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**THE COUNTY PLANNING (ROADS,
PAVEMENTS AND PARKING BAYS) BILL,
2018**

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**THE COUNTY PLANNING (ROADS, PAVEMENTS
AND PARKING BAYS) BILL, 2018**

A Bill for

AN ACT of Parliament to provide for the planning, construction and maintenance of county roads, streets, lanes, alleys, parking bays, drainage systems and pavements; provide proper planning of access-ways to commercial buildings along major roads; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the County Planning (Roads, Pavements and Parking Bays) Act, 2018.

Short title.

2. In this Act—

Interpretation.

“commercial building” includes any structure where commercial activity is undertaken;

“commercial vehicle” shall have the meaning assigned to it under the Traffic Act;

“county executive committee member” means the county executive committee member responsible for matters relating to county roads in each county;

Cap. 403.

“county road” means a road classified as class D, E, F, G, K, L, P, R, S, T, U, W, UA or UW under the First Schedule of the Kenya Roads Act;

“heavy commercial vehicle” means a commercial vehicle which has an operating weight exceeding ten thousand pounds;

No. 2 of 2007.

“major road” means all classified roads except the road classified as class UF under the First Schedule of the Kenya Roads Act;

“minor road” means a road classified as class UF under the First Schedule of the Kenya Roads Act; and

“national road” means a road classified as class A, B or C under the First Schedule of the Kenya Roads Act.

3. The object and purpose of this Act is to—

Object and purpose of the Act.

(a) provide a framework for the planning and construction of access ways from major roads in each county in a manner that ensures the safety of road users;

- (b) provide a framework for the planning of commercial buildings along major roads in a manner that ensures that the buildings are accessible and do not lose their commercial viability; and
- (c) promote the development of a well planned environment in counties in order to achieve unhindered and adequate access to buildings from major roads by members of the public.

4. This Act shall apply to all county roads and all commercial buildings constructed along major roads.

Application.

5. (1) The county executive committee member shall—

Duties of the county executive committee member.

- (a) formulate a comprehensive plan for the construction and maintenance of county roads within the respective county;
- (b) facilitate the design, development and maintenance of drainage systems along all roads;
- (c) ensure access-ways to buildings constructed along national and county roads;
- (d) make provision for, and ensure the construction of, adequate parking bays in the respective county;
- (e) ensure the maintenance of county roads; and
- (f) facilitate regular inspection of all buildings, roads, streets, lanes, alleys, parking bays and pavements to ensure that they adhere to the prescribed building codes and standards as set out in this Act and any other written law.

No. 14 of 2003

(2) The county executive committee member shall, in the performance of the functions under this Act, make provision for the access and use of buildings, roads, streets, lanes, alleys, parking bays and pavements by persons with disabilities in accordance with section 21 of the Persons with Disabilities Act, 2003.

6. Each county government shall construct and maintain streets, lanes, alleys and other means of accessing properties in the county.

Construction and maintenance of streets, lanes, alleys, etc.

7. (1) Each county government shall construct, maintain and facilitate the construction and maintenance of adequate parking bays in the respective county.

Construction and maintenance of parking bays by the county

(2) The county executive committee member shall, for the purpose of subsection (1), designate public land for the construction of parking bays.

government.

(3) Where the county executive committee member considers it necessary to acquire private land for the construction of parking bays, the county executive committee member may initiate the process of compulsory acquisition of such land in accordance with section 107 of the Land Act.

No. 6 of 2012.

8. Each county government shall construct and maintain pavements along all national and county roads in the respective county.

Construction and maintenance of pavements by the county government. Designation of pedestrian crossing.

9. (1) The county executive committee member shall designate areas for use by pedestrians for the purpose of crossing a major road in the county in a manner that does not interfere with the flow of traffic.

(2) The county executive committee member shall, for the purpose of subsection (1) and where necessary, designate a zebra crossing or construct and maintain a footbridge or any other convenience for use by pedestrians to cross a major road.

10. (1) Subject to subsection (2), an owner of a commercial building which is situated along a major road shall—

Access ways to commercial buildings.

(a) construct an access-way to the property in which the building is situated in such a manner that the access-way does not obstruct a major road or extend directly from a major road; and

(b) allocate adequate space for access to the building by members of the public.

(2) A person shall not be required to comply with subsection (1) unless the county government has provided an alternative means of access to the property in which the building is situated.

(3) Every person who, immediately before the commencement of this Act, owns a commercial building situated along a major road shall comply with provisions of this section—

(a) within a period of twelve months from the date of the commencement of this Act; or

- (b) within a period of twelve months from the date of completion of the construction of an alternative means of access to the building as provided under subsection (2).

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings and subsequently to a fine not exceeding one hundred thousand shillings for every month the person fails to comply with the provisions of this section.

11. (1) The owner of a commercial building may construct and maintain a pavement next to the commercial building where the county government—

Construction and maintenance of pavements by owners of commercial buildings.

- (a) has designated an area next to the building for the construction of a pavement; and
- (b) has not constructed or has failed to maintain the pavement.

(2) A person shall not construct or maintain a pavement under subsection (1)—

- (a) unless such person has applied for and obtained approval of the county executive committee member; and
- (b) otherwise than in accordance with the prescribed standards.

12. (1) The owner of a commercial building may, with the approval of the county executive committee member, construct and maintain a parking bay next to the commercial building on an area designated by the county executive committee member as a parking bay.

Construction and maintenance of parking bays by owners of commercial buildings.

(2) The construction of a parking bay by the owner of a commercial building under subsection (1) shall be carried out in accordance with the standards prescribed under this Act.

(3) The respective county government may enter into an agreement with the owner of a commercial building under subsection (1) for the lease of a designated parking bay for a period of not more than twelve years and on the condition that the construction of the parking bay—

- (a) does not endanger the lives or property of pedestrians or other road users;

- (b) does not cause any inconvenience to other road users;
- (c) does not block access to any other property;
- (d) reverts back to the county government in good condition on the expiry of the lease; and
- (e) on such other conditions as the county executive committee member may impose.

13. (1) A pavement shall only be used by pedestrians and in such a manner as the county executive committee member may prescribe.

Use of pavements.

(2) A person shall not drive, park, erect a structure, or carry out any trade or commercial activity on a pavement.

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

14. (1) A person driving a motor vehicle shall not park the vehicle in an area other than that which is designated as a parking bay.

Parking of motor vehicles.

(2) A person shall not use a parking bay other than for the purpose of parking a motor vehicle and in accordance with such conditions as may be prescribed by the county executive committee member.

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

(4) Where the owner of a motor vehicle contravenes this section, the county executive committee member may seize the motor vehicle and such vehicle shall only be released to the owner upon payment of the required fine and charges.

15. (1) The county executive committee member shall designate parking bays for—

Designated parking.

- (a) the exclusive parking of petroleum tanker vehicles in accordance with section 99 of the Energy Act; and
- (b) the parking of heavy commercial vehicles.

No. 12 of 2006

(2) A person driving a petroleum tanker vehicle or a heavy commercial vehicle shall not park the vehicle in an area other than that which is designated for parking of the vehicle.

(3) Notwithstanding subsection (2), a person may park a petroleum tanker vehicle or a heavy commercial vehicle outside the designated areas for the purpose of loading or offloading goods where—

- (a) the loading or offloading process is continuous;
- (b) the goods are of such weight that they cannot be reasonably conveyed otherwise than by means of a vehicle;
- (c) the vehicle is parked as near as possible to the loading or offloading site; and
- (d) the loading or offloading activity is carried out promptly.

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

(5) Where the owner of a motor vehicle contravenes this section, the county executive committee member may seize the motor vehicle and such vehicle shall only be released to the owner upon payment of the required fine and charges.

16. (1) The county executive committee member may make Regulations for the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of the power conferred by subsection (1), the county executive committee member shall make Regulations—

- (a) prescribing the standards for the construction of streets, lanes, alleys, parking bays, pavements, drainage systems and other structures prescribed by this Act;
- (b) prescribing the conditions for the use of parking bays and pavements in the county; and
- (c) prescribing the procedure for the application for any approval provided in this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Bill seeks to provide a legislative framework for the planning, construction and maintenance of county roads, streets, lanes, alleys, parking bays, drainage systems and pavements in each county. It also provides for the proper planning and placement of access-ways to commercial buildings along major roads within counties.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill, once enacted, would confer on the county executive committee member responsible for matters relating to roads in each county. It therefore delegates limited and conditional legislative powers. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The proposed Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the county governments with respect to county transport, county roads, parking, and public road transport as set out under paragraph 5 of part 2 of the Fourth Schedule to the Constitution. The Bill mandates county governments to plan, construct and maintain county roads, streets, lanes, alleys, parking bays, drainage systems and pavements within the respective counties. The Bill therefore affects the functions and powers of county governments as provided under the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 21st March, 2018

LEDAMA OLEKINA,
Senator.