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REPUBLIC OF KENYA

NYAMIRA COUNTY GAZETTE SUPPLEMENT

ACTS, 2015

NAIROBI, 22nd January, 2015

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI
THE NYAMIRA COUNTY WARD DEVELOPMENT FUND (WDF) ACT, 2015

No. 5 of 2015

Date of Assent: 20th January, 2015

Date of Commencement: By Notice

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No. 5

Nyamira County Ward Development Fund

AN ACT of the County Assembly of Nyamira to provide for the Establishment of the Ward Development Fund

ENACTED by the Government of Nyamira County, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nyamira County Ward Development Fund Act, 2015 and shall come into operation on such date as the Executive Committee Member (ECM) of Finance and Economic Planning shall by notice appoint, but not later than thirty days from the date of assent/after publication.

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

“Community” means residents of a particular area or region as a Ward;

“Clerk” means the clerk to the County Assembly of Nyamira.

“Ward Development Fund Committee” means the committee established under section 29.

“Ward Fund Account” means the account maintained for every Ward in accordance with section 41.

“Fund” means the Ward Development Fund established under section 4.

“Executive Committee Member” means the Executive Committee Member for the time being responsible for matters related to Finance.

“Ward Development Fund Management Board” means management board of County Government established in accordance with section 5 of this Act.

“Officer administrating the Fund” means Nyamira County Executive Committee Member for Finance and Economic Planning.

3. The provision of this Act shall apply, as more specifically provided for in the Act and shall ensure that specific portion of the County annual budget is devoted to the Wards for purposes of development and in particular the fight against poverty at the Ward level.
PART II — ESTABLISHMENT OF THE WARD DEVELOPMENT FUND

1. (1) There is established a fund known as the Ward Development Fund (in this Act referred to as the “fund”) which shall be administered by the Executive Committee Member responsible for finance and the officer administering the fund under the direction of the Ward Development Fund Management Board.

(2) The County Assembly as a state organ shall exercise an oversight role over the Fund and its administration.

(3) There shall be paid into the fund—

(a) An amount of money equal to a minimum of Five (5%) Percent of all County Government Ordinary Revenue in every financial year.

(b) Any monies accruing to or received by the Ward Development Fund Management Board from any source.

(c) Any monies duly fundraised by the Ward Development Fund Committee in accordance with any written law and/or the County Development Plan.

(4) The expenditure from the fund shall be limited to the annual budget and shall further take into account the County Integrated development plan and County Annual Development Plan. Such expenditure shall be submitted to the Executive Committee Member for approval in accordance with this Act before the beginning of the financial year which the budget relates.

(5) There shall be paid out of the fund payments in respect to any expense incurred in pursuance of the provision of this Act.

(6) If the Act comes into operation mid way in the financial year, then the Majority Leader shall within one month of the assent, table in the house the amount proposed to be put in the fund and the allocation to each Ward and the amount proposed shall be allowed through supplementary estimates.
2. (1) There is established a Board to be known as the Ward Development Fund Management Board (CWDFMB).

(2) The board shall be administered by a board of directors

(3) The board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of-

(a) Suing and being sued

(b) Taking, purchasing or otherwise acquiring holding, charging or disposing of movable and immovable property acquired by this fund.

(c) Doing or performing all other acts or things for the proper performance of its function under this Act which may lawfully be done or performed by a body Corporate.

6. (1) Functions of the County Ward Development Fund Management Board;

(a) To ensure allocation and disbursement of funds in every Ward

(b) To ensure prudent management of the fund

(c) To receive and discuss the annual reports and returns from the Wards

(d) To ensure the compilation of proper records /returns and reports from the Wards

(e) To ensure timely submissions to County Assembly of various returns, reports and information as required under this Act

(f) To perform such other duties as the Ward Development Fund Management Board, in consultation with the Executive Committee Member (ECM), may deem necessary from time to time for proper management of the fund

(g) To evaluate project proposals submitted from various Wards in accordance with the Act and make appropriate recommendation to the County Assembly.
To consider and report to the County Assembly with recommendation, names of persons required to be approved by the County Assembly under this Act. The composition of membership of the Ward Development fund will be spelt out in the regulations to be developed to operationalize this Act.

To oversee the implementation, policy framework and legislative matters that may arise in relation to the fund.

To continually review the framework set out for the efficient delivery of development program financed through the fund and to carry out other functions relevant to the work of the fund.

The County Ward Development Fund Management Board shall scrutinize the list of projects received under section 15.

The quorum necessary for the transactions of the business of Ward Development Fund Management Board shall be two thirds of all the members.

Composition of the County Ward Development Fund Development Board shall consist of the following persons all qualified in matters relating to finance, accounting, engineering, economics, community development, or law, appointed by the Governor with the Approval of the County Assembly:

(a) Chairperson
(b) Male youth
(c) Female youth
(d) The Executive Committee Member in charge of Finance
(e) A member representing special interest groups
(f) A member representing people with disability
(g) Member representing Religious groups
(h) Officer administrating the fund- who shall be the secretary to the Board

At the first meeting of the Board, the members
shall elect from among themselves one person who shall be the Vice chairperson.

(6) The term of service of the members of the Development Board, other than the Executive Committee member shall be five years and the said members shall be eligible for re-appointment for one more term.

7. The officer administering the fund shall—

(a) Be the Chief Executive officer of the board

(b) Supervise and control the day-to-day administration of the fund.

(c) Prepare monthly returns on the disbursements of the funds as appropriate for submission to the County Assembly.

(d) Keep and cause to be kept proper books, of account and other books and records related to the fund.

(e) Prepare sign and transmit to the auditor accounts of the fund.

(f) The officer administering the fund shall serve for a term of Five years and shall be eligible to serve for another term.

8. (1) Each and every disbursement from the fund shall be approved by the Ward Development Fund Management Board at the ward level.

(2) All disbursements from the fund shall be for specific projects as provided for in printed estimates prepared for projects under this Act.

(3) All disbursements of the Fund shall be made through the Ward bank accounts maintained for every Ward in accordance with section 41of the Act.

(4) The record of amounts received by each Ward and the record of expenditure of amounts so received shall be submitted to the Ward Development Fund Management Board within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for succeeding financial year shall be made into the accounts until the said records are received.
(5) The Ward Development Fund Management Board may set out general conditions and requirements for release of funds provided that such conditions shall be submitted to the County Assembly for approval before implementation.

(6) The Ward Development Fund Management Board may impose reasonable requirements including restrictions on a particular Ward due to previous misuse of funds and such restrictions requirements shall be reported together with monthly returns to be submitted to the County Assembly in accordance with this Act.

9. (1) County Ward Development Fund Management Board shall for a financial year allocate funds for each Ward and the funds shall be reflected in the printed estimates of that particular financial year.

(2) Once funds are allocated for a particular project they shall remain allocated for that project and shall not be re allocated during the financial year for any other purpose whether in that Ward or anywhere else.

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for that project shall be returned to the fund and credited to the account of the Ward from which the funds were withdrawn.

10. (1) All receipts, savings and accruals to the fund and the balance of the fund at the end of each financial year shall be retained for the purpose for which the fund is established.

(2) All funds allocated to a Ward shall be cumulative and shall be carried forward from one financial year to the next including funds returned to the account under section (9)(2)or funds which are not utilized for whatever reason.

11. (a) A portion of the fund equivalent to five percent (5%) hereinafter referred to as "emergency reserve" which may be allocated to other projects at the end of the financial year.

PART III — SUBMISSION OF COUNTY WARD DEVELOPMENT PROJECT PROPOSALS

12. (1) The list of proposed Ward projects to be covered under this Act shall be submitted by elected
member of County Assembly.

(2) The Ward Development Fund Management Board to receive and compile the list of proposed Ward projects submitted to him under this Act.

13. The list of the proposed Ward projects shall be submitted to the Ward Development Fund Management Board before the end of the month of February in each year or such a month as may be determined by the Executive Committee Member in order to ensure timely inclusion of the projects in the annual County budget of a particular financial year.

14. (1) The list of projects shall be submitted on a standard Ward projects submission form set out in the second schedule of this Act

(2) All projects proposed for every Ward shall be listed in the form together with the cost estimates of each project.

15. (1) For every project listed in the form there shall be an attachment thereto, a standard project description form set out in the third schedule.

(2) The County Ward Development Fund Management Board may by notice amend any of the schedules to this Act provided that the amendments shall first be referred to the County Assembly for approval.

16. The list of projects received by the County Ward Development Fund Board pursuant to section 14 shall be tabled by the clerk on or before March 15th of every financial year for review at a meeting convened for that purpose.

17. County Ward Development Fund Management Board shall after scrutiny of the list of projects submit to the Executive Committee Member (ECM) the list of projects received for all the Wards together with a summary showing the total number of projects and the total costs of projects for all the Wards

18. The projects listed for each Ward in accordance with section 16 shall be numbered by the officer administering the fund in order to ensure that the same serial number every year until its completion.
19. The budget ceiling for each Ward shall be;

(a) Eighty five percent (85%) of the amount specified in section 4(2) Divided equitably among all Wards based on a criteria which shall be developed under the regulations operationalizing this Act.

20. (1) The type of projects submitted for funding under this Act shall comply with this Act.

(2) It shall be the responsibilities of the Ward Development Fund Committee to ensure that the list of projects submitted for funding comply with provisions of this Act, and their cost does not exceed the allowance ceiling for the Particular Ward.

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

PART VI —TYPES OF PROJECTS

21. (1) Projects under this Act shall be Ward based in order to ensure that the prospective benefits are available to a wide spread cross-section of the inhabitants of the Ward.

(2) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input.

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

(4) Projects may include the acquisition of vehicles, machinery and other equipment for the Ward.

(5) Sports activities shall be considered as development projects for purpose of this Act.

(6) Monitoring and evaluations of ongoing projects and capacity building of various operations may be considered as development project.

(7) Environmental activities may be considered as development project(s) for the purpose of this Act.
22. (1) The number of projects to be included in the W.D.F are outlined and listed in section 17 (1) of this Act and as Provided in the project description form set out in the third schedule of this Act.

(2) Project activities of a similar nature in a particular Ward may be combined and considered as one project for purpose of Subsection (1) provided that the sub projects are listed in the Third schedule of this Act.

(3) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Ward Development Fund Committee of each of the participating Wards and shall be reflected on the projects listed for each of the participating Wards.

(4) Where Wards have joint projects, the Ward Development Fund Committee shall co-ordinate such projects.

23. (1) The Ward Development Fund Committees may make appropriate consultations with the relevant County Government department to ensure that cost estimation for projects are as realistic as practically possible.

(2) The Ward Development Fund Committee shall rank the Projects in order of priority and in the opinion of the Board, If the total cost of the projects listed exceed the ceiling of a particular Ward then the order in which they are listed shall be taken as the order of priority for allocation of Funds, provided that on-going projects shall take precedence.

24. A project or 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 to this Act.

25. The Ward Development Fund Management Board may consider part funding of a project financed from financiers or donors provided they have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated.
26. Proposals to be included in printed estimates. The Chairperson of the Ward Development Fund Board shall table a list of the projects and their respective printed estimates in the Assembly for purposes of allocation of Funds for that Ward by the Assembly.

WARD DEVELOPMENT FUND COMMITTEE

27. There shall be a Ward Development Fund Committee for every Ward which shall be constituted by the elected member of County Assembly within the first sixty days of every current assembly.

28. (1) Composition of the Ward Development Fund Committee shall comprise;

(a) Elected member of County Assembly as the patron;
(b) Ward administrator who shall be the secretary to the Committee;
(c) One youth representative to represent the youths in the ward;
(d) One representative of professionals within the ward;
(e) One representative of the religious community within the ward;
(f) One representative of adults within the ward;
(g) One representative of persons living with disabilities within the ward;
(h) One Representative from the Ward office
(i) Such numbers of persons as are necessary to ensure gender parity in the Committee.

(2) Ward administrator shall in accordance with subsection (1) (b) have no right to vote but shall attend every meeting and keep records.

29. (1) Each Ward shall come up with proposals, discuss them, select and prioritize a list of projects to be submitted to the Ward Development Fund Management Board.

(2) The County Ward Development Fund Committee shall deliberate on project proposals from the Ward and
any other project which the committee considers beneficial to the Ward then draw up priority project list both immediate and long term, out of which the list of projects to be submitted to County Assembly in accordance with section 14 of this Act.

(3) The quorum of the County Ward Development Fund Committee shall be two thirds of the total membership.

(4) The County Ward Development Fund Committee shall have the power and shall further be encouraged to learn best practices from other counties and wards for purposes of financial efficiency and to curtail misuse of resources.

30. (a) Forty percent (40%) of each Wards’ annual allocation shall be used for an education bursary scheme

(b) An amount not exceeding five percent (5%) shall be used as expenses for running County Ward Development Fund (CWDF) which may include rent and utilities, staff salaries and committee allowances.

(c) Two percent (2%) of each Ward annual allocation shall be used for sporting activities.

(d) Two percent (2%) of each Ward annual allocation shall be used for environmental health activities.

(e) Two percent (2%) of each Ward annual allocation shall be used on capacity building.

(f) Purchasing, running and maintenance of computers and other equipments must not take more than Ten percent (10%) of the total annual allocation.

(g) 5% of each Ward annual allocation shall be reserved for emergency purposes

(g) 34% of each Ward annual allocation shall be for purposes of general development.

31. All funds received under this Act shall be administered in line with the provisions of section 167 and 168 of the PFM Act 2012.

32. Projects to be initiated by the community shall be
eligible for support under this Act provided that such projects shall be submitted with other projects in conformity with the requirements of this Act.

33. Any ongoing or existing projects initiated by a community prior or after commencement of this Act intended to be supported under this Act shall undergo a technical and financial evaluation by the Ward Development Fund Committee and project status, before it is listed for support in accordance with provisions of this Act.

PART VI — IMPLEMENTATION OF PROJECTS

34. Projects under this Act shall be implemented by the County Ward Development Fund Committee and all payments through cheques or otherwise are processed and effected in accordance with County Government regulations Act.

35. All works and services relating to projects under this Act shall be sourced using The Public Procurement and Disposal Act.

36. The Ward administrator of each Ward shall keep and maintain books records of the disbursed funds and progress of the projects funded under this Act.

37. The Ward Development Fund Committee in every Ward shall compile and maintain records showing all received funds and disbursement on a monthly basis in respect of every project under this Act and submit annual returns to the County Ward Development Fund Management Board not later than sixty (60) days after the end of every financial year.

PART VII — FINANCE AND ADMINISTRATION

40. The Public Service Board shall at the written request of the Board recruit and forward to the Board such staff qualified in matters relating to finance, accounting, engineering and/or law, as may be necessary for the effective discharge of the Board’s functions.

41. (1) For purposes of funds under this Act there shall be opened and maintained Ward account for every ward at Commercial Bank approved by the Executive Committee Member.
(2) At least 3 signatories are required for every cheque or instrument on actual payment or withdrawal of funds from a Ward account, and signing instructions shall be such that the Ward administrator and Two other members as will be decided upon by the Ward Development Fund Committee.

(3) Funds from the Ward account shall only be withdrawn as disbursement of a particular project in accordance to the provisions of section 8(3) of this Act.

(4) Each and every payment out of the Ward account shall strictly be on the basis of a minute resolution by the Ward Development Fund Committee.

(5) All receipts, savings and accruals to the Ward account and the balances thereof at the end of each financial year shall be retained in the Ward account for purposes which the account is maintained.

(6) All unutilized funds shall remain in the Ward account and no investments elsewhere shall be permitted provided that funds meant for a project that is cancelled or discontinued shall be returned in the fund in accordance with section 9.

(7) Any accruing revenues, interests and liabilities of the Ward account shall be declared by Ward Development Fund Management Board together with annual returns.

(2) The signatories to the account of the fund maintained in accordance with subsection (1) Shall be officer administrating the fund and two other people appointed by the County Ward Development Fund Management Board from among its members.

(3) The signature of the officer administrating the fund shall be mandatory on all payment cheques and or instruments intended for actual realization of money from the fund.

43. (1) An accurate record of all disbursement made for projects in the Ward shall be kept and updated every month with the help of the ward development fund committee members.

(2) The disbursement of funds to the Ward account shall be effected within the first quarter of each financial
year as soon as funds are disbursed to the county.

PART IX — MISCELLANEOUS PROVISIONS

44. (1) The Committee members will be entitled to allowances and benefits as shall be provided in the regulations and other provisions as provided for in various constitutional commissions.

(2) The total benefits and personal emoluments should not exceed 3% of the total annual fund allocation.

45. The officer administrating the fund makes regulations for the same running of the fund and such regulations is approved by County Assembly before implementation.

46. (1) The provisions of this Act compliments other development efforts by the County Government or other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any development programs by the County Government or other agency.

(2) For the avoidance of doubt, normal County Government development allocation should continue alongside the projects funded under this Act.
FIRST SCHEDULE

GOVERNOR TO APPOINT EXECUTIVE COMMITTEE MEMBER (ECM) FOR FINANCE AND ECONOMIC PLANNING TO THE WARD DEVELOPMENT FUND MANAGEMENT BOARD
SECOND SCHEDULE
WARD PROJECTS SUBMISSION FORM

WARD NO................WARD NAME........................FINANCIAL YEAR..................

MEMBER OF COUNTY ASSEMBLY..................SIGNATURE..........................

DATE........................................

<table>
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<th>SERIAL NO</th>
<th>NAME OF PROJECT</th>
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TOTAL OF THE FINANCIAL YEAR
STANDARD PROJECTS DESCRIPTION FORM

WARD.....................................................................................

Project name............................................................................

Status projects: new..................................................on-going........................................

Extension......................................................rehabilitation........................................

Brief description of the type and scope of project

................................................................................................

................................................................................................

Statement on progress at time of submission

................................................................................................

................................................................................................

................................................................................................

Original estimates, costs in kshs......................times in weeks.........................

Current estimate to completion, costs kshs.................................

Total disbursement last financial year kshs.................................

Funds proposed/to be allocated this financial year kshs...................

Person completing form........................signature............................