interests;

“county executive committee member” means the member of the County Executive Committee responsible for finance and economic planning;

“chief officer” means the accounting officer in respective departments;

“county assembly member” means a member elected in accordance with Article 177 (1)(a) of the Constitution;

“ward” means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution;

“sub-county administrator” means a person appointed pursuant to section 50 (1) of the County Governments Act, 2012 responsible for co-ordination, management and supervision of the general administrative function in the sub county unit;

“ward administrator” means a person appointed pursuant to section 51 (1) of the County Governments Act, 2012 for each ward in a county responsible for co-ordination, management and supervision of the general administrative functions in the ward.

Object and Purposes of Act

3. The object and purpose of this Act is to—
- (a) provide a framework for the equitable sharing of county resources among the wards;
 - (b) provide resources for economic and social development in a fair and just manner;
 - (c) to provide a guaranteed budget line in the county budget cycles for funding of ward activities;
 - (d) provide mechanisms for identification and prioritization of ward projects;
 - (e) provide for the role of the County Executive Committee Member in charge of financial affairs of the county;
 - (f) provide for participation of the public in the determination and implementation of identified projects within the wards.

PART II—ALLOCATION OF RESOURCES**Establishment of the County Revenue Allocation**

4 (1) There shall be an annual budget allocation for ward projects and services consisting of—

(2) An amount of not less than 45 per centum of development expenditure for every financial year.

(3) The amount referred to in sub section (2) shall be calculated on the basis of the development expenditure as approved in the County Fiscal Strategy Paper and shall exclude the facility improvement fund and conditional grants.

Record of Disbursement to be kept

5. An accurate record of all payment made for projects to every Ward shall be kept and updated every month by the County Treasury.

PART III—SUBMISSION OF WARD PROJECT PROPOSALS**Submission of Projects**

6. (1) The list of proposed Ward based projects emanating from public participation under this Act shall be submitted to the county Executive Committee Member by the ward administrator.

(2) The County Executive Committee Member shall receive and compile the list of proposed Ward projects submitted under this Act and grant the necessary approval where the requirements of this Act has been fulfilled.

(3) The functions of the County Executive Committee Member shall be to—

- (a) ensure allocation and disbursement of funds in every Ward;
- (b) receive and discuss the annual reports and returns from the Wards;
- (c) ensure the compilation of proper records, returns and reports from the Wards;
- (d) ensure timely submissions to County Assembly and the County Executive committee of various returns, reports and information as required under this Act;
- (e) consider project proposals submitted for various wards in accordance with the Act and make appropriate recommendations to the County Assembly and the County Executive Committee;
- (f) continually review and oversee the implementation of policy framework and legislative matters that may arise in relation to the ward projects; and
- (g) perform such other functions as may be provided for in this Act.

Submission deadline

7. The list of the proposed Ward projects shall be submitted to the county treasury before the end of the month of February in each year or such other month as may be determined by the County Executive Committee Member in order to ensure timely inclusion of the projects in the annual County Government budget of each year.

Submission form

8. (1) The list of projects shall be submitted on a Ward Projects Submission Form set out in the Second Schedule to this Act.

(2) All projects proposed for every Ward shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

Projects description form

9. For every project listed in the Form, there shall be attached a Project Description Form set out in the Third Schedule.

Approval of Projects

10. The County Executive Committee Member shall scrutinize and approve for funding those project proposals that are consistent with the Act.

List to be serialised

11. The projects listed for each Ward shall be numbered by the County Executive Committee Member and the serial numbers of all projects in a Ward shall bear the Ward number as delineated by the Independent Electoral and Boundaries Commission so as to ensure that a project retains the same serial number every year until its completion.

Allocation of Funds

12. (1) The County Executive Committee Member, with the concurrence of the County Assembly, shall for each financial year allocate funds to each Ward in accordance with Part IV of this Act.

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year in accordance with the provisions of the Public Finance Management Act, 2012.

(3) If for any reason a particular development project is cancelled or discontinued during the financial year, funds allocated for such a project shall be retained for the purpose it was established.

(4) Unspent development Funds at the end of the Financial Year, shall be re-allocated to any eligible project and such project may be new or ongoing.

(5) A return as set out in the First Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

PART IV – ALLOCATION CRITERIA**Basis for Budget ceiling**

13. (1) The budget ceiling, for each Ward shall be determined by a criteria that incorporates proportion of population, basic equal share and land area as set out in the Fourth Schedule subject to approval by the County Assembly.

(2) Subject to this section, the following weights shall apply to the above mentioned parameters; population 30 per centum; equal share 60 per centum and land area 10 per centum.

(3) Subject to this section, the parameters shall be reviewed after every census or economic survey by the Kenya National Bureau of statistics to reflect changes in the ward demographic variables.

(4) The Chairperson of the relevant Committee of the County Assembly shall table in the Assembly a schedule showing the ceiling for each Ward, which shall be determined in accordance with sub section (1).

Criteria for Projects

14. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.

(2) It shall be the responsibility of the County Executive Committee member to ensure that the list of projects submitted for funding comply with the provisions of the Act and their total cost does not exceed the allowed ceiling for the particular Ward or is not below that ceiling.

(3) If the list of projects submitted for funding is in contravention of subsection (2) the same shall be referred back to the Ward for amendment and re-submission.

PART V – TYPES OF PROJECTS

Projects to be community based

15. (1) Projects under this Act shall—

- (a) be in respect of those falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution;
- (b) be community based for purposes of ensuring the accruing benefits are available to a widespread cross-section of the inhabitants of a particular area.

(2) Any funding under this Act shall be for a complete project or a defined phase, of a project and may include the acquisition of land and buildings.

(3) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.

(4) The allocation shall be used to fund all or any of the following projects—

- (a) education sector – development of social halls, early childhood development, youth empowerment centers, home craft, and village polytechnics;
- (b) health - construction and equipment of healthcare facilities at ward level;
- (c) agriculture livestock and fisheries development;
- (d) trade, markets, and co-operatives development;

- (e) road infrastructure and street lighting;
- (f) water infrastructure and climate mitigation;
- (g) any other ward based development infrastructure.

(5) Funds provided under this Act shall not be used for the purpose of supporting political bodies; political activities; religious bodies or religious activities.

(6) The number of projects to be included in the ward project submission form specified in the second schedule shall comply with the county policy on project identification and implementation.

Cost estimates to be realistic

16. (1) The ward administrator, in consultation with the area Member of County Assembly, general public and other stakeholders including technical personnel shall identify and rank all projects in order of priority and whenever, in the opinion of the County Executive Committee Member, the total cost of the projects listed exceed the ceiling for a particular Ward, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.

(2) The County Executive Committee Member shall make appropriate consultations with the relevant government departments to ensure that the cost estimates of the projects are as realistic as possible.

(3) For the avoidance of doubt, in identifying development projects for prioritization, regard shall be made to the approved development plans.

Personal awards to be excluded

17. (1) A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with the Act.

Counter-part funding to be permitted

18. For the purposes of this Act, the County Executive Committee Member may consider part funding of a project from other sources.

PART VI—SUBMISSION OF QUARTERLY REPORT

Quarterly reports on projects and Disbursements

19. (1) The County Executive Committee Member shall, on a quarterly basis, submit a report to the County Assembly detailing—

- (a) a summary of the project proposals received from the wards in the preceding month and indicating the approval status of such projects;
- (b) a summary of the status of disbursements of funds to the wards for that preceding month;
- (c) any restriction imposed on a Ward project in accordance with the Act.

(2) The County Executive Committee member shall ensure that the list of projects forwarded to him /her by each ward is, upon approval, funded in accordance with the Act.

PART VII—IMPLEMENTATION OF PROJECTS

Relevant county department shall implement the projects

20. (1) Projects under this Act shall be implemented by the relevant department of the County Government and the respective Ward administrator. All payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that Ward.

(3) The respective Chief Officer for the departments and the ward administrator shall be primarily responsible for monitoring the implementation of projects.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Ward administrator shall be the property of the County Government.

(5) No asset or equipment acquired under this section shall be disposed of by the County Government in contravention with the Public Procurement and Disposal Act, 2015.

Procurement of Services and Works

21. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act, 2005.

PART VIII—MISCELLANEOUS PROVISIONS

Member of the County Executive Committee to make regulations

22. (1) The County Executive Committee Member may make, with the approval of the County Assembly, regulations for the smooth implementation of the Act.

(2) The County Executive Committee Member may amend any of the Schedules through a notice in the Gazette, provided that such amendments shall first be approved by the County Assembly.

Provisions in the Act are complimentary

23. (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county government or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development program.

(2) For clarity, County Government development allocations shall continue alongside the projects funded under this Act.

Offences and Penalties

Dispute resolution

24. (1) All complaints and disputes by persons arising due to the administration of this Act shall be forwarded to the County Executive Committee Member in the first instance.

(2) Complaints and Act of a criminal nature shall be dealt with as provided by national legislation governing the criminal justice system.

(3) Disputes of a civil nature shall be referred to the County Executive Committee Member in the first instance and where necessary, an arbitration panel or an arbitrator whose costs shall be borne by the parties to the dispute, may be appointed by parties to consider and determine the matter before the same is referred to a court.

(4) Notwithstanding subsection (3), where parties fail to jointly agree on an arbitrator, the County Executive Committee Member may appoint an arbitrator whose costs shall be jointly borne by the parties.

(s. 6)

FIRST SCHEDULE

(s. 11(5))

PROJECT RE-ALLOCATION FORM

Ward No: Name Financial year

Project No.	Project Title	Amount allocated (KSh.)	Amount disbursed (KSh.)	Balance (KSh.)	Unspent to be re-allocated

Signature..... Date.....

Name Position

THIRD SCHEDULE (s. 22)

PROJECT DESCRIPTION FORM

Ward No: Ward Name..... County.....

Project Number

Project Title

Sector

Status of projects (tick one) New Extension On-going

Rehabilitation

Brief statement on project status at time of submission
.....
.....
.....
.....

Financial year from 1st Julyto 30th June

Original Cost estimates, in KSh. Dated

Amount allocated last financial year

Person completing form: Signature

Name Position

Date

FOURTH SCHEDULE
BASIS FOR BUDGET CEILINGS

No.	Parameter	Proportion (%)
1	Population	30
2	Equal Share	60
3	Land Area	10
	Total	100