

**SPECIAL ISSUE**

*Mandera County Gazette Supplement No. 17 (Bills No. 11)*



REPUBLIC OF KENYA

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**MANDERA COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2014**

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**NAIROBI, 28th August, 2014**

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**THE MANDERA COUNTY TRANSPORT BILL, 2014**

**A Bill for**

**AN ACT of the County Assembly of Mandera to provide for matters relating to Traffic, parking, county roads, street lighting, public road transport, to establish the county department of transport and for connected purposes**

**ENACTED** by the County Assembly of Mandera as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Mandera County Transport Act, 2014. Short title.

2. In this Bill unless the context requires otherwise— Interpretation.

“authorised 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 Bill; No. 2 of 2007

“certificate” means operating authority issued under this Bill;

“county Roads” means all other roads except those marked as National Roads in the 2nd schedule of the Kenya Roads Act;

“department” means the County department of transport established under section 5 of this Bill;

“director” means the county director of transport under this Bill;

“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;

“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 Bill;

“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” means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw bar to a break down vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

“Governor” means the Governor of Mandera County Government;

“Member of the Executive Committee” means the Member of the Executive Committee responsible for roads and infrastructure;

“person” includes a company, corporate body (whether incorporated by or under statute or statutory authority), association, fund, natural person, partnership and a registered scheme;

“private land” has the meaning assigned to it in the Constitution;

“public land” has the meaning assigned to it in the Constitution;

“prescribed” means prescribed under this Bill; and

“regulations” means regulations made under this Bill.

3. (1) The overriding objective of this Bill is to provide a harmonized, efficient and effective legal and

Objectives and  
guiding principles of  
the Bill.

regulatory framework for the development and regulation of county transport matters for the following purposes—

- (a) to establish appropriate institutional systems for county transport sector management, coordination and regulation;
- (b) to develop and maintain an integrated and co-ordinated county transport infrastructure for efficient movement of passengers and freight and support disaster management efforts;
- (c) to develop encourage the participation of the private sector in and development partners in county transport sector funding/financing mechanisms;
- (d) to integrate land use planning and management in county transport matters;
- (e) to deliver efficient and effective sector operations to enhance county and national productivity;
- (f) to apply information technology in county transport planning, operations and management to enhance sector efficiency;
- (g) facilitate intra-county trade; and
- (h) to incorporate environmental protection and resource conservation issues in county transport sector activities; and
- (i) to create an integrated transport system that is sustainable-in economic terms, in environmental terms and in social terms.

(2) All County Government institutions, agencies, public servants and bodies charged with development and regulation of county transport shall at all times have due regard to, and observe, the objective of this Bill as set out in subsection (1).

(3) Whenever there is a conflict between this Bill and any county law, having a bearing on achievement of the overriding objective of this Act, the provisions of this Bill shall prevail.

(4) In exercise of the powers or the performance of functions under this Bill, the Member of the Executive

Committee, Director, and staff shall be guided by the following principles—

- (a) public participation and inclusiveness;
- (b) integrity, authenticity and safe custody of transport records;
- (c) elimination of gender discrimination in administrative and management practices;
- (d) transparent and cost effective administration of the transport system; and
- (e) public safety and security.

4. The Member of the Executive Committee shall create collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a coordinated implementation and master planning of the transport sector.

Obligations to create collaboration.

## **PART II—THE DEPARTMENT OF TRANSPORT SECTOR**

5. (1) There is established the Department of Transport in the County Department responsible for roads and county transport.

Department of transportation.

(2) The department shall be headed by a director who shall be appointed by the County Public Service Board through a competitive and transparent recruitment process.

6. (1) To qualify for appointment as director a person shall have had a distinguished career, and possess a university degree and at least five years working experience, in any of the following fields—

Qualifications for appointment of director.

- (a) civil engineering;
- (b) land economics or real estate economics;
- (c) land survey or geospatial science;
- (d) land law;
- (e) environmental management or natural resources management;
- (f) physical planning;
- (g) land administration and management;

(h) infrastructure development.

(2) A person shall not be appointed as Director unless that person—

(a) is of irreproachable integrity and moral standing;

(b) has not been convicted of an offence involving fraud, dishonesty and abuse of office.

7. The County Public Service Board shall in consultation with the Member of the Executive Committee appoint such officers and other staff to work in the department to assist the directors to discharge functions of the department under this Bill. Appointment of staff.

8. The department, by or through the director or his duly authorized officer or employee, shall have the following general functions, powers and duties— Functions, powers and duties of the department.

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

(b) to co-ordinate and assist in the balanced development and operation of transport facilities and services in the county;

(c) to undertake such studies and analyses of transport problems relating to any aspect of transport in the county;

(d) to implement collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a co-ordinated implementation and master planning of the transport sector;

(e) to prepare plans, specifications, designs and estimates for the construction of county roads, parking facilities, bridges and related infrastructure;

(f) to operate and maintain county roads, parking facilities, bridges and related infrastructure;

(g) to promote safety in all forms of county public transport including the transportation of hazardous material;



- (h) carry out such activities, and undertake such projects, as may be necessary for the execution of its functions; and
- (i) perform such other functions as may be assigned to it by this Act, an Act of Parliament or any other Act of the County Assembly of Mandera.

**9.** In the exercise of the powers and the performance of its functions the department shall— Standard of service by the department.

- (a) be bound in its respective activities by the provisions of the Constitution, relevant national laws, policies and the provisions of this Bill;
- (b) demonstrate commitment, technical, infrastructural and administrative competence in carrying out its mandate;
- (c) adopt the principle of quality service and formulate relevant scheme of training for all categories of staff to uphold that principle;
- (d) be non-partisan and non-political in orientation and operations;
- (e) adhere to any performance targets that the Member of the Executive Committee may set from time to time in the discharge of its mandate; and
- (f) apply and promote such other positive values as the Member of the Executive Committee may, by regulations, prescribe.

**10.** (1) An authorised officer may, in enforcing the provisions of this Bill, at any reasonable time and without prior notice— Rights of entry.

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

(2) A person who prevents or attempts to prevent an authorised officer from undertaking his duties under this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

**11.** (1) No person shall drive a motor vehicle on a public road— Operating licence.

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the relevant law or this Bill; and
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the motor vehicle.

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

**12.** (1) No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent— Preventing engagement of a public transport vehicle.

- (a) aging a public transport vehicle; or
- (b) the driver of a public transport vehicle from taking on passengers.

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

**13.** (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— Conveying dangerous or offensive articles in public transport vehicles.

- (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.

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

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

Boarding and  
disembarking of  
public transport  
vehicles.

(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 authorised 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.

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

**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.

Queues at public  
transport facilities.

(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 file when required to do so by an approved public transport conductor or authorised 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, authorised officer or authorised official when on duty.

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

**PART III—DUTIES, RIGHTS AND OBLIGATIONS OF PASSENGERS**

**16.** A passenger must pay the prescribed fare for the use of a public transport motor vehicle in such manner as the Member of the Executive Committee may determine.

Payment of fares.

**17.** (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must disembark such defective vehicle and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.

Rights and duties of passengers when a public transport vehicle becomes defective.

(2) Upon agreement with the driver of the defective public transport vehicle, passengers are allowed to travel with the next available public transport vehicle for the remainder of the distance in respect of the paid fares, at the cost of the owner of the defective public transport vehicle.

(3) A driver who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence.

**18.** The following actions are prohibited on a public transport vehicle—

Actions 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; and
- (j) showing or displaying any pornographic material.

**19.** The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger

Property left in public transport vehicles.

has left behind any property in the vehicle, the driver must—

- (a) 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 or to the nearest police station and de-posit it with the officer on duty and obtain a receipt for it.

**20.** (1) No person may park or allow a public transport vehicle to park in a stopping place designated for specific public transport vehicles.

Obstruction and  
disruption of traffic.

(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 demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

**21.** (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.

Duties of pedestrians

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may 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 may 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 may 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 may 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) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

**22.** No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this Bill or any other law or on the grounds of safety.

Use of hooter.

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

Prohibition on use of communication device while driving.

(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 authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device.

(3) The authorised 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.

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

County to install street lighting.

- (a) major Traffic Routes;
- (b) high Crime Urban Areas;
- (c) town Centres;
- (d) pedestrian Crossings; and
- (e) pedestrian Subways.

**25.** The department shall be responsible for the maintenance of streetlights.

Maintenance of street lights.

**26.** No person shall willfully or carelessly cause damage to any streetlight. Any person who contravenes this section shall, upon conviction be liable to a fine not exceeding thirty thousand shillings or a term of imprisonment not exceeding one year or to both.

Damage to street lights.

#### **PART IV—PARKING**

**27.** (1) No person shall 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.

Parking in a public road.

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

**28.** Unless required or permitted by this Bill 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—

Prohibited parking areas.

- (a) at an intersection nearer than ten (10) metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten (10) metres 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 as “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 persons vehicle;
- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit;
- (o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

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

**29.** Notwithstanding any other provision in this Bill, the department through any of its authorised officers or employees, is hereby authorized to cause moveable signs to be posted on or near a highway to indicate “No Parking”, or “Street Maintenance” and when so posted, such signs shall take precedence over all other traffic control devices.

“No parking” and  
“street maintenance”.

**30.** (1) Any vehicle parked contrary to this act may be towed away at the owner’s expense.

Towing away of  
vehicle.



(2) The department or any authorised person shall not be responsible for any damage that is caused on the motor vehicle when it is towed.

**31.** (1) No person shall park a vehicle on any alley Parking on alleys. 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;
- (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 parking.

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

**32.** (1) 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. Parking on private property.

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

**33.** (1) 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. Parking of trailers upon public road.

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

**34.** A person shall not operate a cab business in Mandera County unless such a person belongs to a recognised cab, Matatu or taxi associations.

Taxi or Matatu associations.

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

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

Parking on taxi zone.

**36.** (1) The operator of a taxicab, except when answering a call, 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.

Parking a taxi cab within a taxi zone with ‘Not for Hire’ sign.

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

**37.** 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 Bill.

Compliance of this Bill by taxicabs.

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

Parallel parking.

(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) 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 (500) millimeters from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

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

Angle parking where no parking guidelines are visible.

- (a) a person may only park a vehicle with 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) 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 (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

**40.** (1) The Member of the Executive Committee shall designate an area known as the Central Business District in towns, or urban area in Manderia County.

Prohibition of heavy commercial vehicles in the Central Business District.

(2) Despite any provisions of this Bill and unless allowed under subsection (4) a heavy commercial vehicle shall not be allowed to enter or park in the Central Business District for purposes of offloading goods.

(3) Heavy commercial vehicles shall offload goods in designated warehouses located in such areas as may be prescribed.

(4) The Member of the Executive Committee may by a notice in the County Gazette allow such number of heavy commercial vehicles to access and park in the Central Business District for purposes of off-loading goods that cannot be physically off-loaded at designated warehouses.

#### **PART VIII—GENERAL PROVISIONS**

**41.** The Executive Member may make any further regulations for the administration of this Bill.

Power to make further regulations.

**42.** This Bill repeals all by laws in the county before the coming into effect of this Bill.

Repeal of by-laws.

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**MEMORANDUM OF OBJECTS AND REASONS**

A Bill for an Act of the County assembly to provide for matters relating to Traffic, parking, county roads, street lighting, public road transport, to establish the county department of transport and for connected purposes.

ADAN ABDI NURROW,  
*Chairman, Public Works, Roads and Transport Committee.*

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

Angle parking where no parking guidelines are visible.

- (a) a person may only park a vehicle with 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) 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 (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

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