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THE MAKUENI COUNTY TRANSPORT BILL, 2017

A Bill for

AN ACT of the County Assembly of Makueni to provide for matters relating to traffic, parking, county roads, street lighting, public road transport, light rails, establish the county inspectorate of transport, and for connected purposes.

ENACTED by the County Assembly of Makueni as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Makueni County Transport Act, 2017 and shall come into effect on such a date as the County Executive Committee Member may by notice in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires—

"authorized person" means any person responsible for carrying out any duty or function or delegated to carry out any duty or function in terms of this Act;

"county executive member" means the county committee executive member in charge of transport;

"county roads" mean all other roads except those marked as National Roads in the First Schedule of the Kenya Roads Act, 2007;

"department" means the County Department of Transport;

"director" means the county director of transport under this Act;

"hazardous materials" means a substance or material in a quantity and form which may pose an unreasonable risk to the health and safety of persons or property when being transported;

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"light railway" means a railway whether above, on or under the ground and includes underground metropolitan trains, trams, sky trains, cable trains and magnetic levitation trains;

"motor-cycle" refers to a motor vehicle with less than four wheels and includes tuk-tuks, motorcycles (also known as *boda- boda)* 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" includes an individual, firm, partnership, association, company or corporation;

"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;

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

Objects of the Act

3. The objects and purposes of this Act include the following among others—

(a) to provide for adequate, safe and efficient County transport facilities and services at reasonable cost to the people;

(b) to regulate the conduct of users on the roads, and light rail if any;

(c) to facilitate the management, planning and development of county transport facilities and transport infrastructure;

(d) to give effect to and ensure a balanced transport policy and planning.

Application of this Act

4. (1) This Act applies to county roads, light rail, county infrastructure and other ways and passages within the county.

(2) Subject to the provisions of this Act priority shall be given to persons with disabilities, elderly persons, pregnant women and any other person with special needs.

PART II—ADMINISTRATION

Transport inspectorate

5. (1) There is established a Transport Inspectorate which shall be a unit within the Department responsible for Roads and Transport dealing with enforcement of provisions of this Act.

(2) The Transport inspectorate shall be headed by a Traffic Marshall who shall be appointed by the County Public Service Board through a competitive process.

(3) The County Public Service Board may on the request of the County Executive Committee Member appoint such number of authorized officers as may be necessary for the enforcement of the provisions of this Act, to serve in the Inspectorate.

Functions, Powers and Duties of the inspectorate

6. The inspectorate shall have the following general functions, powers and duties—

(1) To exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;

(2) To co-ordinate and develop a comprehensive and balanced transport policy and to undertake planning of transport services for the county;

(3) To co-ordinate and develop a comprehensive and balanced transport policy and planning for the county;

(4) To co-ordinate and develop a comprehensive and balanced transport policy and planning for the county;

(5) The inspectorate shall have power to co-operate with the agencies of other counties and of the National government which are connected with national defense, in the formulation and execution of plans for the rapid and safe movement over county roads of troops, vehicles of a military nature, and materials affecting national defense;

(6) To partner with and co-operate with—

(a) officials of the State Department having duties and responsibilities concerning transport;

(b) officials and representatives of public corporations as defined in the *law providing for government owned entities* having duties and responsibilities concerning transport;

(c) official representatives of neighbouring Counties and of inter-county agencies on matters affecting transport in the county or counties;

(d) officials and representatives of transport facilities and systems in the county;

(e) persons, organizations and groups utilizing, served by, interested in or concerned with transport facilities and systems in the county.

PART III—TRAFFIC AND PUBLIC ROAD TRANSPORT

Transportation of hazardous material

7. (1) The Inspectorate shall promote safety in the transportation of hazardous materials by all modes of transport, including providing by pass in towns.

(2) The County Executive Member may make rules and regulations governing transportation of hazardous materials.

Right of entry in vessel

8. An authorized officer 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

9. No person shall drive a motor vehicle on a public road except under the authority and in accordance with the conditions of a license issued to him in terms of the relevant national law.

Preventing engagement of public transport vehicle

10. (1) No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent—

(a) any person from obtaining or engaging a public transport vehicle; or

(b) the driver of a public transport vehicle from taking on passengers or inviting passengers to board the vehicle.

(2) A person who acts in breach of (1) above shall be guilty of an offence and shall be liable to a fine not exceeding Kenya Shillings Thirty Thousand or imprisonment to a term of three months or both.

Conveying offensive or Dangerous articles in public transport vehicles

11. (1) A person who is in charge of a public transport vehicle may 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 obviously been exposed to or contaminated by an infectious or contagious disease; or

(c) is in possession of dangerous material or anything that may do harm to other passengers in the vehicle.

(2) For purposes of this section a person contemplated by section (l) shall include—

(a) an escaped convict;

(b) any person escaping from a quarantined area;

(c) any other person as the county executive member may determine.

Boarding and Disembarking from public service vehicle

12. (1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.

(2) No person may board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorized to carry.

(3) No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

(4) The persons in charge of the public service vehicle shall ensure that while boarding or disembarking, priority shall be given to persons with disabilities, elderly persons, pregnant women and any other person with special needs.

(5) A person in breach of the provisions of paragraphs (1) to (3) above shall be guilty of an offence and shall be liable to a fine of up to

Kenya Shillings five Thousand or imprisonment to a term of one month or both.

Motorcycle transport

13. (1) The Rider and pillion passenger on a motor bike must each wear a helmet and a reflecting jacket when on board.

(2) The carrying capacity for motorbikes shall be one pillion passenger, seated on a seat that is securely fixed to the motor cycle behind the driver's seat and three passengers for tuk-tuk who shall sit on the places reserved for the passengers.

(3) Any pillion passenger riding with an infant is prohibited unless such infant is fastened securely on the pillion passenger and restricted to one child per pillion passenger.

(4) It shall be an offence to do any act that will endanger the life of a child.

(5) No motor cycle shall carry passengers for commercial purposes unless it holds a permit issued by the county department of transport, in accordance with the terms and conditions under this Act.

(6) Any motor-cycle carrying passengers for commercial purposes shall bear distinct number for identifications apart from the registration numbers.

(7) Any motor-cycle carrying passengers for commercial purposes shall operate on zonal arrangements and each zone shall have a distinct colour mark given by the inspectorate.

(8) Any motor-cycle carrying passengers for commercial purposes shall abide by existing traffic regulation, including a reflective jacket and helmet and must provide a clean appropriate helmet and reflective jacket for the pillion passenger.

(9) Any person in breach of any of the above shall be guilty of an offence on each or any subsection and shall be liable to a fine not exceeding Kenya Shillings Ten Thousand or a term of one-month imprisonment in default thereof on each or any of such offence.

Queues at public transport facilities

14. (1) The Inspectorate 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 must 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 must form themselves into a queue not exceeding two abreast or in a single line when required to do so by an approved public transport conductor or authorized official of the County.

(4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue.

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

(6) Any person in breach of (2), (3), (4) and/or (5) above shall be guilty of an offence on each or any sub section and shall be liable to a fine of Kenya Shillings Five Thousand or a imprisonment to a term of one-month.

Display of fares

15. (1) The public service vehicle owners will develop a fare guide based on the kilometres and kind of commercial licensed vehicle and the fare guide will be displayed at a location in the vehicle that is visible to all passengers.

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

(3) A passenger who refuses to pay the determined fare shall be guilty of an offence and be liable to a fine equivalent to five thousand shillings or to a term of imprisonment not exceeding one month.

(4) It is an offence for any operator of a public service vehicle to charge a fare above the amount displayed on the fare guide in the vehicle.

Rights and Duties of passengers when vehicle becomes defective

16. (1) If a public transport vehicle becomes defective during a journey or, for any reason whatsoever, is unable to proceed on with the journey to the desired destination, the passengers shall disembark from such defective vehicle and the operator of the defective vehicle is to provide an alternative vehicle within a reasonable time unless a passenger elects for an adequate refund for the remainder of the journey.

(2) A public service vehicle operator who refuses to refund a passenger, as contemplated in subsection (1) above or who refuses to allow a passenger to travel in the manner as contemplated in subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding Ten Thousand Shillings or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

(3) An operator who does this is also liable by fine – look at the lesson at national level.

(4) Where the vehicle has become defective in an area, the driver shall take reasonable steps to ensure the security of the passengers and the vehicle operator will be held responsible for any loss or injury suffered to passengers as a result of negligence of the driver.

Actions prohibited on a public transport vehicle

17. (1) The following actions are prohibited on a public transport 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; and

(k) any other action prohibited by law.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable to a fine not exceeding twenty thousand only or to imprisonment for a term not exceeding six years or to both.

Custody of property left in a public transport vehicle

18. The driver of a public service vehicle carrying passengers, must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver shall—

(a) make efforts deliver that property to the person who left it behind; or

(b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer's or Sacco office or to the

nearest police station and deposit it with the officer on duty and obtain a receipt for it;

(c) all Sacco or employer offices shall display a hotline number at the entrance or front doors or any other open and visible place.

Obstruction and Disruption of traffic

19. (1) A person shall not park or allow to be parked a public transport vehicle in a non-designated parking area.

(2) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

(3) No public transport vehicle may park in a designated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

(4) The County government will establish lay-bys where public transport vehicles in transit will be able to pick and drop passengers and such public transport vehicles shall be prohibited from parking or blocking the entrance or exit of the lay by.

(5) A person who commits any of the acts as stipulated under subsection (1), (2) and/or (3) herein commits an offence, and is liable on conviction to a fine not exceeding Fifty Thousand Shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Duties of pedestrian

20. (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a relatively safe place, a distance further than 50 metres from such pedestrian crossing or intersection.

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian shall only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal which embodies pedestrian signals operates at an intersection, a pedestrian shall not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian shall not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian shall only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) There shall be established by the inspectorate, road signs indicating the rights of way for children near schools and hospitals to enable children and patients to cross the road.

(7) No pedestrian shall carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(8) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings only or to imprisonment for a term not exceeding three months.

Use of a hooter

21. (1) No person shall use the sounding device or hooter of a vehicle on a public road, except when such use is necessary in order to comply with the provisions of this Act or any other law or on the grounds of safety.

(2) No person shall use the sounding device or hooter of a vehicle near hospitals and schools unless it is absolutely necessary to prevent causing an accident.

(3) A person who contravenes any provision of this section commits an offence and is liable on conviction, to a fine not exceeding twenty thousand shillings or a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

Use of communication devices while driving

22. (1) Subject to any other law, no person shall drive a motor vehicle on a public road—

(a) while holding, using or operating a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used.

(2) An authorized officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device.

(3) The authorized officer must, when confiscating any hand held communication device—

(a) inform the owner of such communication device of the reasons of confiscating and impounding;

(b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and

(c) follow all procedures contained in any policy of the County dealing with the confiscation and impoundment of property.

Installation of street lights

23. (1) The County Government shall install street lights within the County with special attention to the following areas; major traffic routes, high crime urban areas, town centres, pedestrian crossings, residential areas, foot bridges and shopping centres.

(2) No private undertaking of street lighting shall be undertaken without the authority of the county government.

Maintenance of street lights

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

Damage to street lights

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

(2) Any person who willfully or carelessly causes damage to any streetlights commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings or a term of imprisonment not exceeding two years or to both such fine and imprisonment.

PART IV—PARKING

Parking on a public road

26. 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 impedes the flow of traffic.

Prohibited parking areas

27. (1) A person shall not park a motor vehicle in any other area other than a designated parking area.

(2) Unless required or permitted by this Act or by a traffic control device, or in compliance with the directions of a traffic officer, or to avoid conflict with other traffic, no person shall stop or park a vehicle—

(a) at an intersection nearer than ten (10) meters to the projection of the curb line immediately ahead or immediately to the rear;

(b) within ten (10) meters on the approach to a stop sign or yield signs;

(c) within five (5) metres of any fire hydrant, or when the hydrant is not located at the curb, within five (5) metres of the point on the edge of the roadway nearest the hydrant;

(d) within ten (10) metres of the approach to a pedestrian crossing;

(e) on a sidewalk;

(f) facing oncoming traffic;

(g) on any bridge or approach to any bridge;

(h) in a passenger loading or unloading space posted as such by a traffic control device except when actually taking or discharging passengers;

(i) on any portion of a public road posted with the sign 'No Parking';

(j) on any 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 any space posted as a fire lane except for emergency vehicles;

(l) on any space posted for disabled persons parking unless such vehicle is designated as a disabled person's vehicle;

(m) in a transit zone except a transit vehicle;

(n) in such a manner so as to obstruct an emergency exit; or

(o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

(3) No person shall 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.

(4) No person shall 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 deemed part of the vehicle and subject to the provisions pertaining to vehicles.

(5) No person shall park or permit to be parked a vehicle that is not a taxicab, in an area posted as a taxi zone.

No parking and Street maintenance signs

28. Notwithstanding any other provision in this Act, the department through any of its authorized officers or employees, shall cause moveable signs to be posted on or near a highway to indicate No Parking, or Street Maintenance to serve as a temporary measure and when so posted, such signs shall take precedence over all other traffic control devices.

Towing away of vehicle

29. (1) Any vehicle parked contrary to provisions of this Act or which has broken down at a place not designated for parking shall be removed within the hour by the owner, failing which it shall be towed away by authorized officers of the inspectorate at the owner's expense.

(2) When a vehicle breaks down on a road, the owner shall place the triangular road traffic sign known as the hazard at least 10 metres behind the vehicle.

(3) It shall be offence punishable by a fine of ten thousand shillings or imprisonment to a term not exceeding one month in prison to place any material or vegetation on the road in front of or behind a broken down vehicle to serve as a warning to other road users that there is a stationery vehicle on the road.

Parking on alleys

30. (1) No person shall park a vehicle on any alley unless a traffic control device otherwise permits, except for the following purposes—

(a) the loading or unloading of goods from a commercial vehicle for a reasonable period; or

(b) the loading or unloading of goods or passengers from a vehicle other than a commercial vehicle for a reasonable period.

(2) Notwithstanding subsection (1) above, no person, while loading or unloading passengers or goods, shall park in such a manner as may obstruct the passage of other vehicles along the alley.

Parking a taxi cab with "not for hire" sign

31. (1) The 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.

(2) Nothing in this part shall be construed as to allow parking contrary to any other provision of this Act.

Compliance

32. Notwithstanding the establishment of a taxi zone on a roadway, an operator of a taxicab stopping or parking in such a zone shall comply with the requirements of this Act.

Restriction on execution against property of the authority

33. When parking a vehicle on a roadway, a person parking 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 (500) millimetres 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 (500) millimetres from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

Committees of the authority

34. Angle parking is permitted where no parking guidelines are visible on the roadway in the following circumstances—

(a) parking the vehicle's sides at an angle of between thirty (30) and sixty (60) degrees to the curb or edge of the roadway; and

(b) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred (500) millimetres 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 (500) millimetres from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

PART V—SAFE AND ADEQUATE SERVICE, AT JUST AND REASONABLE CHARGES

Safe public transport service at reasonable costs

35. (1) Every Corporation, person or public transport service provider performing a transport service in the county, shall furnish with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable.

(2) All charges made or demanded by any such Corporation, person or transport service provider for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the Department and made as authorized by this Act.

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

Publication of tariffs' schedule

36. Every public transport service provider within the County shall file with the Department and shall print and keep open to public for inspection, schedules showing the rates, fares and charges for the transportation of passengers and property within the County, between each point upon its route and all other points thereon; and between each point upon its route and all points upon every route leased, operated or controlled by it.

Changes in the fares and Charges

37. (1) Unless the Department otherwise orders, no change shall be made in any rate, fare or charge, or joint rate, fare or charge, which shall have been filed and published by a county transport service provider in compliance with this Act, except after a 30-days 'notice to the Director and on obtaining such consent of the Department.

(2) The Department, for good cause shown, may allow changes in rates without requiring the thirty days' notice and publication herein provided for, by duly filing and pub[redacted]ing in such manner as it may direct an order specifying the change s[redacted] the time when it shall take effect.

(3) Any changes made [redacted] tariff's schedule as provided in subsection 2 above shall immediately be indicated upon its schedules by the county transport service provider.

PART VI—LIGHT RAILWAY

Development of light railway

38. The Department may develop light railway works in the county for purposes of improving mobility of people and goods at an affordable rate and in connection thereto may maintain, improve or repair the light railway.

Power of entry on land

39. (1) An authorized officer may, on production of his or her authorization if so requested by any person affected, for the purposes of this part enter on any land and—

(a) inspect and survey the land and make any inquiry, investigation or examination for the purpose of ascertaining whether or not the land is suitable for the purposes of the construction of a light railway;

(b) carry out any investigation or examination thereon, preliminary or incidental to the purposes aforesaid;

(c) bring thereon such other persons or equipment as he or she may reasonably consider necessary for the purposes of his or her functions under this section;

(d) line sight, drill, bore, probe or excavate, or take such samples and carry out such tests as he or she reasonably considers necessary or expedient for the purposes of such functions.

(2) Before an authorized officer enters any land or dwelling house under *subsection (1)*, he or she shall obtain the consent of any owner or occupier thereon.

Regulations on light rail

40. (1) The County Executive Member may make regulations generally for the purposes of giving effect to this part.

(2) Without prejudice to the generality of the foregoing, the County Executive Member may make regulations for the management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof and in relation to any one or more of the following matters—

(a) the regulation of the times of arrival and departure of light railway vehicles;

(b) the prevention of the commission of nuisances in or upon light railway vehicles;

(c) the prevention of damage to light railway vehicles;

(d) the removal from or the prohibition of the use on a light railway line of any vehicle or thing which is or may become a danger to life, health, the operation or maintenance of a light railway or would otherwise interfere with the proper operation of a light railway;

(e) the fixing, altering, charging and recovery of fares, fees, tolls and charges in respect of the travelling upon or use of light railway vehicles;

(f) the general regulation, subject to any statutory provisions in that behalf, of the travelling upon or use of light railway vehicles and the working of light railway transport services by the Board;

(g) the safe custody and redelivery or disposal of any property found on or in any light railway vehicles of the County and the fixing of charges in respect thereof.

(3) Regulations under this section may contain such incidental, subsidiary and ancillary provisions as the County Executive Member considers necessary or expedient for the purposes of the regulations.

(4) The regulations shall be approved by the County Assembly before taking effect.

Trespass on a railway

41. A person who trespasses on a light railway that is not on a public road or trespasses on any land, machinery or equipment used for the purposes of the light railway shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings 50,000 or to a term of imprisonment of not less than six months or to both fine and imprisonment.

Use of vehicle on rail without authority

42. A person who uses or attempts to use a vehicle on a light railway with flange wheels or wheels suitable only for use on the rails of a light railway without the written consent of the Department shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings 500,000 or to imprisonment for a term not exceeding twelve months or to both.

PART VII—GENERAL PROVISIONS

Obstructing authorized officers

43. A person who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function

conferred on that person under this part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Kenya shillings 100,000 or to imprisonment for a term not exceeding ten months or to both.

General penalties

44. Any person who contravenes or fails to comply with any of the provisions of this Act and where no penalty has been prescribed shall be guilty of an offence and liable on first conviction to a fine not exceeding Kshs. 50,000/= or to imprisonment for a term not exceeding six months, and on each subsequent conviction to a fine not exceeding Kshs. 100,000/= or to imprisonment for a term not exceeding one year or to both.

Power to make further regulations

45. The County Executive Member may, pursuant to this Act and in consultation with the Inspectorate make further regulations for the purposes of giving effect to this Act including but not limited to regulations relating to—

(a) matatu termini;

(b) taxi- cabs;

(c) motor cycles.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose and objectives of this Bill is to provide for establishment of the county department of transport, to provide for matters relating to Traffic, parking, county roads, lighting, public road transport and for connected purposes.

Part I of the Bill provides for preliminary matters including the short title to the Bill, the interpretation of words and expressions used in the Bill, the objects, purpose and application of the Bill.

Part II of the Bill makes provision for establishment, functions, powers and duties of the Department of Transportation.

Part III deals with Traffic, Public road transport and street lighting and provides for basic issues of road transport generally, rights and duties of passengers in public transport vehicles, pedestrians, prohibited actions, obstruction, prohibition of use of communication gargets while driving, street lighting, and maintenance of street lights.

Part IV of the Bill makes provisions for parking and specifically makes provision for parking on public roads, prohibited parking, parking on private property, towing of vehicles, styles of parking, parking for taxis and other vehicles.

Part V of the Bill provides for safe and adequate service, just and reasonable charges and tariff schedules and publication.

Part VI of the Bill provides for development of light railway, regulations of light railway, trespass on right railway, obstruction and use of vehicle on railway.

Part VII of the Bill contains general provisions and provides power to make Regulations and repeal of the bylaws.

The enactment of this Bill will occasion significant expenditure of public funds which will be provided for in the county budget.

Dated the 16th February, 2017

JOSIAH WAMBUA KAVITA,
Member of the County Assembly.