

## COUNCIL GOVERNMENT OF BUNGOMA



RECORDS SECTION  
COUNCIL ASSEMBLY OF BUNGOMA

6 JUN 2025

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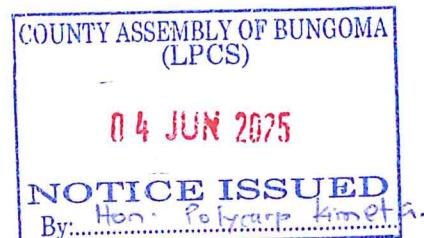
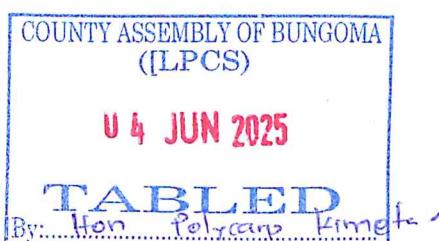
THIRD ASSEMBLY  
FOURTH SESSION

COMMITTEE ON ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC  
WORKS



REPORT ON THE STATUS OF IMPLEMENTATION OF THE BUNGOMA COUNTY  
TRANSPORT ACT, 2015

Clerk's Chambers  
County Assembly Buildings  
P.O BOX 1886 - 50200  
BUNGOMA, KENYA



## Contents

|                                                                           |    |
|---------------------------------------------------------------------------|----|
| CHAPTER ONE.....                                                          | 3  |
| 1.1 Preamble.....                                                         | 3  |
| 1.2 Mandate of the Committee .....                                        | 3  |
| 1.3 Committee Membership .....                                            | 4  |
| 1.4 Terms of Reference .....                                              | 4  |
| 1.5 Methodology .....                                                     | 5  |
| 1.7 Acknowledgement .....                                                 | 5  |
| CHAPTER TWO .....                                                         | 7  |
| 2.1 Overview of the Bungoma County (Transport Act, 2015).....             | 7  |
| 2.2 Comparative Analysis with Related Transport Laws.....                 | 9  |
| 1. The Nairobi City County Transport Act, 2020 .....                      | 9  |
| 2. The Kirinyaga County Transport and Parking Act, 2023 .....             | 9  |
| 3. National Frameworks .....                                              | 9  |
| 2.3 Implementation Status of the Bungoma County Transport Act, 2015 ..... | 10 |
| Key Achievements since Enactment of the Transport Act.....                | 10 |
| Action Taken Towards the Acts' Implementation; .....                      | 12 |
| Challenges Encountered During Implementation of the Act.....              | 12 |
| Recommendations highlighting Areas that require further Improvement.....  | 13 |
| CHAPTER THREE.....                                                        | 15 |
| 3.0 Committee's Observations and Recommendations .....                    | 15 |
| 3.1. Committee's Observations .....                                       | 15 |
| 3.2. Committee's Recommendations.....                                     | 15 |
| 4. 0 ADOPTION SCHEDULE.....                                               | 17 |
| ANNEXURES .....                                                           | 18 |

## CHAPTER ONE

### **1.1 Preamble**

**Honorable Speaker,**

In exercising our oversight mandate under Article 185(3) of the Constitution, the County Assembly Committee on Roads, Transport, Infrastructure and Public Works is tasked with the responsibility to monitor the implementation of legislation to ensure it achieves the intended effects, and, where necessary, reviewing and proposing amendments to the legislation.

Article 183 of the Constitution of Kenya, 2010, obligates the County Executive Committee to implement county legislation or national legislation within the county to the extent required, and to perform any other functions conferred upon it by the Constitution, County or national legislation. Further, a County Executive Committee may prepare proposed legislation for consideration by the County Assembly.

The Bungoma County Transport Act No. 5 of 2015 was assented to on 1<sup>st</sup> July, 2015 and had its commencement date set at 10<sup>th</sup> July, 2015. The Act has had an approximate existence of 10 years. The Key objective of the Act was to provide a harmonized and efficient legal and regulatory framework for the development and regulation of County Transport Matters.

The Act includes provisions for public safety and security, environmental protection and resource conservation in transport sector activities as well as management of transport-related activities within Bungoma County.

It covers various aspects of transport including traffic, parking, street lighting, public road transport and light railways, ensuring a holistic approach to transport management and is well-organized into different parts; each addressing specific areas such as administration, passenger duties, parking, light railways, and miscellaneous provisions.

### **1.2 Mandate of the Committee**

**Honorable Speaker,**

The mandate of the Committee is derived from Part II of the Fourth Schedule of the Constitution of Kenya, 2010 and further as contemplated under Standing Order No. 217 (5) of the County Assembly of Bungoma Standing Orders.

The functions of a Sectoral Committee shall be to; -

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Consider quarterly reports of the assigned departments and report to the house within twenty one sitting days upon being laid

- (c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (d) Study and review all county legislation referred to it;
- (e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and
- (h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

2. In accordance with the Second schedule of the Bungoma County Assembly Standing Orders, the Committee is mandated to deal with all matters related to County Transport; Including County roads, street lighting, traffic and parking, public road transport; firefighting services and disaster management and County Public Works Services.

### **1.3 Committee Membership**

#### **Honorable Speaker,**

The Committee on Roads, Transport, Infrastructure and Public Works as currently constituted comprises the following Members:

|                   |             |                  |
|-------------------|-------------|------------------|
| 1. Hon. Franklin  | Simotwo     | Chairperson      |
| 2. Hon. Polycarp  | Kimeta      | Vice Chairperson |
| 3. Hon. Stephen   | Kaiser      | Member           |
| 4. Hon. Jerusa    | Aleu        | Member           |
| 5. Hon. Meshack   | Simiyu      | Member           |
| 6. Hon. Hentry    | Nyongesa    | Member           |
| 7. Hon. Johnston  | Ipara       | Member           |
| 8. Hon. Everton   | Nganga      | Member           |
| 9. Hon. Godfrey   | Mukhwana    | Member           |
| 10. Hon. Job      | Mukoyandali | Member           |
| 11. Hon. Ali      | Machani     | Member           |
| 12. Hon. Charles  | Nangulu     | Member           |
| 13. Hon. Everlyne | Mutiembu    | Member           |
| 14. Hon. Idd      | Owongo      | Member           |
| 15. Hon. Violet   | Makhanu     | Member           |

### **1.4 Terms of Reference**

#### **Honorable Speaker,**

In preparation of this report, the Committee was guided by;

1. The status report as submitted by the County Executive Committee Member;
2. Highlights extracted from the Transport Act by the Legal Department;
3. The insights from the consultative meeting with the Department;
4. The Committee also made reference to records of evidence adduced, documents received from the Department and the various legislation that guided the understanding of the implementation of this Act;
5. Comparative analysis with other national and sub national entities having similar law

Details from these parameters formed the basis of observations and recommendations as outlined in the report.

### **1.5 Methodology**

The Committee, while executing its oversight functions; and as purposed under its annual work plan for the year 2024/25, resolved under minute **MIN.RPW.8/10/04/2025** to interrogate the implementation status of the Bungoma County Transport Act, 2015; to take stock of the achievements during the application of this law and probe probable bottlenecks that ought to be addressed through introduction of subsidiary legislation and any other frameworks for better service delivery in the County Department.

Through the office of the Clerk of the County Assembly, the Committee vide correspondence to the CECM for Roads, Transport, Infrastructure and Public Works referenced **CAB/CC/SECT/9VOL. IV (44)** requested for a status report to guide its undertakings on this matter.

The information was received on 15<sup>th</sup> April, 2025 and was guided by the following:

1. Key achievements since enactment of the Act;
2. Action taken towards its implementation; including introduction of any subsidiary legislation, policy frameworks, or administrative measures;
3. Challenges encountered during implementation of the Act;
4. Recommendations highlighting areas that require further improvement to ensure the full and effective operationalization of the Act.

Subsequent to a review of the information provided, the Committee held a consultative meeting with the CECM; who appeared before it alongside the Chief Officer and other technical officers on April 17<sup>th</sup>, 2025 and was able to provide additional insights on the status of implementation of the Act.

### **1.7 Acknowledgement**

**Honorable Speaker,**

On behalf of the Honorable Members of the Sectoral Committee on Roads, Transport, Infrastructure and Public Works, I wish to convey my gratitude to all Members of the Committee for their invaluable input throughout the proceedings, up to the conclusion of this report.

The Committee is equally grateful to the County Executive Department for availing the requested information in good time, appearing in person to clarify on issues that the Committee was uncertain about; contents which have been relied upon in the production of this report.

The Committee further appreciates the offices of the Honorable Speaker and Clerk of the County Assembly for the support received as it prepared this report.

It is therefore my privilege to table this report for consideration and adoption by this Honorable House.

Signed  Hon. Franklin Simotwo Date 20/05/2023

**(Hon. Franklin Simotwo, MCA-Chepyuk Ward)**

Chairperson, Sectoral Committee on Roads, Transport, Infrastructure and Public Works

## CHAPTER TWO

### 2.1 Overview of the Bungoma County (Transport Act, 2015

**Honorable Speaker,**

The Bungoma County Transport Act No. 5 of 2015 was assented to on 1<sup>st</sup> July, 2015 and had its commencement date set at 10th July, 2015. The Act has had an approximate existence of 10 years.

**Section 5** of the Act establishes the Directorate of Transport in the Department of Roads headed by a Director appointed by the County Public Service Board through a competitive recruitment process. The Directorate is charged with several functions listed under **Section 8** of the Act including but not limited to;

- a) Coordinate and ensure the implementation of an efficient and sustainable transport system in the County;
- b) Coordinate and assist in the balance development of transport facilities and services in the county.
- c) Undertake studies and analysis of transport problems relating to any aspect of the transport sector in the County;
- d) Implement collaborative linkages with national government institutions and transport departments of neighbouring counties to ensure a coordinated implementation and master planning of the transport sector.
- e) Prepare plans, specifications, designs and estimates for the construction of county roads, parking facilities, bridges and related infrastructure.
- f) Operate and maintain county roads, parking facilities, bridges and related infrastructure.
- g) Promote safety in all forms of county public transport including the transportation of hazardous material.

Upon inquiring from the Department it was clear that there was no such Directorate established as required. The Department cited lack of the requisite staff establishment to form the Directorate.

**Honorable Speaker,**

Important to note is that the implementation of the Act is primarily dependent on the existence of the Directorate of transport. The Directorate, apart from executing the functions under **Section 8**, is responsible as follows;

1. **Section 44** mandates the Directorate to develop a Transport Plan for the County which under **subsection 2** thereof shall be based on the national master plan of the transport sector, relevant national government policies and legislation.
2. **Section 25** of the Act places the responsibility of maintaining street lights on the Directorate of Transport
3. **Section 45** of the Act requires the Directorate to prepare an annual report; publish the same in the gazette and send copies of the report to the CECM and the County Assembly.

**Section 24** of the Act mandates the County Government to install street lights within the County with special attention to;

- a) Major traffic routes
- b) High crime urban areas
- c) Town centers
- d) Pedestrian crossings
- e) Pedestrian subways
- f) Bus stops
- g) Market places
- h) Flyovers
- i) Narrow bridges
- j) Tunnels
- k) Institutions

**Section 24** and as read together with **Section 25** of the Act are intertwined with regard to street lighting. The Department stated that street lighting is a role executed by the Department of Trade, Energy and Industrialization.

**Section 38(1)** of the Act requires the CECM to designate an area as the Central Business District (CBD) in towns and urban areas within Bungoma County. The Department in its response places this responsibility to the municipality boards established under the Urban Areas and Cities Act no. 13 of 2011.

**Honorable Speaker,**

It is important to note that the **subsection (2)** of **Section 38** has been repeated and the second (2) should be (3) and (3) should be (4)

**Section 47** mandates the CECM to make regulations necessary for the better carrying out of the provisions of the Act and as listed thereunder.

To date there are no regulations developed to properly operationalize the Act.

## **2.2 Comparative Analysis with Related Transport Laws**

**Honorable Speaker,**

The Bungoma County Transport Act of 2015 serves as the legislative framework for managing transportation within Bungoma County. When compared to transport laws from other Kenyan counties and the national framework, several similarities and distinctions emerge:

### **1. The Nairobi City County Transport Act, 2020**

**Scope and Objectives:** The Nairobi Act focuses on regulating public road transport, traffic management, and parking within the city. It emphasizes the integration of various transport modes and the establishment of a Mobility Enforcement Unit to address traffic challenges.

**Comparison with the Bungoma County Transport Act:** Both Acts aim to streamline transport operations within their jurisdictions. However, Nairobi's legislation places a significant emphasis on managing high urban traffic congestion and integrating multiple transport modes, reflecting the city's metropolitan nature. In contrast, the Bungoma Act may prioritize rural transport issues and infrastructure development pertinent to its context.

### **2. The Kirinyaga County Transport and Parking Act, 2023**

**Scope and Objectives:** This Act addresses the provision of matatu terminals, parking spaces, footways, and roads to enhance public transport efficiency in Kirinyaga. It also establishes a Directorate responsible for county transport and a Transport Planning Advisory Committee.

**Comparison with the Bungoma County Transport Act:**

**Honorable Speaker,**

Both Acts establish institutional frameworks for transport management. Kirinyaga's Transport Act specifically focuses on urban transport facilities and the creation of dedicated bodies for transport planning and enforcement, which may offer insights for Bungoma in enhancing its transport governance structures.

The establishment of dedicated transport bodies at the county level, as seen in Kirinyaga, can enhance the implementation and enforcement of transport policies. Bungoma might consider similar structures to improve its transport management

## **3. National Frameworks**

**a) The National Transport and Safety Authority (NTSA) Act, 2012:** The NTSA Act establishes the NTSA to oversee road transport and safety across Kenya. It grants the authority to license operators, set safety standards, and regulate public service vehicles.

**b) The National Integrated Transport Policy:** This policy aims to create coordinated and efficient transport system nationwide, addressing issues like infrastructure development, safety, and environmental sustainability.

**Comparison with the Bungoma County Transport Act:** While the Bungoma County Transport Act operates at the county level, aligning its provisions with national policies and regulations ensures consistency and compliance with broader transport objectives. The county can influence national frameworks for funding, technical support, and policy guidance.

Aligning County legislation with national transport policies ensures coherence, facilitates resource mobilization, and promotes standardized practices across counties.

In conclusion, while the Bungoma County Transport Act of 2015 lays the foundation for managing transport within the county, examining and integrating best practices from other counties and aligning with national frameworks can enhance its effectiveness and responsiveness to emerging transport challenges.

### **2.3 Implementation Status of the Bungoma County Transport Act, 2015**

**Honorable Speaker,**

In response to the Committee's concerns regarding the status of the Act's implementation across four thematic areas, the Department submitted the following:

**Key Achievements since Enactment of the Transport Act**

**Honorable Speaker,**

The Department stated the achievements under this Act to include:

#### **a) Parking Bays and Public Transport Stages**

1. Demarcation and Management of Parking Bays in urban centers including Bungoma Town, Webuye, and Kimilili had helped organize vehicular flow and reduce congestion.
2. Construction and rehabilitation of bus parks and PSV stages, including the expansion of Bungoma main bus park and the introduction of designated boda boda zones that have improved order and safety.
3. Zoning of public transport termini for matatus, tuk-tuks, and motorcycles has been enforced with visible signage and lane markings

#### **b) Revenue Collection from Transport Services**

Enhanced automated and manual revenue collection from:

1. Parking fees

2. Bus Park user charges
3. Boda boda registration permits
4. Offloading/Loading levies in market centers
5. Establishment of revenue booths and ward-based collection teams; contributing to growth in Own Source Revenue
6. Introduction of digital payment platforms to improve transparency and reduce leakages

**c) County Transport Network Development**

1. Implementation of ward-based roads maintenance program has led to the rehabilitation of over 300 km of roads annually in recent years.
2. Upgrading of priority rural and urban roads to bitumen standard (e.g., Misikhu-Brigadier and Salmond-River Khalaba roads, Mama Fanta and Mwireri Roads in Bungoma town which enhanced parking and improved road network in town).
3. Adoption of framework contracting for road works that has increased efficiency and accelerated maintenance cycles.

**d) Transport Safety Enhancements**

1. Design and construction of speed calming measures (e.g., bumps, rumble strips) in high-risk school and market zones.
2. Installation of reflective signage and warning posts in accident-prone areas.
3. Initiation of public safety awareness campaigns in partnership with boda boda associations and NTSA/KENHA.

**e) Street Lighting and Visibility**

1. Installation of solar and grid-based street lights along main roads, public stages, and pedestrian crossings enhanced night-time transport safety and reduced insecurity.
2. Street lighting coverage expanded significantly in trading centers, contributing to extended operational hours for transporters and businesses.

**f) Stakeholder Engagement and Regulation**

1. Formalization of boda boda and PSV operator associations, improving self-regulation and enabling structured dialogue with the county.
2. Regular stakeholder forums held with SACCOS, transport unions, traffic police, traders, and residents on route rationalization and infrastructure needs.
3. Sensitization programs rolled out on compliance with transport laws and passenger safety.

**g) Administrative and Legal Action**

1. Enforcement teams deployed to ensure compliance with stage allocations, fee payments, and anti-congestion rules.

**h) Non-Motorized Transport (NMT) Considerations**

The Act acknowledged the need for walkways and cycling lanes and several road designs integrated pedestrian walkways in urban areas such as Bungoma Town and Webuye.

**Action Taken Towards the Acts' Implementation;**

**Honorable Speaker,**

The Department submitted that inadequate budgetary allocation towards policy development activities has affected key departmental planned activities including;

1. Development of the County Transport Policy
2. Review of the County Transport Act to align it with the national transport legislation
3. Development of the County Transport Regulations
4. Establishment of the County Transport Directorate in Liaison with the County Public Service Board
5. Establishment and gazetement of the Ward Transport Committees

**Challenges Encountered During Implementation of the Act**

The following were highlighted as the major challenges;

**a) Lack of regulations to implement the Act**

The Act was developed without follow up Regulations to facilitate and enable its implementation

**b) Inconsistent Provisions relating to Overlapping/National Government Mandate**

Some provisions of the Act are inconsistent with National Legislation largely the NTSA Act, 2012 and the Traffic Act, for example, the provision for issuance of operator's license for public road vehicles which is a function for the NTSA

Identification and naming of County roads is still being done by the Kenya Roads Board since the function has not been devolved.

**c) Inadequate Funding and Delayed Disbursement**

Persistent delays in exchequer releases have hampered project implementation timelines.

The County Transport Fund has not been operationalized, making the Department reliant on development vote allocations.

**d) Poor Enforcement Capacity**

Limited personnel and logistical support to enforce transport regulations (e.g., boda boda stage discipline, illegal parking, overloading).

Weak implementation of traffic safety measures and signage maintenance.

**e) Technical and Machinery Constraints**

Shortage of county-owned road maintenance machinery leads to outsourcing, which increases costs and delays responsiveness during emergencies.

**f) Institutional Coordination Gaps**

Management of bus parks challenge with the advent of Municipalities. Municipalities are expected to manage Bus parks within their jurisdiction.

Coordination between the county and national agencies (e.g., KeNHA, NTSA, and KURA) is not well institutionalized.

**g) Public Transport Regulation Weaknesses.**

**Honorable Speaker,**

PSV SACCOS and boda boda associations remain poorly structured; some operate without formal registration or compliance checks.

**Recommendations highlighting Areas that require further Improvement.**

**Honorable Speaker,**

To facilitate effective management of the Transport Sector in the County, the Department recommends that an immediate review of the Bungoma County Transport Act, 2015. That it was orderly and prudent to develop the Bungoma County Transport Policy first in order to highlight the areas requiring legislation. The Policy would inform the focus areas of provision in the Act. That County Transport Regulations should also be developed detailing the implementation framework of key provisions in the Act. The Department proposed to prepare the three documents subsequently in close concurrence.

**Honorable Speaker,**

**Highlights of the proposed review process are as follows;**

- a) Strengthening the County Transport Fund Provisions; by amending the Act to guarantee minimum annual budgetary allocation to the Transport Fund (e.g., at least 5% of development expenditure). Additional measures would include the introduction of ring-fenced revenue sources, such as parking fees, fines, and permits, to finance transport services.
- b) Enforcement and Compliance Mechanisms through the introduction of clear provisions for transport enforcement units, including staffing, powers of inspection and penalty frameworks.
- c) Integration with County Urban Planning Policies by making it a requirement that transport planning to be embedded in Urban Integrated Development Plans (UIDPs) and require road project Environmental Impact Assessment compliance; as well as coordination with the Physical Planning and Housing Department to avoid isolated road projects without proper drainage or alignment.
- d) Provision for Modern Transport Services which would be consequent to the action to update the Act to provide for: Digital transport services regulation, Non-Motorized Transport Infrastructure Mandate as a legal requirement in road design and Promotion of sustainable transport solutions.
- e) Boda Boda Regulation Framework which shall include provisions for boda boda safety zones, reflective jackets, helmets, and penalties for non-compliance.
- f) Formation of Ward Transport Committees which would strengthen participatory planning, project oversight, and prioritization.

In their conclusion, the Department underscored the attainments of the County Government of Bungoma upon operationalization of the Transport Act through infrastructure investments and enhanced public engagement. The achievements, according to the submissions have contributed to better mobility, safer roads, increased local revenue and more organized transport operations.

There was however an urgent need to undertake a comprehensive review of the Bungoma County Transport Act, 2015 to align to other recent policies and respond to emerging challenges such as urban congestion, non-motorized mobility, enforcement gaps, and financing limitations.

The Department outlined its intentions to initiate a structured legal and policy review process with extensive stakeholder consultations, technical support, and alignment with national transport strategies (e.g Vision 2030, Kenya Transport Master Plan and National e-Mobility Policy).

## CHAPTER THREE

### 3.0 Committee's Observations and Recommendations

#### 3.1. Committee's Observations

**Honorable Speaker Sir**, from the foregoing, the Committee made the following observations;

1. The Bungoma County Transport Act, 2015 has errors both typographical and structural including the arrangement of sections, as is the case cited for **Section 38**.
2. There exists no Directorate of Transport as stipulated in the Bungoma County Transport Act, 2015.
3. There is an overlap of functions between the Department's role as stipulated in the Bungoma County Transport Act, 2015 and the municipality boards as established under the Urban Areas and Cities Act.
4. There is an overlap of functions between the Department's role as stipulated in the Bungoma Transport Act, 2015 and the Department of Trade Energy and Industrialization with regard to street lighting.
5. There is lack of coordination between the Department and the municipality boards especially on the designation of the CBD and restriction of heavy commercial vehicles accessing the CBD.
6. There is a lack of regulations to properly operationalize the Act as envisaged under Section 47 of the Transport Act. The Act allows the relevant County Executive Committee Member to formulate Regulations for the better carrying into effect the provisions of this Act. However, there are no Regulations pursuant to the Act that have been submitted to the House for scrutiny and consideration.
7. The Department has cited increased revenue collection as a key achievement resulting from the operationalization of the Act. Under the tenth and eleventh schedules of the Finance Act, 2024, the Department of Roads has projected a revenue target of Kshs.149, 795,088.

#### 3.2. Committee's Recommendations

**Honourable Speaker,**

The Committee therefore recommends **THAT**;

1. The Department of Roads and public Works should within 60 days upon adoption of this report, liaise with the Department of Trade, Energy and Industrialization, office of the County Attorney and the municipality boards to clearly delineate functions and propose areas of amendment to the Act for proper operationalization of the same. A report should be filed with the County Assembly sector Committee for consideration.

2. The Department should hasten the introduction of requisite regulations and the proposed policy in the F/Y 2025/26 and submit them to the County Assembly for consideration before its implementation to operationalize key areas of the Act. A pre-publication scrutiny of this legislative instrument with the sector committee should be concluded prior to its submission to the County Assembly for further processes.

3. The Department should liaise with the County Public Service Board and ensure the establishment of the Directorate of Transport is concluded within the F/Y 2025/26. The operationalization of this Directorate is a precursor for operationalization of most provisions in the Act, including but not limited to revenue generation.

4. The Department should liaise with the municipality boards and ensure that the process of designation of CBDs and restriction of heavy commercial vehicles access is actualized as envisaged in the Act.

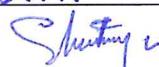
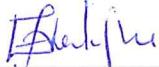
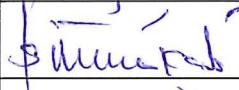
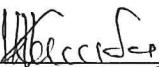
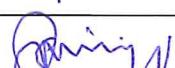
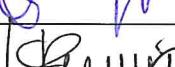
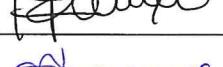
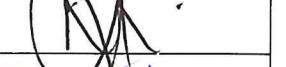
5. The Department should align its revenue targets with the devolved structure of revenue collection. The introduction of the Transport Directorate would ensure safety of the general public and dedicate energy to enhance revenue collection.

6. The County Executive Committee Member for Roads, Transport, Infrastructure and Public Works should ensure full compliance with the provisions of Section 45 of the Act by submitting a comprehensive annual report to the County Assembly for consideration.

7. The CECM, Roads, Transport, Infrastructure and Public Works in liaison with the office of the County Attorney should, before the lapse of the year, introduce additional legislation and provide strategic policy direction to strengthen service delivery across all directorates within the Department.

#### 4.0 Adoption Schedule

The Members of Roads, Transport, Infrastructure and Public Works Committee hereby adopt and append the signatures to this report.

| S/N | Name          |             | Designation   | Signature                                                                             |
|-----|---------------|-------------|---------------|---------------------------------------------------------------------------------------|
| 1   | Hon. Franklin | Simotwo     | Chairperson   |    |
| 2   | Hon. Polycarp | Kimeta      | V/Chairperson |    |
| 3   | Hon. Meshack  | Simiyu      | Member        |    |
| 4   | Hon. Everlyne | Mutiembu    | Member        |    |
| 5   | Hon. Ali      | Machani     | Member        |   |
| 6   | Hon. Violet   | Makhanu     | Member        |  |
| 7   | Hon. Jerusa   | Aleu        | Member        |  |
| 8   | Hon. Hentry   | Nyongesa    | Member        |  |
| 9   | Hon. Charles  | Nangulu     | Member        |  |
| 10  | Hon. Godfrey  | Mukhwana    | Member        |  |
| 11  | Hon. Stephen  | Kaiser      | Member        |  |
| 12  | Hon. Johnston | Ipara       | Member        |  |
| 13  | Hon. Everton  | Nganga      | Member        |  |
| 14  | Hon. Job      | Mukoyandali | Member        |  |
| 15  | Hon. Idd      | Owongo      | Member        |  |



SPECIAL ISSUE

*Bungoma County Gazette Supplement No. 9 (Acts No. 5)*



REPUBLIC OF KENYA

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**BUNGOMA COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2015**

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**NAIROBI, 10th July, 2015**

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CONTENT

Act—

PAGE

The Bungoma County Transport Act, 2015..... 1

# THE BUNGOMA COUNTY TRANSPORT ACT

No. 5 of 2015

*Date of Assent: 1st July, 2015*

*Date of Commencement: 10th July, 2015*

## ARRANGEMENT OF SECTIONS

### PART I—PRELIMINARY

#### Section

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Overriding objectives and guiding principles of the Act.
- 4—Obligations to create collaboration.

### PART II—ADMINISTRATION OF THE TRANSPORT SECTOR

- 5—Directorate of transport.
- 6—Qualifications for appointment as director.
- 7—Appointment of staff.
- 8—Functions, powers and duties of the directorate.
- 9—Standard of service by the directorate.
- 10—Rights of entry.
- 11—Operating license.
- 12—Preventing engagement of a public transport vehicle.
- 13—Conveying dangerous or offensive Sections in public transport vehicles.
- 14—Boarding and disembarking from public service vehicles.
- 15—Queues at public transport facilities.

### PART III—DUTIES AND OBLIGATIONS OF PASSENGERS

- 16—Payment of fares.
- 17—Rights of a passenger when the vehicle becomes defective.
- 18—Actions prohibited on a public transport vehicle.
- 19—Property left in public transport vehicles.

- 20—Obstruction and disruption of traffic.
- 21—Duties of pedestrians.
- 22—Use of hooter.
- 23—Prohibition on the use of a communication device while driving.
- 24—County to install street lighting.
- 25—Maintenance of street lights.

**PART IV—PROVISIONS ON PARKING AND RELATED MATTERS**

- 26—Parking in a public road.
- 27—Prohibited parking areas.
- 28—No parking’ and ‘street maintenance’
- 29—Towing away of vehicle.
- 30—Parking on alleys.
- 31—Parking on private property.
- 32—Parking of trailers upon public roads.
- 33—Taxi associations.
- 34—Parking on taxi zone.
- 35—Compliance of this act by taxi cabs.
- 36—Parallel parking.
- 37—Angle parking when no parking signs are visible.
- 38—Prohibition of heavy commercial vehicles in the Central Business District.

**PART V—PROVISIONS ON LIGHT RAILWAYS**

- 39—Development of light railway.
- 40—Power to enter upon land.
- 41—Trespass on a railway.
- 42—Use of a vehicle on a light railway.

**PART VI—MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

- 43—Obstructing officers authorized.
- 44—Development of a transport plan.
- 45—Annual report.
- 46—Duty to ensure smooth transition.
- 47—Power to make rules and regulations.
- 48—Application.

## THE BUNGOMA COUNTY TRANSPORT ACT

AN ACT of the County Assembly of Bungoma to provide for matters relating to traffic, parking, street lighting, and public road transport, to establish the County Department of Transport, to create an integrated and efficient transport system for Bungoma County, and for connected purposes

ENACTED by the County Assembly of Bungoma, as follows—

**PART I—PRELIMINARY****Short title and commencement**

1. This Act may be cited as the Bungoma County Transport Act, 2015 and shall come into operation upon publication in the *Kenya Gazette* or *County Gazette* whichever comes earlier.

**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.

“certificate” means operating authority issued under this Act;

“County Roads” means all roads classified as county roads by the Cabinet Secretary responsible for roads and infrastructure;

“directorate” means the County Directorate of Transport established under section 5 of this Act;

“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 health, safety and property when transported in commerce by all modes;

“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 vehicle” includes a vehicle, bus, tractor, motorcycle, truck trailer or semi-trailer, propelled 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

No. 5

unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto;

“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.

“Governor” means the Governor of Bungoma County Government

“financial year” means a period of twelve consecutive months from 1st July to 30th June;

“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 Act; and

“regulations” means regulations made under this Act.

#### Overriding objectives and guiding principles of the Act

3. (1) The overriding objective of this Act is to provide a harmonized, efficient and effective legal and 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, co-ordination and regulation;
- (b) to develop and maintain an integrated and coordinated county transport infrastructure for efficient movement of passengers and freight and support disaster management efforts;
- (c) to develop and encourage the participation of the private sector and development partners in the 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 overriding objectives of this Act as set out in subsection (1).

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

(4) In the exercise of the powers or the performance of functions under this Act, 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.

#### **Obligations to create collaboration**

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

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

#### **Directorate of transport**

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

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

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7/(1) To qualify for appointment as a director, a person shall have had a distinguished career, and possess a Diploma or a Degree from a recognized institution and at least two years working experience in any of the following fields—

- (a) civil engineering;
- (b) land economics or real estate economics;
- (c) land survey or geospatial science;
- (d) 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 a Director unless that person meets the requirements of chapter six of the constitution.

(3) There is established the heads of the following departments—

- (a) air transport;
- (b) road transport; and
- (c) railway transport.

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8/ The County Public Service Board shall in consultation with the Member of the Executive Committee appoint such officers and other staff through a competitive process to work in the directorate and assist the directors to discharge functions of the directorate under this Act.

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9/ The directorate by or through the director or duly authorized officers or employees, shall exercise the following functions—

- (a) to co-ordinate and ensure the implementation of an efficient and sustainable transport system in 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 studies and analysis of transport problems relating to any aspect of transport sector in the County.
- (d) to implement collaborative linkages with national government institutions and transport departments of neighbouring Counties

to ensure a coordinated 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 Bungoma.

#### **Standard of service by the directorate**

**9.** In the exercise of the powers and the performance of its functions the directorate shall—

- (a) be bound in its respective activities by the provisions of the Constitution, relevant national laws, polices and the provisions of this Act;
- (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.

#### **Rights of entry**

**10. (1)** An authorized officer may, in enforcing the provisions of this Act, at any reasonable time and with prior notice—

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

No. 5

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

#### **Operating licence**

11. (1) A person shall not drive a motor vehicle on a public road—

- (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 Act; and
- (b) unless he or she keeps such licence or document or any other document 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 ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

#### **Preventing engagement of a public transport vehicle**

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

- (a) any person from boarding a public transport vehicle;
- (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.

#### **Conveying of dangerous or offensive Sections 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 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 ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

### Boarding and disembarking from public service vehicles

14 (1) A person shall not—

- (a) board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.
- (b) 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.
- (c) board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.
- (d) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

### Queues at public transport facilities

15. (1) The directorate shall 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 file 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) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

### PART III—DUTIES AND OBLIGATIONS OF PASSENGERS

#### Payment of fares

16 A passenger must pay the prescribed fare for the use of a public transport motor vehicle in such manner as the route manager may determine in consultation with the directorate.

**Rights of a passenger when the vehicle becomes defective**

17 (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must disembark from the defective vehicle.

(2) Where the passengers have disembarked from the defective motor vehicle they are entitled to be refunded such amount of fare for the remainder part of the journey as may be prescribed by the route managers.

**Actions prohibited on a public transport vehicle**

18 (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) interfering with the comfort of another passenger;
- (e) damaging anything and interfering with the equipment of the public transport vehicle;
- (f) forcibly causing the driver to deviate from his route
- (g) endangering the life of another passenger;
- (h) interfering with the actions of the driver; and
- (i) showing or displaying any pornographic material.

(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.

**Property left in public transport vehicles**

19 (1) The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger 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 deposit it with the officer on duty and obtain a receipt for it.

(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.

#### Obstruction and disruption of traffic

**20** (1) A person shall not park or allow a public transport vehicle to park in a stopping place designed for public transport vehicles.

(2) A person shall not cause a public transport vehicle to traverse a pedestrian crossing, when stopping to enable passengers to be picked up or dropped off.

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

(4) 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.

#### Duties of pedestrians

**21.** (1) A pedestrian shall 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.

(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) A pedestrian shall not carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(7) The provisions of this section shall not apply to persons with disability.

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

#### **Use of hooter**

**22.** A person shall not use a 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.

#### **Prohibition of the use of a communication device while driving**

**23.** (1) Subject to any other law, a person shall not drive a motor vehicle on a public road 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 who is a 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 shall, 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 law or policy of the County Government on the confiscation and impoundment of property.

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

#### **County to install street lighting**

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

- (a) Major traffic routes;
- (b) high crime urban areas;
- (c) town centers;
- (d) pedestrian crossings;
- (e) pedestrian subways;
- (f) bus stop;
- (g) market places;
- (h) flyovers;
- (i) narrow bridges;
- (j) tunnels.
- (k) institutions.

#### **Maintenance of street lights**

25. (1) The directorate shall be responsible for the maintenance of street lights.

(2) A person shall not knowingly or carelessly damage a streetlight.

(3) A person who contravenes the provisions of 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 one year, or to both.

#### **PART IV—PROVISIONS ON PARKING AND RELATED MATTERS**

##### **Parking in a public road**

26. (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 impedes the flow of traffic.

(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.

##### **Prohibited parking areas**

27. (1) 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) 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.

#### **"No parking" and "street maintenance"**

28. Despite the provisions of this Act, the directorate may cause moveable signs to be posted on or near a public 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**

29. (1) A vehicle parked contrary to this act may be towed away at the owner's expense.

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

**Parking on alleys**

**30. (1)** A person shall not park a vehicle on any alley unless 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 other than a commercial vehicle for passengers for a reasonable period.

**(2)** Notwithstanding the provisions of subsection (1) above, a person, while loading or unloading passengers or goods, shall not park in such a manner as may obstruct the passage of other vehicles along the alley.

**(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.

**Parking on private property**

**31.** 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 roads**

**32. (1)** A person shall not park or permit to be parked, a 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.

**(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.

**Taxi and Boda Boda Associations**

**33. (1)** A person shall not operate a cab or Boda Boda business in Bungoma County unless such a person belongs to a recognised cab/taxi/Boda Boda associations.

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

**Parking on taxi zone**

34. 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.

**Compliance of this act by taxicabs**

35. (1) A person shall not park or permit to be parked a vehicle that is not a cab, in an area posted as a taxi zone.

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

**Parallel parking**

36. (1) When parking a vehicle on a roadway, a person shall 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) 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.

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

**Angle parking when no parking signs are visible**

37. 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 (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.

**Prohibition of heavy commercial vehicles in the Central Business District**

38. (1) The Member of the Executive Committee shall designate an area known as the Central Business District in a city, towns, or urban areas in Bungoma County.

(2) Despite any provisions of this Act 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.

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

(3) 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 offloading goods that cannot be physically off-loaded at designated warehouses.

**PART V—PROVISIONS ON LIGHT RAILWAYS**

**Development of Light railway**

39. The directorate may, in consultation with the national government, develop light railway works in the county and in connection thereto may maintain, improve or repair the light railway.

**Power to enter upon land**

40. (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 dwelling house under subsection (1), he or she shall obtain the consent (which shall not be unreasonably withheld) of any owner or occupier of the dwelling house.

#### **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 commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both.

#### **Use of a vehicle on a light railway**

**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 directorate commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both

### **PART VI—MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

#### **Obstructing officers authorized**

**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 Act commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both

#### **Development of a transport plan**

**44.** (1) The directorate shall develop and periodically review a transport plan for Bungoma County.

(2) The transport plan shall be based on a national master plan of the transport sector, relevant national government policies and legislation.

(3) A transport plan developed under this section shall be submitted to the County Assembly for approval before being implemented.

#### **Annual report**

**45.** (1) The directorate shall cause an annual report to be prepared for each financial year.

(2) The directorate shall cause the annual report to be published in the County Gazette and shall send a copy of the report to the Member of the Executive Committee and to the County Assembly.

(3) The annual report shall contain, in respect of the year to which it relates, a detailed description of the activities of the directorate.

#### **Duty to ensure smooth transition**

**46.** The Member of the Executive Committee shall, in consultation with the County Public Service Board, National Government Ministry responsible for roads and transport, formulate and implement administrative measures to ensure smooth and orderly transition to the legal regime established by this Act.

#### **Power to make rules and regulations**

**47. (1)** The Member of the Executive Committee shall make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may make regulations in respect of the following—

- (a) recognition and modes of dealing with cab/taxi associations;
- (b) management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof;
- (c) management and regulation of transport issues in dams, rivers and other waterways for recreation services;
- (d) in consultation with the National Land Commission, procedures for the recovery of illegally and unprocedurally acquired public land meant for the construction of transport infrastructure;
- (e) development and regulation of non-motorized means of transport; and
- (f) public surveillance of projects funded under this Act.

(2) The regulations under this Act shall be approved by the County Executive Committee and the County Assembly before they take effect.

#### **Application**

**48. (1)** The Act applies to—

- (a) light rail systems including trains and trams;
- (b) county roads and vehicles, including cars, trucks and bicycle;
- (c) recreational vessels; and
- (d) county transport in both national trunk roads and county roads.

(2) in this Act “Transport system”—

- (a) includes system infrastructure and conveyances;
- (b) communication systems and other technologies;
- (c) strategic, business and operational plans;
- (d) schedules, timetables and ticketing systems;
- (e) labour components; and
- (f) service components.

