



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

LEADERSHIP AND INTEGRITY CODE

2017

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PREAMBLE

The National Environment Management Authority (NEMA) hereinafter referred to as “the Authority” establishes the following Leadership and Integrity Code for its Senior Management and staff pursuant to the Leadership and Integrity Act, Cap 182, the Public Officer Ethics Act 2003, the Constitution of Kenya and the Code of Governance for Public Corporations (Mwongozo). This code of conduct is intended to establish standards of integrity and ethical conduct in NEMA by ensuring that Senior Management and Staff have respect to Chapter 6 and Article 10 on the values, principles and requirements of the Constitution of Kenya in discharge of their duties and responsibilities.

PART ONE - PRELIMINARY

1 Citation

This code may be cited as the Leadership and Integrity Code for NEMA Senior Management and Staff.

2 Interpretation

In this code the following meaning shall apply -

Act	the Leadership and Integrity Act, Cap 182;
Board	Persons appointed pursuant to section 10 (1) of EMCA Cap. 387;/ Snr Management
Bullying	Includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating whether or not it is intended to undermine a person;
Business Associate	A person who does business with or on behalf of a Public Officer and has express or implied authority from that Public Officer;
Code	The Leadership and Integrity Code;
Foreign Individual	An individual who is not a Kenyan citizen as per the Kenyan Citizenship and Immigration Act 2011
Foreign Organisation	An organisation established outside Kenya or is owned or controlled by a foreign government, organisation or individual;
Gainful employment	Work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the Public office or which results in the impairment of the judgment of the Public Officer in the execution of the functions of the Public office or results in a conflict of interest;
Authority	The National Environment Management Authority as established pursuant to section 7 of EMCA Cap. 387;
Personal interest	A matter in which any NEMA Board Member or Staff has direct or indirect pecuniary or non-pecuniary interest and includes the interest of his or her spouse, child, business associate or agent;

Public Officer Any state officer or any person, other than a State Officer, who holds a public office;

Spouse The legal wife or a husband of a Public Officer.

3 Scope of the Code

- a) This code applies to NEMA Senior Management and Staff.
- b) The provisions of Chapter Six and Article 10 of the Constitution of Kenya, the Leadership and Integrity Act, Cap. 182, Public Officer Ethics Act Cap. 183 and the code of Governance for Public Corporations (Mwongozo) shall form part of this code.

4 Signing of the Code

- a. Serving members of Senior Management and Staff shall sign this Code within seven days of the coming into force of this Code.
- b. A public officer appointed to or employed by the Authority shall sign and commit to this Code at the time of accepting appointment.

PART TWO – REQUIREMENTS

1. Statement of Values

NEMA has core values that govern it. These values are professionalism, teamwork, integrity, equity, innovation and courage of conviction. These core values are principally drawn from Article 10 of the Constitution of Kenya which are:

- a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- b) Human dignity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- c) Good governance, integrity, transparency and accountability; and
- d) Sustainable development.

2. Rule of Law

- a) All Members of Senior Management and Staff shall respect and abide by the Constitution of Kenya and the law.
- b) All Members of Senior Management and Staff shall carry out the duties of the office in accordance with the law.
- c) In carrying out the duties of the office, all Senior Management and Staff shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the law and in accordance with Article 24 of the Constitution of Kenya.

3. Public Trust

The public office is a position of public trust and the authority and responsibility vested in a Public Officer shall be exercised in the best interest of the Authority and the people of Kenya.

4. Responsibility and Duties

Subject to the Constitution of Kenya and any other law, a Public Officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of the office.

5. Performance of Duties

Senior Management and Staff shall, to the best of their ability:

- a) Carry out the duties of the office efficiently and honestly;
- b) Carry out the duties in a transparent and accountable manner;
- c) Keep accurate records and documents relating to the functions of the office; and
- d) Report truthfully on all matters of the Authority.

6. Professionalism

Senior Management and Staff shall:

- a) Carry out duties of the office in a manner that maintains public confidence in the integrity of the office.
- b) Treat members of the public and other Public Officers with courtesy and respect.
- c) Not discriminate against any person.
- d) Maintain high standards of performance and level of professionalism within the organisation; and
- e) If the Public Officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body in so far as the requirements do not contravene the Constitution of Kenya or the Leadership and Integrity Act.

7. Financial Integrity

- a) Senior Management and Staff shall not use the office to unlawfully or wrongfully enrich themselves or any other person.
- b) Senior Management and Staff shall not accept a personal loan or benefit which may compromise them in carrying out the duties and responsibilities under their watch.

8. Moral and Ethical Requirements

Senior Management and Staff shall observe and maintain the following ethical and moral requirements:

- a) Demonstrate honesty in the conduct of public affairs;
- b) Not to engage in activities that amount to abuse of office;
- c) Accurately and honestly represent information to the public;
- d) Not engage in unethical behavior in furtherance of personal benefit;
- e) Not misuse public resources;
- f) Not discriminate against any person, except as expressly provided for under the law;
- g) Not falsify any records;
- h) Not engage in actions which would lead to the Public Officer's removal from the membership of a professional body in accordance with the law; and
- i) Not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code (Cap. 63), the Sexual Offences Act (No. 3 of 2006), the Counter- Trafficking in Persons Act (No. 8 of 2010), and the Children Act (Cap.141) and other relevant laws.

9. Gifts or Benefits in Kind

- a) A gift or donation given to a Senior Manager or Staff on a public or official occasion shall be treated as a gift or donation to the Authority.
- b) Notwithstanding subsection (a), a Senior Manager or Staff may receive a gift given to them in an official capacity, provided that:
 - I. The gift is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality;
 - II. The gift is not monetary; and
 - III. The gift does not exceed such value as may be prescribed by the Ethics and Anti-Corruption Commission (EACC) regulations.
- c) A Senior Manager or Staff shall not accept or solicit gifts, hospitality or other benefits from a person who:
 - i. Has an interest that may be achieved by the carrying out or not carrying out of the Senior Manager`s and staff`s duties;
 - ii. Carries on regulated activities with respect to which the Authority has a role;
 - iii. Has a contractual or legal relationship with the Authority;
 - iv. A Senior Manager or Staff shall not accept gifts of jewellery or other gifts comprising of precious metal or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or
 - v. Any other type of gift specified by the EACC in the regulations.
- e) A Public Officer shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the officer.
- f) A Senior Manager or Staff who receives a gift or donation shall declare the gift or donation to the Authority.
- h) The Authority shall keep a register of:-
 - I. Gifts received by a Public Officer; and
 - II. Gifts given by the public entity to other Public Officers.

10. Wrongful or Unlawful Acquisition of Property

A Senior Manager or Staff shall not use the office to wrongfully or unlawfully influence the acquisition of property.

11. Conflict of Interest

- a) A member of Senior Manager or Staff:
 - I. Shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with their official duties and responsibilities.
 - II. Shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict of their personal interests and official duties.
 - III. Whose personal interests' conflict with their official duties shall declare the personal interests to the Authority.

- b) The Authority may give direction on the appropriate action to be taken by a Senior Manager or Staff to avoid the conflict of interest and they shall:
 - I. Comply with the directions; and
 - II. Refrain from participating in any deliberations with respect to the matter.

- c) A member of Senior Management or Staff shall not award or influence the award of a contract to:
 - i. Himself or herself;
 - ii. A Senior Manager or Staff's spouse or child;
 - iii. Business associate or agent; or
 - iv. A corporation, private company, partnership or other body in which the member of senior management or staff has a substantial or controlling interest.

- d) Where a member of Senior Management or Staff is present at a meeting, where an issue which is likely to result in a conflict of interest is to be discussed, they shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.
 - i. A declaration of a conflict of interest under paragraph (d) above shall be recorded in the minutes of that meeting.

12. Register of Conflict of Interests

- a) The Authority shall maintain an open register of conflicts of interest in the prescribed form in which an affected member of Senior Management or Staff shall register the particulars of registrable interests, stating the nature and extent of the conflict.

- b) For purposes of paragraph (a) the registrable interests shall include:
 - i. The interest set out in the second Schedule of Leadership and Integrity Act Cap. 182;
 - ii. Any connection with a person or a company whether by

relation, friendship, holding of shares or otherwise which is subject of an investigation by the Authority or EACC;

- iii. Any application of employment or other form of engagement with the Authority by a family member or friend of the Public Officer or by a corporation associated with the Public Officer; and
- iv. Any other matter which in the opinion of the Public Officer taking into account the circumstances thereof is necessary for registration as a conflict of interest.

c) It shall be the responsibility of a member of Senior Management or Staff to ensure that an entry of registrable interests is updated and to notify the public entity or EACC of any changes in the registrable interests, within one month of each change occurring.

13. Declarations of Income, Assets and Liabilities

- a) Every Board member, Senior Management and staff shall, biannually submit to the Public Service Commission a declaration of the income, assets and liabilities of himself, his/her spouse or spouses and dependent children under the age of 18 years.
- b) The bi-annual declaration shall be submitted by each Board Member, Senior Management and Staff in December of the requisite year.
- c) The statement date of the biannual declaration under subsection (a) shall be the first day of November of the year in which the declaration is required.
- d) Within, thirty days after becoming a Board Member, Senior Management or Staff, he or she shall submit an initial declaration.
- e) Within thirty days after ceasing to be a public officer, the former Board Member, Senior Manager or Staff shall submit a final declaration.
- f) The statement date of a final declaration shall be the date the Board Member, Senior Manager or Staff ceased to be a public officer.

14. Participation in Tenders

A member of Senior Management or Staff shall not participate in a tender for the supply of goods or services to the Authority but the holding of shares by a Senior Manager or Staff in a company shall not be construed as participating in the tender of the Authority unless the Senior Manager or Staff has a controlling shareholding in the company.

15. Public Collections and *Harambees*

A member of senior management or Staff shall not-

- a) use his or her office or place of work as a venue for soliciting or collecting funds for *harambees*; or
- b) Either as a collector or promoter of a public collection obtains money or

other property from a person by using his official position in any way to exert pressure.

13. Acting for foreigners

A member of Senior Management or Staff shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the security interests of Kenya.

14. Care of Property

a) A Senior Manager or Staff shall take all reasonable steps to ensure that the Authority's property in their custody, possession or control is taken care of and is in good condition.

b) A senior manager or Staff shall not use the Authority's property, funds or services that are acquired in the course of or as a result of official duties, for activities that are not related to their official work.

c) A, member of Senior Management or Staff shall return to the Authority all the property in their custody, possession or control at the end of the appointment.

d) A member of Senior Management or Staff who contravenes subsection (b) or (c) shall be personally liable for any loss or damage to the public property.

15. Misuse of Official Information and Confidentiality

a) A member of Senior Management or Staff shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

b) A Senior Manager or Staff shall not disclose or cause to be disclosed any information in his/her custody to any unauthorized person.

16. Political Neutrality

a) A Board Member or Staff shall not, in the performance of their duties:

- i. Act as an agent for, or further the interests of a political party or candidate in an election; or
- ii. Manifest support for or opposition to any political party or candidate in an election.

b) A Senior Manager or Staff shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office.

17. Impartiality

A Senior Manager or Staff shall, at all times, carry out the duties of the office with impartiality and objectivity and shall not practice favoritism, nepotism, tribalism, cronyism; religious bias or engage in corrupt or unethical practices.

18. Giving Advice

A Senior Manager or Staff who has a duty to give advice shall give honest, accurate and

impartial advice without fear or favour.

19. Gainful Employment

- a) Gainful employment means work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the public office or which results in the impairment of the judgment of the public officer in the execution of the functions of the public office or results in a conflict of interest.
- b) Subject to paragraph (a) a senior manager or Staff who is serving on a full time basis shall not participate in any other gainful employment during his time of employment

20. Misleading the Public

A Senior Manager or Staff shall not knowingly give false or misleading information to the public regarding the Authority.

21. Falsification of Records

A Senior Manager or Staff shall not falsify any NEMA records or misrepresent information to the public.

22. Conduct of Private Affairs

A Senior Manager or Staff shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

26 Tax, Financial and Legal Obligations

- a) A member of senior management or Staff shall pay any taxes due from him or her within the prescribed period.
- b) A member of senior management or Staff shall not neglect their financial or legal obligations.

27 Bullying

A senior manager or Staff shall not bully another public officer or any other person.

28 Acting through Others

A senior manager or Staff contravenes this Code if he or she:

- a) Causes anything to be done, whether verbally or expressly, through another person that would constitute a contravention of this Code; or
 - i. Allows or directs a person under their supervision or control to do anything that is in contravention of this Code.
- b) Subsection (a) (i) shall not apply where anything is done without the senior management or Staff's knowledge or consent or if he or she has taken reasonable steps to prevent it.
 - i. A senior manager or Staff who acts under an unlawful direction shall be responsible for his or her action.

29 Conflict Resolution

A Board Member or Staff is expected to resolve issues in a fair and respectful manner and consider other conflict resolution mechanisms such as dialogue, arbitration and mediation.

30 Alcohol and Drug Abuse

A senior manager or Staff shall not consume alcohol excessively so as to impair work performance or judgment nor take prohibited drugs. (We retain it the way it is)

Dress Code

Members of Senior Management and Staff shall dress decently and appropriately as defined in the Human Resources Manual of the Authority and maintain personal hygiene at all times.

31 Reporting Improper Orders

If a senior manager or Staff considers that anything required of them is in contravention of this Code or is otherwise improper or unethical, he or she shall report the matter to the Director General of the Authority or EACC.

32 Use of Information Communication Technology

Use of social networks in an official capacity must comply with the Authority's ICT policy on the use of internet and electronic networks. Members of senior management and Staff using ICT for personal or professional use are expected to exercise the same kind of judgment and criteria as would be applied to any other workplace decision.

33 Sexual Harassment

- a) A member of senior management or Staff shall not sexually harass a fellow Public Officer, attachee/intern, or a member of the public.
- b) "Sexual harassment" includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome:
 - i. Making a request or exerting pressure for sexual activity or favours;
 - ii. Making intentional or careless physical contact that is sexual in nature; and
 - iii. Making gestures, noises, jokes or comments, including innuendoes, regarding another person's sexuality.

34 Breach of Code and Disciplinary Mechanisms

- a) A Public Officer shall conduct themselves with integrity and in adherence to this Code, laws, policies and regulations. Any acts of indiscipline shall not be tolerated. If disciplinary action shall be taken against a Public Officer it shall:
 - i. Be undertaken only in cases where good reason and clear evidence exists.
 - ii. Be appropriate to the nature of the offence that has been committed.

- iii. Be demonstrably fair and consistent with previous action in similar circumstances.
- iv. Allow the Public Officer the right to answer any charges made against them.
- v. Allow the Public Officer the right of appeal against any disciplinary action.

b) Lodging of complaints

- i. Any person may lodge a complaint alleging a breach of this Code by a Public Officer to the Authority.
- ii. Breach of this Code amounts to misconduct for which the Public Officer may be subjected to disciplinary proceedings.
- iii. Where a Public Officer commits a breach of this Code, appropriate action will be taken as provided for in the Leadership and Integrity Act, the Public Officers and Ethics Act and the Public Service Commission Act and any other relevant law.

c) Disciplinary offences include but are not limited to:

- i. Breach of the provisions of these procedures;
- ii. Breach of the provisions of the Authority's terms and conditions of employment;
- iii. Gross misconduct as defined in the Employment Act;
- iv. Insubordination;
- v. Making a false statement in any matter which a Staff is required by the Director General or other duly authorized officer to furnish information;
- vi. Misappropriation and misuse of funds and/or assets of the Authority;
- vii. Staff harassment, bullying and fighting;
- viii. Absenteeism and late coming; or
- ix. Breach of confidentiality and official secrecy.

d) Discipline proceedings against a Public Officer shall conform to the Authority's Human Resources Policies and Procedures Manual and shall not be in contravention of the Constitution of Kenya and other relevant labour laws.

35 Implementation of the Code

Each Public Officer shall take personal responsibility for compliance with the provisions of this Code. The authorized officer may take disciplinary action against a public officer for the contravention of a provision of this Code.

36 Review

This Code shall be reviewed after every three years or such other period as the Authority may determine and upon review shall be forwarded to EACC for approval.

FIRST SCHEDULE

REGISTRABLE INTERESTS

1. Directorships in public or private companies, whether or not remunerated directly or indirectly.
2. Remunerated employment (including office, trade, profession or vocation which is remunerated or which the public officer has any pecuniary interest).
3. Securities (shares, bonds, debentures or any other similar holding) a company or enterprise or undertaking the aggregate nominal or market value of which exceeds a prescribed value while the public officer is in office.
4. Contracts for supply of goods and services.
5. Plans or expectations for or offers of future employment.
6. Public affairs advice and services to clients.
7. Shareholding (amounting to controlling interest).
8. Land property
9. Sponsorship (from companies, trade unions, professional bodies, charities, universities or other organizations or individuals).
10. Travel facilities and overseas visits (made by a public officer or the public officer's spouse or child substantially catered for by the office of the public officer).
11. Gifts, benefits, and hospitality (to a public officer or the public officer's spouse or partner or child or any other material benefit of a prescribed value, from a company, organization or person within Kenya or overseas, which relates substantially to a membership of a public office, to a public office or parliament or County Assembly).
12. Miscellaneous financial interests (not falling within above categories but which a reasonable member of the public would think might influence the conduct of a public officer in the discharge of his or her official duties).
13. Non-financial interests (which may reasonably be thought to affect the way a member discharges the duties in a public office such as unremunerated directorships; membership of public bodies such as hospital trusts, governing bodies of universities, colleges or schools, and other spheres of government, trusteeships etc).
14. Pending civil and criminal cases touching on the public officer or business associate or firm.
15. Possession of dual citizenship or pending applications for dual citizenship and the

status of such application.

SECOND SCHEDULE

REGISTER OF GIFTS (TEMPLATE)

NAME OF PUBLIC ENTITY.....

F/Y.....

S/NO	NAME OF OFFICER	NAME OF PERSON OR ENTITY GIVING THE GIFT	VALUE AND PURPOSE OF GIFT	DATE GIFT GIVEN	DATE RECORDED IN THE REGISTER	DECISION ON THE GIFT-FOR OFFICER/ORGANIZATION/TO BE RETURNED
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3.						
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18.						

19.						
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THIRD SCHEDULE

REGISTER OF DECLARATION OF CONFLICT OF INTEREST (TEMPLATE)

NAME OF PUBLIC ENTITY.....

F/Y.....

S/NO	NAME OF OFFICER	DATE CONFLICT RECORDED	BUSINESS UNDER TRANSACTION	NATURE OF CONFLICT	DECISION MADE ON PARTICIPATION OF OFFICER	SIGNATURE OF OFFICER MAKING DECLARATION
1.						
2.						
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FOURTH SCHEDULE

REGISTER OF COMPLAINTS (TEMPLATE)

NAME OF STATE OFFICE.....

F/Y.....

S/NO	NAME OF PERSON MAKING COMPLAINT	DATE OF COMPLAINT	PARTICULARS OF OFFICER/ORGANIZATION COMPLAINT AGAINST	NATURE OF COMPLAINT	DECISION MADE ON THE COMPLAINT	PARTICULARS AND SIGNATURE OF OFFICER ATTENDING TO COMPLAINT
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Signed on this.....day of.....2016

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**DIRECTOR GENERAL
NATIONAL ENVIRONMENT
MANAGEMENT AUTHORITY**

**CHAIRMAN
NATIONAL ENVIRONMENT
MANAGEMENT AUTHORITY**

APPENDIX 1

REFERENCES

1. The Constitution of Kenya.
2. Leadership and Integrity Act, Cap 182.
3. Public Officer Ethics Act, Cap. 183.
4. The Code of Governance for Public Corporations (Mwongozo), 2015
5. NEMA Strategic Plan 2013-2018.
6. NEMA Human Resource Policies and Procedures Manual.
7. Guidelines for the development of a Code of Conduct and Ethics for Public Officers by EACC.

APPENDIX 2

COMMITMENT TO THE LEADERSHIP AND INTEGRITY CODE

I.....holder of National Identity Card/Passport
..... and of Post Office Box.....
Code..... having been appointed as a Board member/employed as staff of the
National Environment Management Authority, do hereby confirm that I have read and
understood the Leadership and Integrity Code and hereby commit to abide by the
provisions of the Code at all times.

Signed.....

Date.....

