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NYERI COUNTY ACTS, 2021

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THE NYERI COUNTY TRANSPORT ACT, 2021

No. 9 of 2021

Date of Assent: 8th September, 2021

Date of Commencement: 18th November, 2021

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THE NYERI COUNTY TRANSPORT ACT, 2021

AN ACT of Nyeri County Assembly to provide for County transport; road use and maintenance; parking; street lighting; traffic management and for connected purposes

ENACTED by the Nyeri County Assembly, as follows—

PART I—PRELIMINARY**Short title**

1. This Act may be cited as the Nyeri County Transport Act, 2021.

Interpretation

2. In this Act—

“authorized person” means a person responsible for carrying out a duty or function or delegated to carry out any duty or function in terms of this Bill;

“certificate” means operating authority issued under this Bill;

“Committee” means Road Construction and Maintenance Committee under section 7 of this Act;

“county Roads” means all other roads except those marked as National Roads in the 1st schedule of the Kenya Roads Act, 2007;

“County Executive Committee Member” means County Executive Committee Member in charge of transport;

“department” means the County department of transport as may be established by the committee under section 5 of this Act;

“hazardous materials” be provided to read as “hazardous materials means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce by all modes;

“improvements” means any form of modification, design, addition to the old state, and advancements in line with the provisions of this Act;

“motor cycle” refers to a motor cycle with less than four wheel and includes tuk-tuk motor cycle propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers;

“motor vehicle” includes a vehicle, machine, bus, tractor, truck trailer or semi-trailer, propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;

“permit” means operating authority issued under this Act;

“person” has the meaning assigned to it under Article 260 of the Constitution;

“ranking facility” includes—

- (a) a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers; and
- (b) any place demarcated or designated for the exclusive parking of specific public transport vehicles by a road traffic sign.

“vehicle” has the meaning assigned to it under section 2 of the Traffic Act, Cap. 403;

“trailer” means any vehicle designed to be drawn by a motor vehicle, but does not include a sidecar attached to a motor cycle.

Object

3. The object of this Act is to—

- (a) provide for adequate, safe and efficient county transport facilities and services at a reasonable cost to the people;
- (b) facilitate the management, planning and development of county transport facilities and transport infrastructure; and
- (c) ensure a balanced county transport policy and planning.

Application

4. (1) This Act applies to all the roads within the county and county transport, infrastructure and services.

(2) Persons with disabilities, older members of the society, expectant women and other person with special needs shall be given priority to access transport within the county.

PART II—TRANSPORT AND ROADS ADMINISTRATION**Functions, powers and duties of the department of roads and transport**

5. (1) The County Executive Committee Member for roads and transport shall have the following functions, powers and duties, to—

- (a) coordinate and develop a comprehensive and balanced transport policy and plan for the county;
- (b) coordinate and assist in the balanced development and operation of transport facilities and services in the county;
- (c) make such studies and analysis of transport problems relating to any aspect of transport in the county;
- (d) partner with and co-operate with—
 - (i) the National Government on transport matters;
 - (ii) other counties and inter-county agencies on transport matters in the county or counties;
 - (iii) other county transport facilities and systems' personnel; and
 - (iv) Non-state actors.
- (e) exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;
- (f) formulate and execute contracts;
- (g) keep accounts;
- (h) compile statistics;
- (i) engage in research opportunities;
- (j) prepare plans, specifications, designs and estimates, and, by the procedures and methods provided in the law, to construct and reconstruct—
 - (i) the public roads that are under the jurisdiction of the county;
 - (ii) the canals, waterways of the county and structures that are under the jurisdiction of the county;
 - (iii) the bridges and grade separation structures that are under the jurisdiction of the county;
 - (iv) parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities;

- (k) operate and maintain—
 - (i) the county road, other public ways, bridges and grade separations;
 - (ii) the canals, waterways and structures of the county; and
 - (iii) parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities.
- (l) issue the County Annual Report of the state of Roads and Transport.

Staffing

6. The County Public Service shall be responsible for staffing of the department of roads and transport.

PART III—ROAD CONSTRUCTION AND MAINTENANCE COMMITTEE**Establishment and composition of the Committee**

7. (1) There is established a County Road Construction and Maintenance Committee.

- (2) The Committee shall consist of—
 - (a) the County Executive Member in charge of the Department of Transport, Public Works, Infrastructure and Energy;
 - (b) the Chief Officer in the County Department responsible for matters relating to roads/transport;
 - (c) the Nyeri County Director of Road and Transport;
 - (d) the Chief Officer or representative of the Chief Officer Economic Planning and Finance; and
 - (e) any other officer as may be appointed by the Chief Officer in charge of the Department of Transport, Public Works, Infrastructure and energy.

Functions of the Committee

8. (1) The committee shall be responsible for the management, development, rehabilitation and maintenance of County roads.

(2) For the purpose of discharging its responsibility the committee shall perform the following functions and duties;

- (a) rehabilitating and maintaining road reserves and access to roadside development;

- (b) ensuring that the quality of road works is in accordance with the set standards;
- (c) overseeing in the management of traffic and road safety on county roads, in collaboration with other agencies or national authorities;
- (d) monitoring and evaluating the use of county roads;
- (e) planning the development, financing and maintenance of county roads;
- (f) advising on all matters relating to county roads;
- (g) preparing the investment programme and annual road works programmes for all county roads; and
- (h) liaising and coordinating with other road agencies in planning and on operations in respect of roads.

PART IV — TRAFFIC AND PUBLIC ROAD TRANSPORT

Transportation of hazardous materials

9. (1) The department shall promote safety in the transport of hazardous materials by all modes of transport.

(2) The County Executive Committee Member may develop regulations to govern transport of hazardous materials.

(3) A person shall not transport or undertake transport operation in the County in a manner that exposes the public to danger.

(4) A person who contravenes this section commits an offence, and shall on conviction, be liable to imprisonment for a period of one year or a fine not exceeding one hundred thousand Kenyan shillings or to both.

Right of entry

10. An authorized person may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with such facility.

Operating license

11. A person shall not drive a motor vehicle on a county public road—

- (a) except under the authority and in accordance with the conditions of a license issued to him or her in terms of the relevant law; and

- (b) unless he or she keeps such license or document or any other prescribed authorization with him or her in the motor vehicle.

Preventing engagement of a public transport vehicle

12. A person shall not through use of force, intimidation, threats or by any other means, prevent or try to prevent—

- (a) any person from obtaining or engaging a public transport vehicle;
- (b) the driver of a public transport vehicle from taking on passengers in lawfully designated places; or
- (c) the operation of any public vehicle which is lawfully operated.

Conveying dangerous or offensive articles in public transport vehicles

13. (1) A person who is in charge of a public transport vehicle shall not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing—

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has reasonably been exposed to or contaminated by an infectious or contagious disease.

Boarding and disembarking of public transport vehicles

14. (1) A person shall not board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.

(2) A person shall not board a public transport vehicle where the number of passengers is in excess of the total number of passengers which it is authorized to carry.

(3) A person shall not board, alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

(4) While boarding or disembarking priority shall be given to persons with disabilities, elderly persons, pregnant women and any other person with special needs.

Queues at public transport facilities

15. (1) The department may establish ranking facilities in the county and may further erect or cause to be erected a queue sign or queuing barrier in any suitable form for the purpose of queuing.

(2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place shall queue from the point at which it is indicated that such public transport vehicle will leave.

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle shall form themselves into a queue not exceeding two abreast or in a single file when required to do so by an approved public transport conductor or authorized official of the County.

(4) Every passenger queuing shall comply with all the instructions given by a public transport conductor, authorized officer or authorized official when on duty.

Payment of fares

16. (1) A passenger shall pay the determined fare for the journey.

(2) The fare to be paid shall not exceed the amount displayed on the vehicle.

(3) The Associations of public service vehicles shall in consultation with the County Executive Committee Member set reasonable fares for journeys undertaken within the County.

Actions prohibited on a public service vehicle

17. (1) The following actions are prohibited on a public service vehicle—

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (g) forcibly causing the driver to deviate from his route;
- (h) endangering the life of another passenger;
- (i) interfering with the actions of the driver;
- (j) showing or displaying any pornographic material; or
- (k) any other actions prohibited by any other law.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding fifty thousand or to an imprisonment for a term not exceeding six months.

Property left in public service vehicles

18. If a passenger leaves behind any property in a public service vehicle, the driver of the public service vehicle shall—

- (a) deliver that property to the person who left it behind; or
- (b) if they are not able to deliver that property to the person who left it behind, deliver the property to the lost property office of their employer or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

Obstruction and disruption of traffic

19. (1) A person shall not park or allow a public service vehicle to park in a stopping place designated for specific public service vehicles.

(2) A public service vehicle may not traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

(3) A public service vehicle may not park in a demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

PART V—STREET LIGHTING**County to install street lighting**

20. The county government shall install street lights within the county with special attention to the following areas—

- (a) major traffic routes;
- (b) urban areas;
- (c) town centres;
- (d) markets;
- (e) pedestrian crossings;
- (f) pedestrian subways;
- (g) residential areas;
- (h) foot bridges;
- (i) shopping centres; and
- (j) rural areas.

Maintenance of street lights

21. The department shall be responsible for the maintenance of streetlights.

Damage to streetlights

22. (1) A person shall not willfully, carelessly or negligently cause damage to any streetlight.

(2) A person who contravenes this section shall, upon conviction be liable to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding one year or to both.

(3) In addition to the fine prescribed under subsection (2), the person found guilty shall be required repair the damaged street light.

PART VI—PARKING**Parking on a public road**

23. (1) A person shall not park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that interferes with the flow of traffic.

(2) A person who contravenes section (1) commits an offence.

Prohibited parking areas

24. A person shall not stop or park a vehicle —

- (a) at an intersection nearer than ten metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten metres on the approach to a stop sign or yield signs;
- (c) within five metres of a fire hydrant;
- (d) within ten metres of the approach to a pedestrian crossing;
- (e) on a sidewalk;
- (f) facing oncoming traffic;
- (g) on a bridge or approach to a bridge;
- (h) in a passenger loading or unloading space except when taking or discharging passengers;
- (i) on a portion of a public road posted as “No Parking”;
- (j) on a land owned by the county which the county uses or permits to be used as a playground, recreation area, utility lot, or public park, except in such areas designated or posted for parking;
- (k) on a space posted as a fire lane except for emergency vehicles;
- (l) on a space posted for people living with disabilities parking unless such vehicle is designated as a person living with disability vehicle;

- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit; and
- (o) in such a manner to obstruct the entrance or exit of a fire hall or ambulance station.

'No parking' and 'street maintenance' signs

25. The department may through its authorized officers or employees cause moveable signs to be posted on or near a road to indicate "No Parking", or "Street Maintenance" and when so posted, such signs shall take precedence over all other traffic control devices.

Towing away of vehicle

26. (1) A vehicle parked contrary to this Act may be clamped or towed away at the owner's expense.

(2) The owner of the vehicle towed under subsection (1) may be charged in a court of law for violation of this Act.

(3) 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 Traffic Enforcement officer for safe custody until compliance.

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

(5) Where the owner of the 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 of which the vehicle was towed from a designated area, the County Government may sell or otherwise dispose off such vehicle by public auction.

(6) Notice of the intended auction under sub section (5) 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 Department in towing, storing and disposing of the said vehicle.

Permit not transferrable

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

Parking on alleys

28. (1) A person shall not park a vehicle on any alley, except for the following purposes—

- (a) the loading or unloading of goods from a commercial vehicle; and
- (b) the loading or unloading of goods or passengers from a vehicle other than a commercial vehicle.

(2) A person shall not, while loading or unloading passengers or goods, park in such a manner as may obstruct the passage of other vehicles along the alley.

Parking on private property

29. A person shall not park a vehicle or permit a vehicle to be parked on private property without the permission or authorization of the owner of the private property or a person having lawful possession or control of the private property.

Parking of trailers upon public road

30. A person shall not park or permit to be parked, any trailer upon any public road unless the said trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be considered to be part of the vehicle and subject to the provisions pertaining to vehicles.

Parking on taxi zone

31. A person shall not park or permit to be parked a vehicle that is not a taxicab, in an area designated as a taxi zone.

Parking a taxi cab within a taxi zone with 'Not for Hire' sign

32. An operator of a taxicab shall not park the taxicab upon any roadway other than within a taxi zone, unless such taxicab is displaying a "Not for Hire" sign and the operator is out of the taxicab.

Parallel parking

33. When parking a vehicle on a roadway, a person may only park a vehicle—

- (a) with the sides of the vehicle parallel to the curb or edge of the roadway, and the right wheels of the vehicle not more than five hundred millimeters from the right curb or edge of the roadway; or

- (b) in the case of a one-way highway, where parking on either side is permitted, with the sides of the vehicle parallel to the curb or edge of the roadway, the wheels that are the closest to a curb or edge of the roadway not more than five hundred millimeters from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

Angle parking where no parking guidelines are visible

34. When a sign indicates that angle parking is permitted or required, and no parking guidelines are visible on the roadway —

- (a) a person may only park a vehicle with the vehicle's sides at an angle of between thirty and sixty degrees to the curb or edge of the roadway;
- (b) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred millimeters from the curb or edge of the roadway; or
- (c) in the case of a motorcycle, with the nearest wheel of the motorcycle not more than five hundred millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

Payment of parking fees

35. Parking fees shall not be payable after 2.00pm on Saturdays and the whole day on Sundays and public holidays.

Uniform and identification

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

PART VI—SERVICES AND CHARGES

Safe and adequate service; just and reasonable charges

37. (1) Every person or public transport service providers in the county shall ensure that their service and facilities are safe, adequate, just and reasonable.

- (a) All charges made or demanded by a transport service provider shall be just and reasonable and not more than allowed by law.
- (b) A charge made or demanded for a public transport service in excess of that allowed by law is prohibited.

- (c) All transport service providers have a general duty to deal reasonably with customers and adequately address customer complaints.

Traffic schedules

38. Each county transport service provider shall file with the department and keep open for public inspection, schedules showing the rates, fares and charges for—

- (a) the transportation of passengers and property within the county between each point upon its route; and
(b) every route leased, operated or controlled by it.

Changes in fares and charges

39. A change shall not be made for a rate, fare or charge, or joint fare or charge filed and published by a county transport service provider except after thirty days' notice to the department.

PART VIII—GENERAL PROVISIONS**General penalty**

40. (1) A person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable for a first offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months; for second or subsequent offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months.

- (2) All offences under this Act shall be cognizable to the police.

Offences

41. A person is guilty of an offence if they—
- (a) willfully damage a public transport facility;
- (b) being a county authorized officer, knowingly refuses to enforce the provisions of this Act;
- (c) publicly graze and herd livestock on county roads.

Power to make further regulations

42. The County Executive Committee Member may pursuant to this Act make regulations on—

- (a) matatu termini;
- (b) taxi-cabs;
- (c) motor cycles;

- (d) bicycles;
- (e) tri-cycles;
- (f) non-motorized transport;
- (g) road development plans; and
- (h) county transport Fund.