

Maintaining of Books

The Directorate shall keep proper books of accounts. Three months after the end of each financial year, the Council must submit to the Auditor-General all the records of accounts in respect of that year together with:

- a) The income and expenditure statement
- b) The Assets and Liabilities statement
- c) The annual accounts prepared, audited and reported on in accordance with Articles 226 and 229 of the Constitution and public audit laws .

Financial Year

The financial year of the Directorate will be 30th June each year.

Offences

- It is an offence for any person to block any officer of the County Government or Directorate from discharging their functions
- It is an offence to refuse to observe directions given by the County Government with reference to disasters
- It is an offence to knowingly claim falsely any benefits or assistance when a disaster occurs
- It is an offence to knowingly cause any false alarm or warning concerning a disaster or a looming disaster
- It is an offence to fail to discharge one's duty as per the Act
- It is an offence to destroy any equipment used for disasters relief and response. One will be liable to a fine of a minimum of five hundred thousand shillings or a one year imprisonment or both.

PART V: PROVISIONS ON DELEGATED POWERS

Emergency Declaration

The Council may make a declaration of disaster in the county. This declaration activates the county disaster response mechanisms.

The power of the President of Kenya to declare a state of emergency as per the Constitution is not affected by the Act.

Rules

The County Executive Committee member in charge of public safety will make rules for the better implementation of the Disaster Management Act.

Principles and Standards of Delegated Power

The principles and standards applicable to delegated power are the principles found in:

- a) The Statutory Instruments Act, 2013;
- b) The Interpretation and General Provisions Act;
- c) The Constitution;
- d) Any other national law;

- e) The general rules of international law under Article 2(5) of the Constitution; and
- f) Any treaty or convention that Kenya is a signatory

PART VI: FINAL PROVISIONS

Transitional Clauses

The following shall be all vested in the Council from the County Public Service Disaster Department upon commencement of the Act:-

- All funds, assets and other movable and immovable property
- All rights, powers and liabilities
- All members of staff
- Annual estimates
- Any reference to the County Public Service
- Administrative directions in force

SCHEDULE (S. 4(5))

CONDUCT OF AFFAIRS AND BUSINESS OF THE COUNCIL

Tenure of Office

Members of the Council will be eligible to hold office for two terms, each term a period of five years and in accordance with the terms and conditions of the appointment.

Vacation of Office

A member except an ex-officio member, can resign at any time by notice in writing to the Governor.

A member can be removed from office by the Governor on recommendation of the Council on grounds of:-

- Absenteeism from three consecutive Council meetings without the Council's permission;
- Violating Chapter Six or Thirteen of the Constitution
- Conviction of a criminal offence
- Incapacitation exceeding six months
- Inability to discharge his or her functions

Meetings

The council will meet four times or more in every financial year. The chairperson may convene a special meeting of the Council with at least five members for Council transactions. Members of the Council shall be informed of Council meetings in writing at least fourteen days prior to the meeting date. The quorum for Council meetings shall be half of the total members including the Chairperson. Members will elect one of them to be the Vice-Chairperson. The chairperson will preside when the Chairperson is absent and will preside with all the powers of the chairperson during the meeting.

The decision on any matter before the Council will be by majority votes of the members present. In the event there is an equality of votes, the chairperson or the person presiding shall cast his vote. Council proceedings shall not be invalid for the reason of vacancy of members. The Council shall determine its own procedure for meetings.

Committees of the Council

The Council may establish committees to perform certain duties. The council will appoint the chairperson of the committee from among the members of that committee.

The Council can choose any person to sit in meetings of any committee. The decisions of the committees will be approved by the Council. The Council will establish separate committees responsible for-

- a) Management issues
- b) Practice issues
- c) Raising and assessment issues.

Disclosure of Interest

Any member present at a meeting who has any interest whatsoever in a matter including contracts will reveal or disclose this interest. The member will not take part in the continuing discussion in any way including voting on the matter or be counted in quorum of the meeting. The disclosure will be recorded in the minutes of that meeting. Any member who fails to disclose their interest in any matter at a meeting commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

Contracts and Instruments

The Council will generally or specially authorize a person to enter into or execute a contract on behalf of the Council.

Common Seal

The affixing of the common seal of the Council will be authenticated by the signatures of the Chairperson and the Secretary. Where a document, including the decisions of the Council, does not require the common seal, the signatures of the Chairperson and the Secretary shall be sufficient.

PARTNERS



THE NAIROBI CITY COUNTY DISASTER & EMERGENCY MANAGEMENT ACT, 2015



Introduction

The Nairobi City County Disaster and Emergency Management Bill (NCCDM) provides for the management of disasters and emergencies in Nairobi County.

A disaster is defined within the Act as any situation in the County;-

- that arises from any natural or unnatural happening such as fires, outbreak or spread of a disease that affects humans, plants or animals, any event that threatens the supply of water or the quantity of water resources and any emergency event resulting from systems failure, infrastructure failure or human error
- that involves threat or danger to human life or the environment

The objects and purpose of the Act are:

- a) To establish an effective structure for the management of disasters
- b) To provide mechanisms for coordination and collaboration between the County, agencies and the community
- c) To establish an institutional framework for disaster management within the County
- d) Mainstream Disaster Risk Reduction within the County's Disaster management plans
- e) Incorporate the whole cycle of disaster including preparedness, response and recovery

PART II: THE COUNTY DISASTER MANAGEMENT STRUCTURE

The disaster and emergency management council

A Disaster and Management Council is established which will be led by The Deputy Governor. The Secretary of the Council is the County Director for Disaster Preparedness and Response.

The Council consists of:

- a) Specific County Executive Members in charge of public safety, treasury, health, environment, public works, agriculture and planning,
- b) The County Commissioner,
- c) The County Commandant of Police,
- d) The County Liaison Officer of the Kenya Red Cross Society, and
- e) One male and one female representative of the public.

Roles of the Council

The Council's various roles include:

- a) Setting policies on disaster and emergency management
- b) Approving the Plan

- c) Reviewing, approving and authorizing the recommendations of the Director
- d) Overseeing the application and implementation of the County Disaster Management Plan during any period of a disaster or emergency. The Council will be in-charge of the implementation of risk reduction, preparedness, response and recovery activities of all County Agencies performing roles related to disaster management.
- e) Overseeing the implementation of risk reduction, preparedness, response and recovery activities by all County Government Agencies and other agencies performing roles related to disaster management
- f) Implementing the National Government's policy on disaster and emergency response
- g) Discharging any other responsibility or exercising any other power as provided by this Act or the County Disaster Management Plan.

The Council will report annually to the County Assembly on the status of disaster and emergency response preparedness of the County.

Functions of the Directorate

The Directorate's functions include:

- a) Assessing and reviewing all disasters and emergencies and make the appropriate recommendations to the Council;
- b) Preparing and subject to the Council's approval implementing the Plan;
- c) Co-ordinating and monitoring the implementation of the National and County disaster management policy
- d) Ensuring that areas in the county vulnerable to disasters are identified and measures for disaster management are undertaken
- e) Undertaking activities relating to raising capacity for effective response to disasters
- f) Ensuring that the guidelines for disaster management-prevention, mitigation, preparedness and response are implemented by all county departments
- g) Ensuring that the Plan is publicized and community awareness is done concerning disasters
- h) Coordinating an inter-agency approach to disaster and emergency planning, risk reduction and preparedness, and response and recovery activities
- i) Implementing the decisions of the council
- j) Ensuring that preparedness activities are undertaken such as public awareness raising, training, simulation exercises, planning and establishing facilities and communications
- k) Organizing and coordinating specialized training for the Directorate officers and county volunteer rescue workers

- l) Setting up, maintaining, reviewing and upgrading early warning mechanisms and disseminating information to the public
- m) Identifying places and buildings to be used as relief centers in case of disasters and ensuring these places have water and sanitation.
- n) Ensuring that collaboration with other appropriate persons or national government agencies is put in place
- o) Advising the County Government on all matters relating to disaster and emergency response.
- p) Ensuring that the relevant agencies and institutions determined by the Director prepare their own disaster management plans
- q) Assisting response agencies and the community to identify, implement and participate in disaster reduction activities and programmes.
- r) Undertaking activities necessary to prepare for responses to disasters and emergencies.

Administration of the Directorate

The Directorate is headed by the Director of Disaster and Emergency Management appointed by the County Public Service Board.

The Director will be required to possess the following qualifications:

- a) Be a Kenyan citizen;
- b) Be a holder of at least a first university degree in a course relevant to matters of disaster and emergency management.
- c) Satisfies the requirements of Chapter Six of the Constitution; and
- d) Has knowledge, experience and a distinguished career of more five years in the relevant field.

The Council, in consultation with the County Public Service Board, determines the staff required for proper execution of the work of the Directorate.

The Director is the overall head of the Directorate. He or she is responsible for the following:

- a) The daily running and operation of the Directorate;
- b) Administration, organization and control of the Directorate staff;
- c) Management of funds, property and affairs of the Directorate
- d) Implementation of policies and programmes of the Directorate and reporting to the Council
- e) Developing the operational plans in order to achieve the objectives of the Directorate; and
- f) Performing any other function necessary for the implementation of this Act.

The Plan

The Nairobi City County Disaster Management Plan will be prepared by the Directorate and be approved by the Council. This Plan will be reviewed and updated yearly.

The contents of the Plan shall be;-

- Measures taken for the prevention of disasters
- measures taken for the mitigation of the effects of disasters
- measures taken for the integration of mitigation measures in the county development plans
- minimum standards of relief to be provided in disasters/emergencies
- preparedness and capacity-building measures for response to disasters/emergencies

Role of the County Government

The county government will do the following:-

- Train officers and employees in disaster management
- Maintain the resources set for disaster management to ensure availability when disaster strikes
- Ensure that all construction projects within the county adhere to standards set for prevention of disasters
- Conduct relief, rehabilitation and reconstruction activities in areas affected by disasters

PART IV: FINANCIAL PROVISIONS

The County Disaster Management Fund

The County Disaster Management Fund will be administered by the Director. The Fund will be used for meeting expenses associated with preparedness, response, mitigation, relief and county reconstruction.

Sources of finance for the fund will include;-

- County Revenue
- The Directorate
- The National Government or other county Government grants
- National or International agencies loans or aid or donations

Financial Estimates

The Directorate will prepare annual financial estimates to be approved by the County Assembly. These annual estimates will provide for all estimated expenditure of the Directorate for the financial year. The estimated expenditure of the Directorate shall include expenses in;-

- Training, research and development activities of the Directorate
- Education, training and capacity building on disaster management
- Other approved expenses that the directorate deems fit