

TRAFFIC AND TRANSPORT MANAGEMENT BILL, 2020

A Bill for

AN ACT of the Tharaka Nithi County Assembly to establish the county directorate of transport, to provide for matters relating to traffic, parking, county roads, street lighting, public road transport and for connected purposes.

Enacted by the County Assembly of Tharaka Nithi as follows

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Tharaka Nithi County Traffic and Management Act and shall come into operation upon assent and publication.

Interpretation

2. In this Act –

“authorized officer” means an officer authorized by County government to implement the provisions of this Act;

“charge” includes fees;

“clamp” means an instrument used to lock wheels of a vehicle;

“County Government” means Tharaka Nithi County Government;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to county transport and traffic;

“dropping zone” means an area designated and marked for alighting of passengers from a vehicle;

“owner” means the person in whose name a vehicle is registered under Part II of the of the Traffic Act, Cap 403 of the Laws of Kenya and in relation to a vehicle which is a subject of a hire purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“parking permit” means a permit issued by the County Government authorizing the owner of a vehicle to use a designated parking place;

“parking space” means a space in a designated parking area, provided for parking of a single vehicle;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road.

Objects

3. The object of this Act is to provide for a legal framework for the management and regulation of traffic and road transport in the county in – order to:
 - (i) Provide for adequate, efficient county transport facilities and services;
 - (ii) Ensure and promote safety in road transport;
 - (iii) Create an effective management structure of the county transport system;
 - (iv) Provide for designation and management of parking places and public service vehicle parks; and
 - (v) Give effect to and ensure an effective transport policy and planning.

PART II – ADMINISTRATION OF TRANSPORT AND TRAFFIC

Directorate of Transport

4. (1) There is established within the County Department responsible for matters of county public transport, the County Directorate of transport and traffic.
 - (2) The Directorate shall be headed by a Director who shall be a county public officer competitively recruited by the County Public Service Board on such terms and conditions as it deems appropriate.
 - (3) The County Public Service Board shall in consultation with, the county department of transport ensure there are adequate personnel as may be necessary for the efficient operation of the Directorate.
 - (4) Each officer and employee shall be a person qualified by training and experience for the performance of the duties assigned to them.

Functions of the Directorate

5. The Directorate shall have the following general functions and duties –
 - (i) To coordinate and develop a comprehensive and balanced transport policy and planning for the County;

- (ii) To coordinate and assist in the balanced development and operation of transport facilities and services in the county;
- (iii) To make such studies and analysis of transport problems relating to any aspect of transport in the county;
- (iv) To partner with and co – operate with;
 - (a) the agencies of other counties and of the national government having duties and responsibilities concerning transport; and
 - (b) persons, organizations and groups utilizing, served by, interested in or concerned with transport facilities and systems in the county.
- (v) To exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;
- (vi) To prepare plans, specifications and designs of:
 - (a) The use of public roads that are under the jurisdiction of the county;
 - (b) Parking facilities; and
 - (c) Public service vehicle parks.
- (vi) To recommend to the executive committee member on areas to be designated as county parking facilities and public service vehicle parks.

PART III – PARKING

Designated of parking places

6. The Executive Committee Member shall on the recommendation of the Directorate, designate areas as parking places and public service vehicle parks.

Marking of parking spaces

7. The limits of each parking place and of parking space shall be marked by line studs or such other indication as the executive committee member may determine.

Duration of parking

8. A vehicle shall not be parked in a designated parking area for duration exceeding the paid for duration.

No reserved parking

9. A person shall not put up a signpost or any other sign in a parking space stating that the parking space is reserved without prior consent of the Directorate and on payment of prescribed fee.

Manner of parking

10. A person shall not park a vehicle in a designated parking area in such manner that the vehicle occupies more than one parking space.

Parking charges

11. A person parking a vehicle within a designated area shall pay a parking fee.

Clamping and Towing charges

12. (1) Where a vehicle is parked within designated parking area without payment of the required fee, an authorized officer shall clamp the vehicle after which it may be towed by an enforcement officer for safe custody until compliance.

(2) Where a vehicle has been clamped and towed pursuant to this section, the owner of such vehicle shall pay, or cause to be paid to the County Government, the prescribed clamping or towing fee and such other fees as may be prescribed.

(3) Where the owner of a vehicle which has been clamped and towed under this section does not pay the fees and expenses due within a period of sixty days from the day on which the vehicle was towed from a designated area, the County Government may sell or otherwise dispose of such vehicle by public auction.

(4) Notice of the intended auction under subsection (3) shall be placed in the print media, and the proceeds of such sale or disposal, if any, be used to recover the cost incurred by the Directorate in towing, storing and disposing the said vehicle.

Display of parking permit

13. (1) A person who drives or parks a vehicle in a designated area and has paid a parking fee, shall display the parking permit on the windscreen showing the amount paid, the date and the time the vehicle entered the parking place.

(2) A person who does not display the parking permit in accordance with subsection (1) shall be deemed not to have paid the required parking fees and provisions of section 14 shall apply to the vehicle.

Free parking

14. (1) Parking fees shall not be payable after 2.00 p.m. on Saturdays and the whole day on Sundays and Public Holidays.

(2) The Executive Member may designate a free parking area for official government use.

Identification of officers

15. Authorized officers shall at all material times in the course of their duties, be in uniform have in their possession a proper identification badge issued by and bearing the authority of the County Government.

Transfer of a parking permit

16. A parking permit shall not be transferred so as to apply to a vehicle other than that the one to which it originally issued.

Permit for parking business

17. (1) A person having a commercial private parking place within the county shall also obtain a permit from the Directorate to carry on such business under the provisions of this Act.

(2) A person who contravenes subsection (1) commits an offence

Offences concerning designated parking spaces

18. A person who –

(a) with intent to defraud, interferes with the writings or marks on a parking permit already issued;

(b) without the authority of the Executive Committee Member uses a parking space for the purpose of advertisement;

(c) willfully damages a vehicle clamp or any of its part;

(d) willfully uses the parked vehicle to carry out business on the designated parking space; or

(e) without the authority of the authorized officer removes or attempts to remove a clamp from a clamped vehicle, commits an offence;

Obstruction

- 19.** A person, who willfully obstructs, hinders or otherwise interferes with an authorized officer in the execution of their duties under this Act commits an offence

Parking on pavements

- 20.** (1) A person shall not park a vehicle on a road, a pavement, County Government garden or an area not designated as a parking area.
- (2) A person who acts contrary to the provisions of this Section commits an offence.

Public Service Vehicles Parks

- 21.** (1) The Directorate shall ensure that there are designated parks for public service vehicles and motorcycles.
- (2) the parks referred to in subsection (1) shall,
- (a) be designated to meet the needs of an area;
- (b) be well maintained and all the necessary amenities are in place;
- (3) All public service vehicle or motorcycle shall be required to operate from a designated park.
- (4) A person who operates any public service vehicle or motorcycle from an area not designated as park under this Act commits an offence.

Application of the part of the Act

- 22.** The application of this part of the Act shall be to such areas as Executive Committee Member shall prescribe.

PART IV- PUBLIC TRAFFIC AND TRANSPORT

Licensing of public transport operators

- 23.** (1) A public service vehicle and motorcycle operating within the county shall be licensed in accordance with the relevant county law on trade licensing.
- (2) No person shall be granted a license to operate a public service vehicle or motorcycle unless, the person is a member of a registered group, association or society of public service transport providers operating within the county.

(3) A person who operates a public service vehicle or motorcycle in contravention of this section, commits an offence.

Obstruction and disruption of traffic

24. (1) A person shall not park a vehicle in an area designated as a dropping zone for public transport vehicles.

(2) no person shall pick or drop a passenger in any area other than in an area designated as a parking area, dropping zone or public service park;

(3) no person shall park a public transport vehicle in a dropping zone any longer than is reasonably necessary to allow passengers alight from the vehicle;

(4) A person who contravenes the provisions of this section commits an offence.

Traffic and street lighting

25. (1) The Directorate shall install traffic and street lights within the County.

(2) The Directorate shall be responsible for the maintenance of traffic and streetlights.

Damage to traffic and street lights

26. No person shall willfully or negligently cause damage to a traffic light or streetlight and a person who contravenes this section commits an offence.

Road signs

27. The Directorate shall ensure that there are conspicuously erected necessary road signs on all county roads.

General penalty

28. A person convicted of an offence under this Act for which no penalty is provided shall be liable upon conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

PART V- GENERAL PROVISIONS

Power to make subsidiary legislations

29. The Executive Committee Member may, in consultation with the directorate, make subsidiary legislation for the administration of this Act including but not limited to regulations relating to:

(a) Matatu termini;

(b) Taxi- cabs;

(c) Motor cycles;

(d) Bicycles; and

(e) Tri- cycles;

MEMORANDUM OF OBJECTS AND REASONS

The objective of this bill to establish the county directorate of transport, to provide for matters relating to traffic, parking, county roads, street lighting, public road transport and for connected purposes.

PART I of the bill provides for Short title and commencement, Interpretation and for Objects.

PART II provides for the Administration. It Highlights on Directorate of Transport and describes the Functions of Directorate.

PART III prescribes the aspect of Parking and specifies on the aspects of ; Designation of parking places, Marking of parking places, Duration of parking, No reserved parking, Manner of parking, Parking charges, Clamping and towing charges, Displaying of parking permit, Free parking, Identification of officers, Transfer of a parking permit, Permit for parking businesses, Offences concerning designated parking spaces, Obstruction, Parking on pavements and Public service vehicle parks.

PART IV of the Bill provides for public transport and traffic. It prescribes for the Application of the part of the Act, Licensing of public transport operators, Obstruction and disruption of traffic, Traffic and street lighting and Damage to traffic and street lights.

PART V of the Bill which is the last part provides for the General Provisions. It highlights on Road signs, General penalties and the Power to make subsidiary legislations.

