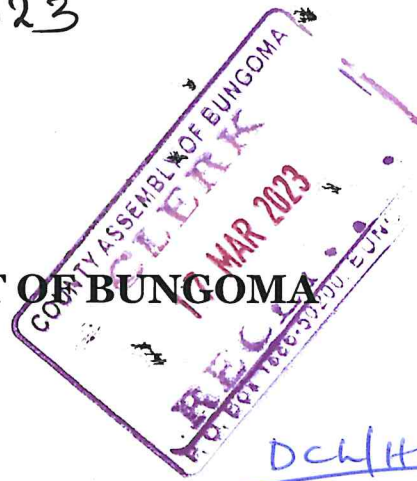


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COUNTY GOVERNMENT OF BUNGOMA



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COUNTY ASSEMBLY OF BUNGOMA

THIRD ASSEMBLY, SECOND SESSION

**REPORT OF THE COMMITTEE ON PROCEDURE AND HOUSE
RULES ON THE RULES GOVERNING PUBLIC ACCESS AND
PUBLIC HEARINGS TO MEETINGS OF SELECT COMMITTEES**

Clerk's Chambers
County Assembly Buildings
P.O BOX 1886-50200
BUNGOMA, KENYA

FEBRUARY, 2023

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CHAPTER ONE

1.0 PREFACE

On behalf of the Members of the Committee on Procedure and House Rules and Pursuant to the provisions of Standing Order 248, I wish to present the report of the Committee on the Rules governing public access to County Assembly Committees and public hearing.

This report contains the considerations by the Procedure and House Rules Committee to facilitate effective and orderly public access to the County Assembly Committees and public hearing.

1.1 Establishment and mandate of the committee

The County Assembly Procedure and House Rules Committee is established pursuant to the provision of Standing Order No. 211 of the County Assembly of Bungoma. Further, Standing Order No. 211 (3) (4) (5) provides the mandate of the Committee as follows:

- (a) Shall consider and report on all matters relating to the Standing Orders
- (b) May propose amendments to the Standing Orders and any such amendments shall upon approval by the County Assembly, take effect at the time appointed by the County Assembly.
- (c) May, from time to time, propose rules for the orderly and effective conduct of Committee business and any such rules, shall upon approval by the County Assembly, continue in force until amended or repealed by the County Assembly.

1.2 Committee Membership

Hon. Members,

The Committee as currently constituted comprises the following members:

- i. Hon. Emmanuel Situma (Chairperson)
- ii. Hon. Stephen Wafula (Vice chairperson)
- iii. Hon. Christine Mukhongo Member
- iv. Hon. Benjamin Otsiula Member
- v. Hon. Cornelius Makhanu Member

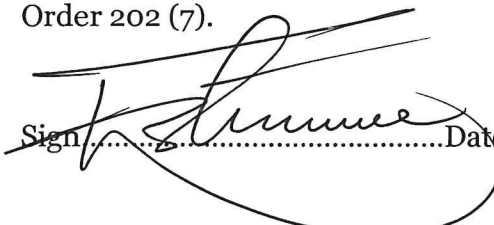
1.3 Acknowledgement

Hon Members,

On behalf of the Committee, I wish to thank Honourable Members and the secretariat for their utmost commitment towards the completion of this report.

We also thank the office of the Clerk for the willingness to facilitate the Committee during the entire assignment.

I now take this opportunity with honor and pleasure to table this report and recommend it to the House for adoption pursuant to the provision of Standing Order 202 (7).

Sign  Date 15 March 2023.

Hon. Emmanuel Situma

Speaker of the County Assembly/Chairperson

CHAPTER TWO

RULES GOVERNING PUBLIC ACCESS AND PUBLIC HEARINGS TO MEETINGS OF SELECT COMMITTEES

2.0 Introduction

Hon. Members,

The County Assembly has three cardinal roles of legislation, representation and oversight. Most of the oversight and legislative work is done by the Committees and as such, the work of Committees attracts a lot of interest from the public.

The Constitution of Kenya outlines the national values and principles of governance. Amongst the key values is the principles of transparency and accountability which are required to be upheld by all public institutions. Further, the constitution guarantees access to information. In line with the need for transparency and accountability; Article 196 of the Constitution of Kenya recognizes the importance of public participation in the legislative and other business of the County Assembly as well as its Committees. Therefore, it provides that the business of the County Assembly and its Committees should be conducted in an open manner and that they should be accessible to the public.

Further, Standing Order 248 stipulates that the entire Committees' proceedings should be accessible to the public unless the Speaker allows them to be held in camera. Transparency is the cornerstone of good governance and as such, the public should be in a position to observe and participate in the business of the County Assembly. However, it is imperative to note that the County Assembly as a Legislative House is a House of rules and procedures thus those who

participate in its business must be regulated.

The Bungoma County Standing Order No. 211(5) provides that the County Assembly Procedure and House Rules Committee may propose rules for orderly and effective conduct of Committee business and such rules upon approval by the County Assembly, continue in force until amended or repealed by the County Assembly. However, the Standing Orders of the County Assembly remain in operation and are supplemented by these rules. It is in this regard that the Committee proposed Rules governing public access and public hearings to meetings of select committees.

2.1 Application of the Rules

2.1.1 Admission to Buildings or Gardens

Hon. Members,

The following rules shall govern public admission to buildings or gardens.

- (a) **THAT**, no member of the public shall be admitted into or allowed to remain in any part of Assembly Buildings or Gardens unless he/she is in possession of – *a Pass issued pursuant to the provisions of the Speaker’s Rules and bearing that day’s date issued to him/her and signed by a Senior Officer of the County Assembly; or a permanent pass signed by the Speaker or the Clerk. Where a member of the public is in possession of a temporary pass, he/she shall ensure that the pass is attached conspicuously on his/her clothing;*
- (b) **THAT**, the Office of the Clerk may cause to be published, in at least two newspapers of nationwide circulation and/or Assembly website, an

advance copy of notice to the public showing the date, time, venue and agenda of a committee meeting and indicating whether the sitting is open to the public or not;

- (c) **THAT**, a member of the public intending to attend a Committee meeting shall be accredited at the Assembly security desk/reception at least half an hour before commencement of the meeting;
- (d) **THAT**, all members of the public intending to attend Committee meetings shall be subjected to security checks;
- (e) **THAT**, accredited members of the public shall be escorted into Committee rooms at least 15 minutes prior to commencement of the meeting;
- (f) **THAT**, accreditation shall be subject to availability of sitting space and on “first come first served basis”;
- (g) **THAT**, accreditation for access to a Committee meeting shall be limited to attendance of that particular Committee meeting and shall not serve to permit members of the public access into other parts of the Assembly Buildings;
- (h) **THAT**, no member of the public shall be allowed to remain in any part of Assembly Buildings or Gardens after conclusion of a Committee meeting unless he/she is attended to by an Honorable Member or an Officer of the County Assembly of Bungoma; and
- (i) **THAT**, all accreditation passes must be surrendered at the security desk/reception when the holder leaves the Assembly Buildings.

2.1.2 Restrictions

Hon. Members,

Once a member of the public has been allowed into the premises, he or she should adhere to the laid down guidelines. Therefore, these rules provide restrictions to a member who has been accredited by these rules as follows:

Restriction of Audience

That, under these rules, no member of the public shall have right of audience in Committee meetings and with the press while within the precincts of County Assembly.

2.1.3 Exclusion from the Committee sittings

Hon. Members,

- i. The Committee shall have power to expel any person for disorderliness or contempt and any expelled person may be reprimanded or prosecuted.
- ii. Whenever it is deemed necessary, the Chairperson may order the withdrawal of members of the public.
- iii. Whenever a member rises under Standing Order 250 (1), the Chairperson shall have delegated powers to consider and determine an exclusion of the public or any particular person and shall be under an obligation to give reasons in writing to the Speaker of such decision to exclude.
- iv. Members of the public shall not bring cell phones, cameras, computers and writing materials into Committee rooms and any person who does not comply shall be ordered to withdraw from the Committee.
- v. Members of the public shall not applaud during Committee proceedings.

2.1.4 Restriction of access to the chamber

These rules provides that no person other than a Member shall be admitted into the Chamber appropriated to the exclusive use of Members of the County Assembly while the County Assembly or the Committee of the Whole House is sitting. However, this does not apply to the Clerk or other officers of the House when discharging their duties in the service of the County Assembly.

2.1.5 Offensive Weapons

No member of the public shall bring any firearm or other offensive weapons into the Assembly Buildings or any part of the Assembly precincts. All such weapons must be deposited with the Serjeant-at-Arms at the time of entry and collected at the time of exit.

2.1.6 Adjournment

At the conclusion of a Committee sitting, or adjournment pursuant to lack of quorum or for any other reason, all members of the public shall leave the precincts of the County Assembly immediately.

2.1.7 In Camera session

No member of the public shall attend a meeting of a Committee which is scheduled to be held in camera. If a Committee decides that part of its proceedings should be held in camera, the Speaker of the Assembly must give permission for the same. However, the Chairperson may exercise delegated powers if the matter arises outside the County Assembly or in cases where the Speaker cannot be reached.

2.1.8 General Provisions

The provisions of the Standing Orders and the Speaker's Rules shall apply on any

matter not provided for under these rules.

2.2 PUBLIC HEARINGS

Hon. Members,

Public hearings are open Committee meetings that are aimed at obtaining input from the stakeholders, civil society organizations (CSOs), public officials and the general public about proposed or existing Policies, Bills, Regulations and other issues or changes that would significantly affect the public if introduced. During these proceedings, the public is accorded the right to be heard.

The Constitution has made these hearings a requirement under Article 196, unless waived in accordance with Article 196 (2). During a public hearing, the County Assembly acts in a quasi- judicial role for purposes of allowing the public to make representation on matters referred to the public hearing.

2.2.1 Purpose of public hearings

Public hearings attempt to seek information from the public. Almost always, public hearings:

- Inform the public and interested parties about proposed changes and implications of public policy;
- Obtain public views and recommendations on public and policy programmes;
- Facilitate an appreciation of government policies and legislation and, therefore, reduce/eliminate chances of difficulty in policy implementation. This should help to foster future partnerships that bring about change; and
- Sensitize policy makers to popular sentiments and to get first-hand feedback from the public about local concerns, perspectives and suggestions for improvement

through open interaction.

It bears emphasis that any hearing held by a public body, and in this case the County Assembly, will necessarily constitute “conducting public business”. Many public hearings are required by law on particular matters, such as those that must be held prior to the enacting of a law. Many others need only be held at the option of a public body, because it may desire merely to gauge public opinion on a matter. Where a public hearing is required by law, the particular statute governing the subject matter usually sets forth the applicable procedural requirements. The consequent rules provide for the procedures of and the participation in public hearings of Committees:

2.2.2 Scheduling of Public Hearings

A Committee needs to determine, before the hearing, and clearly define its intentions, objectives and purpose of the public hearing. This is necessary to ensure that meetings maintain focus and direction. At this stage, it should be remembered that public hearings:

- (a) Provide an opportunity for members of the public to influence the legislative process; and
- (b) Give Members of the County Assembly of Bungoma an opportunity to collect more information about the details and potential consequences of a matter of public concern.

It is, therefore, imperative that the Committee selects the dates and time of holding the public hearings guided by the business of the County Assembly, among others. When selecting a date for public hearings, the Committee shall:

- (c) Consult the Assembly’s diary-of-events for the month, or alternatively, consult the

Office of the Clerk regarding the most appropriate timeslots.

- (d) Public hearings shall be scheduled on dates and at times when there are no other significant or important events at the County Assembly that could conflict with the hearings. For example, hearings shall not be scheduled on public holidays and other national or public events.
- (e) The times and dates should be convenient and reasonable for the public to attend.
- (f) The Committee selects a date at least three weeks (21 days) ahead of time to allow for logistical arrangements.

2.2.3 Public Notification

A public notice is required for **all public hearings**.

- (a) The Committee Clerk shall, as soon as the Committee agrees on holding a public hearing, write a memorandum to the Speaker and Clerk of the Assembly stating the following:
 - Subject of the public hearing/Content of Agenda;
 - Proposed date and time of the public hearing; and
 - Venue/location of the public hearing.
- (b) If the statute that requires a public hearing in a particular instance identifies the type of notice to be provided, those notice requirements must be followed. Such notice requirements may include publication in a newspaper and/or County Assembly website, posting on and/or near real property that may be affected by the matter being addressed in the hearing, and mailing notice to specific parties. The County Assembly may, however, choose to provide any additional notice beyond whatever statutory notice requirements that may exist.

- (c) Where the hearing notice calls for circulation through the media, the Clerk of the County Assembly shall cause such notice to be placed in at least two (2) dailies with wide national circulation and may in addition cause an advertisement in a popular radio or TV station based on the target population.
- (d) Besides the notice by advertisement, the hearing intent may be forwarded to specific stakeholders and persons as determined by the Committee. This communication should be done not less than seven (7) days to the hearing date.
- (e) Persons or representatives desiring to make submissions during a public hearing, other than those notified shall communicate their intention to do so before the hearing date. Written submissions shall be submitted not less than 48 hours before the actual hearing date while those wishing to make oral submissions shall register not less than 24 hours to the hearing day.
- (f) Despite the provisions of rules (e) above, the Chairperson may allow persons who have not registered for oral submissions to make their submissions and may receive unregistered written submissions.

2.2.4 Media Coverage

- (a) **Pursuant to the Standing Order 248 (2)**, the County Assembly or a Committee shall not exclude any person, or any media, from a sitting of the County Assembly or of a Committee unless, in exceptional circumstances, the Speaker has determined that there are justifiable reasons for the exclusion.
- (b) **Pursuant to Standing Order 250 (1)**, a member may, at any time, rise to claim that the public or any particular person be, for reasons stated, excluded

from the Assembly or from a Committee, and if the Speaker or Chairperson is of the opinion that there are justifiable reasons for the exclusion, he or she may order that the public or such person withdraw from the County Assembly or the Committee.

- (c) In case the Speaker cannot be reached, the Chairperson of the Committee shall consider and determine any request to exclude the public or any person and thereafter give a written explanation of the reasons for the exclusion to the Speaker.
- (d) The Media Relations and Public Communication Services shall facilitate the attendance of journalists to cover the hearing and shall prepare all the necessary logistical support at least seven (7) days to the hearing.
- (e) Pursuant to the provisions of the **Standing Order 251**, any media institution whose representative infringes the Standing Orders or any rules made by the Speaker for the regulation of the attendance of the public to the County Assembly or to Committees or persistently misreports the proceedings of the County Assembly, or neglects or refuses on request from the Speaker to correct any wrong report in respect of the proceedings of the County Assembly to the satisfaction of the Speaker, may be excluded from representation for such period as the Speaker shall direct.
- (f) Broadcasting of public hearings shall be pursuant to the **Standing Order 247** and Rules set out in the First Schedule of the Standing Orders.

2.2.5 Protocol/Order of Business at Public Hearings

Protocol at the public hearing shall be as laid down, except as modified by the Chairperson of the public hearing as considered necessary, pursuant to the authority granted by the Standing Orders or other written law.

2.2.6 Registration

- (a) Registration of the attendees by supply of forms to sign-in and indicate whether they would like to speak at the hearing. Registration shall commence at least forty-five (45) minutes to the hearing;
- (b) Persons wishing to speak at the hearing must register in person and must indicate their name, address and other information as may be required;
- (c) For Public Hearings where a large number of participants are anticipated, the Committee Clerk may establish advance registration for the Chairperson's list. Persons wishing to speak must register in person on the participants' list and will be heard in the order in which their names appear;
- (d) The Committee secretariat led by the Committee Clerk shall also provide at the registration desk informational materials that is useful to the public;
- (e) All attendees shall be seated at least ten (10) minutes to the commencement of the hearing.

2.2.7 Order of Business during Hearings

- (i) The meeting shall commence promptly at the time stipulated in the notice;
- (ii) The subject matter of the hearing as contained in the notice shall be the only business under deliberation by the Committee;
- (iii) After the preliminaries, the Chairperson of the Committee shall open the hearing by introducing the subject matter of the hearing
- (iv) Opportunity for presentation by the sponsor of the business;
- (v) Participants for and against the subject matter;
- (vi) Questions by the Committee to the participants;

(vii) Adjournment;

(viii) Closing the hearing.

2.2.8 Entering into an Executive Session

During the hearing, the Committee may by a resolution approved by a majority, enter into an executive session. This resolution must identify the area(s) of the subject(s) to be considered in the executive session. The Chairperson shall direct the public and the press by stating that **“The Committee resolves to enter into an executive session to discuss ... (*business to be discussed*)”**. The Serjeant-at-Arms shall execute the resolution by guiding the public and the press to leave the venue for such time as directed.

2.2.9 Executive Session

A Committee may only go into executive session if the matters to be discussed:

- (i) will imperil public safety if disclosed;
- (ii) may disclose the identity of a law enforcement agent or informer;
- (iii) relates to a current or future investigation or prosecution of a criminal offense;
- (iv) would imperil effective law enforcement if disclosed;
- (v) relates to proposed, pending or current litigation;
- (vi) relates to public employee collective-bargaining negotiations;
- (vii) involve the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation;

- (viii) pertain to the preparation, grading or administration of examinations;
- (ix) relate to the proposed acquisition, sale, or lease of real property, or the proposed acquisition, sale, or exchange of securities, but only when publicity would substantially affect their value; or
- (x) such other matters that are deemed reasonably privileged.

2.10 Time Allocated to each Participant

- (a) All persons willing to participate in a public hearing shall be accorded a reasonable opportunity to be heard or to provide written submissions;
- (b) Written submissions received prior to the Public Hearing shall be circulated to Committee and recorded as part of the official record by the Committee Clerk. Submissions received during the Public Hearing will form part of the official record;
- (c) Each participant shall be heard according to the order in which they appear in the participants' list;
- (d) On average, five (5) minutes shall be allocated to each presenter. The Committee Clerk shall keep time and guide the Chairperson on the same. Depending on the issue at hand and the number of participants, the Committee may alter the time allocated for submissions. The Chairperson shall set the ground rules for the session;
- (e) Committee Members who are asking questions to a participant shall limit themselves to seeking clarification or additional information directly related to the subject matter under question, and shall avoid engaging the participant in debate on the merits of the subject matter under discussion. The chair shall have the discretion to regulate the persons contributing.

2.11 General provisions on protocol

- (a) If a member of the general public is disrupting a meeting, the Chair may order that such person be removed from the venue and/or may order that the Public Hearing be recessed until the matter has been dealt with.
- (b) If there is no one present to speak on the subject matter, the Committee may hear an introduction of the matter, ask relevant questions and then move that the hearing on that matter be closed.
- (c) When the Chair considers that reasonable opportunity has been provided for all who wished to make submissions and be heard, and there are no other matters to be considered, the Chair may call for a motion to close the public hearing.
- (d) Once the hearing on a matter is closed, the Committee may not receive additional information from the applicant/petitioner or the public regarding any of the matters or applications that were the subject of the hearing, unless it is prepared to hold a further public hearing. The Committee may receive clarification for an issue raised at the hearing, however, the Committee may not receive any new information until after final adoption and approval.

2.12 Language to be used during Public Hearings

Participants may use either English or Kiswahili which are the official languages. If need be, the following forms of communication may be used:

- (a) communication forms for persons with hearing impairments;
- (b) sign language;
- (c) braille;
- (d) native language;
- (e) simplified and popular versions; and

(f) large print publications.

Where the Committee decides that any other form of communication is necessary, the Clerk shall take up such action as is necessary to facilitate the same.

2.13 Joint Public Hearings

Where it is considered necessary for two or more committees to hold public hearings, the provisions of Standing Orders shall apply. The public hearings of joint sittings shall be conducted in the same manner as that of a Committee.

2.14 Recordings of Public Hearings

- i. All hearings shall be recorded verbatim by the Hansard Department in both audio and video format.
- ii. The Committee Clerk shall minute the proceedings of the meeting.
- iii. Written submissions must be kept as part of the records.
- iv. English shall be the language of record.

2.15 Security at the Hearings

The Department of the Serjeant-at-Arms shall ensure that security is maintained during public hearings. The following rules shall be observed:

- (a) Offensive weapons shall not be brought into the venue of public hearings;
- (b) Use of cell phones, cameras, computers and other information gadgets is prohibited unless the express permission of the Chairperson has been obtained prior to the meeting;
- (c) Smoking is prohibited in or near public hearings;
- (d) Applauding or interrupting the Chairperson, Honorable Members, staff or the press is prohibited;

- (e) Any disorderly or disruptive conduct shall result to the hearing being adjourned or may lead to withdrawal of the individual from the venue. It may be followed by arrest and prosecution;
- (f) Participants shall restrict themselves to matters under scrutiny;
- (g) Participants are not subject to the privilege RULES and shall not enjoy parliamentary privileges pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017. Each participant who makes a presentation should be alive to the defamation and slander laws;
- (h) Participants shall be decently and modestly dressed;
- (i) Any participant with an interest on a matter under scrutiny shall declare such interest before participation;
- (j) Participants may be asked to give their evidence under oath pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017;
- (k) Giving false evidence, refusing to be examined, speaking defamatory words of the Assembly or its Committees and failing to produce required documents shall be dealt with pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017.

CHAPTER THREE


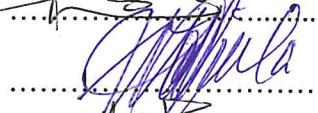

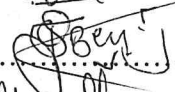
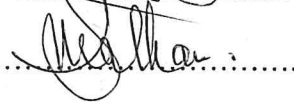
3.1 Recommendations

Hon. Members,

- i.** The committee therefore urges that the House adopts this report by the Committee of Procedure and House Rules regarding Rules governing public access and public hearing to meetings of select Committees.
- ii.** In compliance with Article 196 of the constitution, Honourable Members and staff to go through the draft rules governing public access and public hearings to select Committees and submit written statements and memoranda for consideration by the Committee through the Office of the Clerk within 21 days from the adoption of the report.

ADOPTION SCHEDULE

We the Members of the committee of Procedure and House Rules, pursuant to Standing Order 202 (5) adopted the report. We append our Signatures to affirm our approval of the contents therein.

NAME	DESIGNATION	SIGN
1. Hon. Emmanuel Situma	Speaker (Chairperson)	
2. Hon. Stephen Wafula	Deputy Speaker (Vice chairperson)	
3. Hon. Christine Mukhongo	Member	
4. Hon. Benjamin Otsiula	Member	
5. Hon. Cornelius Makhanu	Member	



COUNTY ASSEMBLY OF BUNGOMA

RULES GOVERNING PUBLIC ACCESS

&

PUBLIC HEARINGS

TO

SELECT COMMITTEES

Pursuant to Stranding Orders 248 (3)

First Edition 2023

A Publication of the Bungoma County

Assembly

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FOREWORD BY THE HON. SPEAKER

The County Assembly has three cardinal roles of legislation, representation and oversight. Most of the oversight and legislative work is done by the Committees and as such, the work of Committees attracts a lot of interest from the public. The Constitution of Kenya outlines the national values and principles of governance. Amongst the key values is the principles of transparency and accountability which are required to be upheld by all public institutions. Further, the constitution guarantees access to information. In line with the need for transparency and accountability; **Article 196** of the Constitution of Kenya provides that the business of the County Assembly and its Committees to be conducted in an open manner and that they should be accessible to the public.

Further, the Bungoma County Assembly **Standing Order No. 248** stipulates that the entire Committees' proceedings should be accessible to the public unless the Speaker allows them to be held in camera. Transparency is the cornerstone of good governance and as such, the public should be in a position to observe and participate in the business of the County Assembly. However, it is imperative to note that the County Assembly as a Legislative House is a House of rules and procedures thus those who participate in its business must be regulated.

Bungoma County Assembly has several Committees. These are Standing Committees and Sectoral Committees which are largely concerned with examining the work of County Government Departments. Some select committees have a role that crosses departmental boundaries such as the Public Accounts and Investments Committee etc. Depending on the issue under consideration, they can look at any or all of the County Government Departments.

A. PUBLIC ACCESS

For purposes of these Rules, a member of the public" means any person not being a Member of County Assembly of Bungoma or an employee of the County Assembly of Bungoma.

Members of public who wish to attend Committee meetings must abide by the following rules:

1. Admission to Buildings or Gardens

- (i) No member of the public shall be admitted into or allowed to remain in any part of Assembly Buildings or Gardens unless he/she is in possession of – a Pass issued pursuant to the provisions of the Speaker's Rules and bearing that day's date issued to him/her and signed by a Senior Officer of the County Assembly; or a permanent pass signed by the Speaker or the Clerk. Where a member of the public is in possession of a temporary pass, he/she shall ensure that the pass is attached conspicuously on his/her clothing;
- (ii) The Office of the Clerk may cause to be published, in at least two newspapers on nationwide circulation and/or Assembly website, an advance copy of notice to the public showing the date, time, venue and agenda of a committee meeting and indicating whether the sitting is open to the public or not;
- (iii) A member of the public intending to attend a committee meeting shall be accredited at the Assembly security desk/reception at least half an hour before commencement of the meeting;
- (iv) All members of the public intending to attend Committee meetings shall be

- subjected to security checks;
- (v) Accredited members of the public shall be escorted into Committee rooms at least 15 minutes prior to commencement of the meeting;
 - (vi) Accreditation shall be subject to availability of sitting space and on “first come first served basis”;
 - (vii) Accreditation for access to a Committee meeting shall be limited to attendance of that particular Committee meeting and shall not serve to permit members of the public access into other parts of the Assembly Buildings;
 - (viii) No member of the public shall be allowed to remain in any part of Assembly Buildings or Gardens after conclusion of a committee meeting unless he/she is attended to by an Honorable Member or an Officer of the County Assembly of Bungoma; and
 - (ix) All accreditation passes must be surrendered at the security desk/reception when the holder leaves the Assembly Buildings.

2. Restriction of Audience

A member of the public accredited under these rules shall have no right of audience in Committee meetings and with the press while within the precincts of County Assembly.

Restriction of access to the chamber

No person other than a Member shall be admitted into the Chamber appropriated to the exclusive use of Members of the County Assembly while the County Assembly or the Committee of the Whole House is sitting. However, this does not apply to the Clerk or

other officers of the House when discharging their duties in the service of the County Assembly.

3. Exclusion from the Committee sittings

- (i) The Committee shall have power to expel any person for disorderliness or contempt. Any expelled person may be reprimanded or prosecuted.
- (ii) Whenever it is deemed necessary, the Chairperson may order the withdrawal of members of the public.
- (iii) Whenever a member rises under **Standing Order 250 (1)**, the Chairperson shall have delegated powers to consider and determine an exclusion of the public or any particular person and shall be under an obligation to give reasons in writing to the Speaker of such decision to exclude.
- (iv) Members of the public shall not bring cell phones, cameras, computers and writing materials into Committee rooms and any person who does not comply shall be ordered to withdraw from the Committee.
- (v) Members of the public shall not applaud during Committee proceedings.

4. Offensive Weapons

No member of the public shall bring any firearm or other offensive weapon into the Assembly Buildings or any part of the Assembly precincts. All such weapons must be deposited with the Serjeant-at-Arms at the time of entry and collected at the time of exit.

5. Adjournments

At the conclusion of a Committee sitting, or adjournment pursuant to lack of quorum or

for any other reason, all members of the public shall leave the precincts of the County Assembly immediately.

6. In Camera Session

No member of the public shall attend a meeting of a Committee which is scheduled to be held in camera. If a committee decides that part of its proceeding should be held in camera, the Speaker of the Assembly must give permission for the same. However, the Chairperson may exercise delegated powers if the matter arises outside the County Assembly or in cases where the Speaker cannot be reached.

7. General Provisions

The provisions of the Standing Orders and the Speaker's Rules shall apply on any matter not provided for under these rules.

B. PUBLIC HEARINGS

Introduction

Public hearings are open committee meetings that are aimed at obtaining input from the stakeholders, civil society organizations (CSOs), public officials and the general public about proposed or existing policies, Bills, regulations and other issues or changes that would significantly affect the public if introduced. During these proceedings, the public is accorded the right to be heard.

The Constitution has made these hearings a requirement under Article 196, unless waived in accordance with Article 196 (2). During a public hearing, the County Assembly acts in a quasi- judicial role for purposes of allowing the public to make representation on matters referred to the public hearing.

Public hearings should attempt to seek information from the public. Almost always, public hearings:

- Inform the public and interested parties about proposed changes and implications of public policy;
- Obtain public views and recommendations on public and policy programmes;
- Facilitate an appreciation of government policies and legislation and, therefore, reduce/eliminate chances of difficulty in policy implementation. This should help to foster future partnerships that bring about change; and
- Sensitize policy makers to popular sentiments and to get first-hand feedback from the public about local concerns, perspectives and suggestions for improvement through open interaction.

It bears emphasis that any hearing held by a public body, and in this case the County

Assembly, will necessarily constitute “conducting public business”. Many public hearings are required by law on particular matters, such as those that must be held prior to the enacting of a law. Many others need only be held at the option of a public body, because it may desire merely to gauge public opinion on a matter. Where a public hearing is required by law, the particular statute governing the subject matter usually sets forth the applicable procedural requirements. The consequent rules provide for the procedures of and the participation in public hearings of Committees:

1. Scheduling of Public Hearings

A Committee needs to determine, before the hearing, and clearly define its intentions, objectives and purpose of the public hearing. This is necessary to ensure that meeting maintain focus and direction. At this stage, it should be remembered that public hearings:

- (a) Provide an opportunity for members of the public to influence the legislative process; and
- (b) Give Members of County Assembly of Bungoma an opportunity to collect more information about the details and potential consequences of a matter of public concern.
- (c) It is, therefore, imperative that the Committee selects the dates and time of holding the public hearings guided by the business of the County Assembly, among others. When selecting a date for public hearings, the Committee shall:
 - (d) Consult the Assembly’s diary-of-events for the month, or alternatively, consult the Office of the Clerk regarding the most appropriate timeslots.
 - (e) Public hearings shall be scheduled on dates and at times when there are

no other significant or important events at the County Assembly that could conflict with the hearings. For example, hearings shall not be scheduled on public holidays and other national or public events.

- (f) The times and dates should be convenient and reasonable for the public to attend.
- (g) The Committee selects a date at least three weeks (21 days) ahead of time to allow for logistical arrangements.

2. **Public Notification**

Some form of public notice is required for **all public hearings**.

- (a) The Committee Clerk shall, as soon as the Committee agrees on holding a public hearing, write a memorandum to the Speaker and Clerk of the Assembly stating the following:
 - (i) Subject of the public hearing/Content of Agenda;
 - (ii) Proposed date and time of the public hearing; and
 - (iii) Venue/location of the public hearing.
- (b) If the statute that requires a public hearing in a particular instance identifies the type of notice to be provided, those notice requirements must be followed. Such notice requirements may include publication in a newspaper and/or County Assembly website, posting on and/or near real property that may be affected by the matter being addressed in the hearing, and mailing notice to specific parties. The County Assembly may, however, choose to provide any additional notice beyond whatever statutory notice requirements may exist.
- (c) Where the hearing notice calls for circulation through the media, the Clerk of the

County Assembly shall cause such notice to be placed in at least two (2) dailies with wide national circulation and may in addition cause an advertisement in a popular radio or TV station based on the target population.

- (d) Besides the notice by advertisement, the hearing intent may be forwarded to specific stakeholders and persons as determined by the Committee. This communication should be done not less than seven (7) days to the hearing date.
- (e) Persons or representatives desiring to make submissions during a public hearing, other than those notified shall communicate their intention to do so before the hearing date. Written submissions shall be submitted not less than 48 hours before the actual hearing date while those wishing to make oral submissions shall register not less than 24 hours to the hearing day.
- (f) Despite the provisions of rules (e) above, the Chairperson may allow persons who have not registered for oral submissions to make their submissions and may receive unregistered written submissions.

3. Media Coverage

- (a) **Pursuant to the Standing Orders 248(2)**, the County Assembly or a Committee shall not exclude any person, or any media, from a sitting of the County Assembly or of a Committee unless, in exceptional circumstances, the Speaker has determined that there are justifiable reasons for the exclusion.
- (b) **Pursuant to Standing Orders 250 (1)**, a member may, at any time, rise to claim that the public or any particular person be, for reasons stated, excluded from the Assembly or from a Committee, and if the Speaker is of the opinion that there are justifiable reasons for the exclusion, he or she may order that the public or such person withdraw from the County Assembly or the Committee.

- (c) In case the Speaker cannot be reached, the Chairperson of the Committee shall consider and determine any request to exclude the public or any person and thereafter give a written explanation of the reasons for the exclusion to the Speaker.
- (d) The Media Relations and Public Communication Services shall facilitate the attendance of journalists to cover the hearing and shall prepare all the necessary logistical support at least seven (7) days to the hearing.
- (e) Pursuant to the provisions of the **Orders Standing 251**, any media institution whose representative infringes the Standing Orders or any rules made by the Speaker for the regulation of the attendance of the public to the County Assembly or to Committees or persistently misreports the proceedings of the County Assembly, or neglects or refuses on request from the Speaker to correct any wrong report in respect of the proceedings of the County Assembly to the satisfaction of the Speaker, may be excluded from representation for such period as the Speaker shall direct.
- (f) Broadcasting of public hearings shall be pursuant to the **Standing Orders 247** and Rules set out in the First Schedule of the Standing Orders.

4. Protocol/Order of Business at Public Hearings

Protocol at the public hearing shall be as laid down, except as modified by the Chairperson of the public hearing as considered necessary, pursuant to the authority granted by the Standing Orders or other written law.

1. Registration

- (a) Registration of the attendees by supply of forms to sign-in and indicate

whether they would like to speak at the hearing. Registration shall commence at least forty-five (45) minutes to the hearing;

(b) Persons wishing to speak at the hearing must register in person and must indicate their name, address and other information as may be required;

(c) For Public Hearings where a large number of participants are anticipated, the Committee Clerk may establish advance registration for the Chairpersons' list. Persons wishing to speak must register in person on the participants' list and will be heard in the order in which their names appear;

(d) The Committee secretariat led by the Committee Clerk shall also provide at the registration desk informational materials that is useful to the public;

(e) All attendees shall be seated at least ten (10) minutes to the commencement of the hearing.

2. Order of Business during Hearings

(i) The meeting shall commence promptly at the time stipulated in the notice;

(ii) The subject matter of the hearing as contained in the notice shall be the only business under deliberation by the Committee;

(iii) After the preliminaries, the Chairperson of the Committee shall open the hearing by introducing the subject matter of the hearing;

(iv) Opportunity for presentation by the sponsor of the business;

- (v) Participants for and against the subject matter;
- (vi) Questions by the Committee to the participants;
- (vii) Adjournment;
- (viii) Closing the hearing.

3. Entering into an Executive Session

During the hearing, the Committee may by a resolution approved by a majority, enter into an executive session. This resolution must identify the area(s) of the subject(s) to be considered in the executive session. The Chairperson shall direct the public and the press by stating that **“The Committee resolves to enter into an executive session to discuss ... (business to be discussed)”**. The Serjeant-at-Arms shall execute the resolution by guiding the public and the press to leave the venue for such time as has been directed.

4. Executive Session

A Committee may only go into executive session if the matters to be discussed:

- (i) will imperil public safety if disclosed;
- (ii) may disclose the identity of a law enforcement agent or informer;
- (iii) relates to a current or future investigation or prosecution of a criminal offense;
- (iv) would imperil effective law enforcement if disclosed;
- (v) relates to proposed, pending or current litigation;

- (vi) relates to public employee collective-bargaining negotiations;
- (vii) involve the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation;
- (viii) pertain to the preparation, grading or administration of examinations;
- (ix) relate to the proposed acquisition, sale, or lease of real property, or the proposed acquisition, sale, or exchange of securities, but only when publicity would substantially affect their value; or
- (x) such other matters that are deemed reasonably privileged.

5. Time Allocated to each Participant

- a) All persons willing to participate in a public hearing shall be accorded a reasonable opportunity to be heard or to provide written submissions;
- b) Written submissions received prior to the Public Hearing shall be circulated to Committee and recorded as part of the official record by the Committee Clerk. Submissions received during the Public Hearing will form part of the official record;
- c) Each participant shall be heard according to the order in which they appear in the participants' list;
- d) On average, five (5) minutes shall be allocated to each presenter. The

Committee Clerk shall keep time and guide the Chairperson on the same. Depending on the issue at hand and the number of participants, the Committee may alter the time allocated for submissions. The Chairperson shall set the ground rules for the session;

- e) Committee Members who are asking questions to a participant shall limit themselves to seeking clarification or additional information directly related to the subject matter under question, and shall avoid engaging the participant in debate on the merits of the subject matter under discussion. The chair shall have the discretion to regulate the persons contributing.

6. General provisions on protocol

- (a) If a member of the general public is disrupting a meeting, the Chair may order that such person be removed from the venue and/or may order that the Public Hearing be recessed until the matter has been dealt with.
- (b) If there is no one present to speak on the subject matter, the Committee may hear an introduction of the matter, ask relevant questions and then move that the hearing on that matter be closed.
- (c) When the Chair considers that reasonable opportunity has been provided for all who wished to make submissions and be heard, and there are no other matters to be considered, the Chair may call for a motion to close the public hearing.
- (d) Once the hearing on a matter is closed, the Committee may not receive additional information from the applicant/petitioner or the public

regarding any of the matters or applications that were the subject of the hearing, unless it is prepared to hold a further public hearing. The Committee may receive clarification for an issue raised at the hearing, however, the Committee may not receive any new information until after final adoption and approval.

7. Language to be used during Public Hearings

Participants may use either English or Kiswahili which are the official languages. If need be, the following forms of communication may be used:

- (a) communication forms for persons with hearing impairments;
- (b) sign language;
- (c) braille;
- (d) native language;
- (e) simplified and popular versions; and
- (f) large print publications.

Where the Committee decides that any other form of communication is necessary, the Clerk shall take up such action as is necessary to facilitate the same.

8. Joint Public Hearings

Where it is considered necessary for two or more committees to hold public hearings, the provisions of Standing Orders shall apply. The public hearings of joint sittings shall be conducted in the same manner as that of a Committee.

9. Recordings of Public Hearings

- (i) All hearings shall be recorded verbatim by the Hansard Department in both audio and video format.
- (ii) The Committee Clerk shall minute the proceedings of the meeting.
- (iii) Written submissions must be kept as part of the records.
- (iv) English shall be the language of record.

5. Security at the Hearings

The Department of the Serjeant-at-Arms shall ensure that security is maintained during public hearings. The following rules shall be observed:

- (a) Offensive weapons shall not be brought into the venue of public hearings;
- (b) Use of cell phones, cameras, computers and other information gadgets is prohibited unless the express permission of the Chairperson has been obtained prior to the meeting;
- (c) Smoking is prohibited in or near public hearings;
- (d) Applauding or interrupting the Chairperson, Honorable Members, staff or the press is prohibited;
- (e) Any disorderly or disruptive conduct shall result to the hearing being adjourned or may lead to withdrawal of the individual from the venue. It may be followed by arrest and prosecution;
- (f) Participants shall restrict themselves to matters under scrutiny;
- (g) Participants are not subject to the privilege RULES and shall not enjoy parliamentary privileges pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017. Each participant who makes a presentation

should be alive to the defamation and slander laws;

- (h) Participants shall be decently and modestly dressed;
- (i) Any participant with an interest on a matter under scrutiny shall declare such interest before participation;
- (j) Participants may be asked to give their evidence under oath pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017;
- (k) Giving false evidence, refusing to be examined, speaking defamatory words of the Assembly or its Committees and failing to produce required documents shall be dealt with pursuant to provisions of the County Assemblies (Powers and Privileges) Act, 2017.

APPENDIX 1

Motion of Introduction of Subject Matter

“I am Hon.and will be presiding over this public hearing today of the Committee on

The purpose of the hearing is to invite submissions from members of the public regardingthat is pending before this Committee.

The Committee will hear submissions from persons present who wish to speak for, against, or neither for nor against the aforementioned matter to be heard today. With leave of the Chair, Committee members may ask questions of any person testifying today.

Other questions are not permitted. Whether or not you make submissions, you may submit written submissions to the Committee. Please be mindful that submissions made are public and available to all once presented. Written submissions will be distributed to Committee members and will also be posted on the Assembly’s website for viewing by interested persons.”

If you wish to testify, please state your name, residence and the organization you represent (if any), and sign-in at the podium. Testimony will be heard in the following order:

- The Sponsor who will present the bill, followed by any co-sponsors;
- Those speaking in favour of the bill;
- Those speaking in opposition to the bill; and

- Those speaking neither for nor against the bill.

“If you have any written materials to accompany your testimony, please give at least 20 copies to the Committee Clerk prior to testifying.”

“There will be no smoking or eating during this hearing, and in deference to others here today, please keep all conversation to a minimum.”

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APPENDIX 2

Motion to Commence the Hearing

“We will now begin the hearing on; AN ACT to_____.”

- [Speak to Sponsor] “I ask that **MCA (Hon)**_____, the sponsor present the bill at thistime”
- “Are there co-sponsors who wish to testify?”
- “Is there anyone who wishes to speak in favour of the bill?” (hear testimony of all those in favour)
- “Is there anyone who wishes to speak in opposition to the bill?” (hear testimony of all those in opposition)
- “Is there anyone who wishes to speak neither for nor against this bill, but wishes to offer additional information?” (hear all remaining testimony)

APPENDIX 3

Motion to Close the Hearing

“All testimony having been taken, this hearing on is now closed. A Committee work session for this business will be scheduled. Notice of work sessions will be posted outside the Committee room and on the Assembly’s website. If you wish to be notified of the work session, check with the Committee Clerk.

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APPENDIX 4

Form of Notice

NOTICE OF HEARING FOR PUBLIC REVIEW AND COMMENT

The Office of the Clerk will be holding a hearing for public review and comment concerning

The hearing will be held on day/date/year/time/place

Further, written comments will be accepted until day/date/year/time. Written submissions should be delivered to:

The Clerk Bungoma County Assembly

P. O. Box 1886-50200

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