

SPECIAL ISSUE

Kilifi County Gazette Supplement No. 4 (Bill No. 4)



REPUBLIC OF KENYA

**KILIFI COUNTY GAZETTE
SUPPLEMENT
BILLS, 2015**

NAIROBI, 29th June, 2015

CONTENT

Bill for Introduction into the County Assembly of Kilifi –

PAGE

The Kilifi County Roads and Bridge Bill, 2015.....1

THE KILIFI COUNTY ROADS AND BRIDGES BILL, 2015

ARRANGEMENT OF CLAUSES:

Clause

PART I- PRELIMINARY

- 1- Short title
- 2- Interpretations

PART II- ESTABLISHMENT OF THE COUNTY ROADS AND BRIDGES DIRECTORATE

- 3- Establishment of Kilifi County Roads and Bridges Directorate
- 4- Functions of the Directorate

PART IV- ADMINISTRATION

- 5- Tenure of office
- 6- The Director
- 7- Qualifications of the Director.
- 8- Other staff of the Directorate.

PART V: CONSTRUCTION AND MAINTENANCE OF COUNTY

ROADS

- 9- Power to construct and maintain county roads

PART VI: THE ANNUAL ROAD REPORT

- 10- The annual roads report

PART VII: CLASSIFICATION OF COUNTY ROADS

- 11- Classification of County Roads

PART VIII: GENERAL REQUIREMENTS AND DETOUR OF COUNTY ROADS

- 12- Roads clear from obstructions.
- 13- Detour during repairs.

PART IX: ESTABLISHING AND CLOSING COUNTY ROADS

14- General Directorate of county roads directorate

15- Procedure required to close or alter road.

16- Discontinuing a county road

17- Duration to discontinue county road.

PART X: COUNTY BRIDGES

18- General Directorate to erect and maintain bridges

19- Erection of joint bridges

PART XII: MISCELLANEOUS PROVISIONS

20- Load limits on county roads and bridges

21- Temporary use of county roads

22- Liability of owner or operator for road damage.

23- Offences

THE KILIFI COUNTY ROADS AND BRIDGES BILL, 2015

A Bill for

AN ACT for the County Assembly of Kilifi to provide for the County Government of Kilifi with powers, functions and responsibilities to deliver services for and connected with county roads and bridges.

ENACTED by the County Assembly of Kilifi as follows:—

PART I - PRELIMINARY

Short title

1. This Act may be cited as The Kilifi County Roads and Bridges Act, 2015.

Interpretation

2. In this Act unless otherwise the context so requires;

“County” means the County Government of Kilifi;

“Governor” means the Governor of the County Government of Kilifi;

A “County road” mean a public road that has been laid out and established according to Law and has not been discontinued;

“Abandon “means to relinquish the Public’s right of way in and use of the road;

“Directorate” means the Kilifi County Roads and Bridges Directorate established under section 3 of the Act;

“Director” means the head of the County Roads and Bridges Directorate;

“Discontinue” means to discontinue the maintenance of a road;

“Executive Member in charge” means the County Executive Committee member in charge of Roads, Transport and Public works;

“Vacate” means to terminate the existence of the road by direct action of the County Executive Committee.

PART II-THE COUNTY ROADS AND BRIDGES DIRECTORATE

The County Roads and Bridges Directorate

3. There shall be established a Directorate to be known as the Kilifi County, Roads and Bridges Directorate with responsibility for the management, development, rehabilitation and maintenance of county roads.

Functions of the Directorate

4. The Directorate shall have the following functions and duties-
- (1) constructing, upgrading, rehabilitating and maintaining roads under its control;
 - (2) controlling county roads and road reserves and access to roadside developments;
 - (3) implementing road policies in relation to county roads;
 - (4) ensuring adherence to the load limits in this Act and under any other Act as well as regulations under this Act;
 - (5) ensuring that the quality of road works is in accordance with such standards as may be prescribed by the Committee Member in Charge;
 - (6) collecting and collating all such data related to the use of county roads as may be necessary for efficient forward planning under this Act;
 - (7) monitoring and evaluating the use of county roads;
 - (8) planning the development and maintenance of county roads;
 - (9) preparing the road works programs for all county roads;
 - (10) liaising and co-coordinating with other road authorities in planning and on operations in respect of roads; and
 - (11) Performing such other functions related to the implementation of this Act as may be directed by the Governor and Executive Member in charge.

PART III - THE EXECUTIVE MEMBER IN CHARGE OF THE COUNTY ROADS AND BRIDGES DIRECTORATE

Appointment of the Director

5. The Directorate shall be headed by a Director who shall be competitively recruited and appointed by the County Public Service Executive Member in Charge

Qualifications of the Director

6. (1) A person shall be qualified for appointment as Director if such person—
- a) is registered with the Engineer's Executive Member in Charge of Kenya in the field of road engineering;
 - b) and is a member of the Institution of Engineers of Kenya; and
 - c) has at least five years' post-registration experience in the field of road engineering

Other Staff

7 (1) The Directorate may appoint such other officers and staff as may be necessary for the proper and efficient performance of its functions.

(2) The officers and staff appointed under this section shall hold office on such terms and conditions as may be determined by the concerned Executive Member in Charge and specified in their instruments of appointment.

PART IV – ADMINISTRATION

Responsibilities of the Director

8. The Director shall be responsible for the following matters with respect to the Directorate:—

- (a) the implementation of the policies and programs of the Directorate and reporting thereon to the Executive Member in Charge;
- (b) the proper management of the funds and property of the Directorate;
- (c) the organization and control of the staff of the Directorate;
- (d) the development of an operations plan for achieving the Directorate's objectives;
- (e) co-operation with other lead agencies and organizations in the roads sector;
- (f) the development of an economic, efficient and cost-effective internal management structure;
- (g) the formulation and implementation of the strategic plan, business plan and annual report and plan of the Directorate;
- (h) the implementation and fulfillment of the policies and agreed objectives, performance targets and service standards of the Directorate;

- (i) the provision of advice as required on all matters within the Directorate's responsibility;
- and
- j) the performance of any other duty necessary for the implementation of this Act as may be assigned to him.

PART V: CONSTRUCTION AND MAINTENANCE OF COUNTY ROADS.

Power to Construct and Maintain of County Roads

9. The Directorate may:
- (a) enforce all necessary rules and orders for the construction and maintenance of county roads;
 - (b) hire the equipment needed to construct and maintain county roads; and
 - (c) use any necessary material most convenient to build, repair, or maintain public roads, regardless of the location or extent of the material.

PART VI: THE ANNUAL ROAD REPORT

Annual Report

10. (1) The Director shall make an annual report during the ninth month of the county fiscal year on a form approved by the Executive Member in Charge showing;

- (a) the condition of each county road or part of a road and of each culvert and bridge within the county;
- (b) the amount of money reasonably necessary for maintenance of the roads in the county during the next county fiscal year;
- (c) the number of traffic control devices on county roads working, defaced or torn down;
- (d) any new county road that should be opened; and
- (e) any bridges, culverts, or other improvements necessary to place the roads in the county in good condition, and the probable cost of the improvements.

(2) The report shall be entered in the minutes of the Directorate to be considered in improving county roads and determining the budget thereof.

(3) The report shall be submitted, together with each contract made by the Directorate since its last report for any work on any road, to the Executive Member in Charge in the last quarter of the county financial year.

PART VII - CLASSIFICATION OF COUNTY ROADS

Classification of County roads

11. (1) The Directorate shall in consultation with the Kenya Roads Board through the Executive Member in Charge classify each public road in the county.

(2) The Directorate in consultation with the Kenya Roads Board through the Executive Member in Charge shall determine the width of all classes of county roads.

(3) The Executive Member in Charge may maintain other roads (*National trunk roads*) within the county that falls under the jurisdiction of the national trunk road in the event that

- i. the road is neglected and has become inaccessible.
- ii. the road is posing danger to the road user.

The cost of maintaining such roads shall be computed and reimbursements demanded directly from the relevant National Government Entity.

PART VII- GENERAL REQUIREMENTS AND DETOUR OF COUNTY ROADS

Roads clear from obstruction

12. A county road of any class must be clear of all obstructions.

Detour during Repairs

13. (1)The Directorate shall establish detour roads for the convenience of the public when a county road that is not part of the state highway system must be closed to traffic or for road construction.

(2) When a county detour road is in use, the county has the same Directorate over the road as over an established public road.

(3) The Directorate shall:

(i). post all signs necessary for the convenience and guidance of the public at each end of a county detour road; and

ii. maintain a county detour road so that it is reasonably adequate for normal traffic requirements.

PART VIII - ESTABLISHING AND CLOSING ROADS

General Directorate of the County roads

14 (1) The Directorate shall have the power to order that county roads to be laid out, opened, discontinued, closed, abandoned, vacated, and or altered.

Vote of Executive Member in Charge required to close

- 15** (1) A unanimous vote of the County Executive Committee is required to-
- (a). close, abandon, or vacate a public road; or
 - (b). alter a public road, except to shorten it from end to end.

Discontinuing a public road

16. The Directorate may not discontinue a public road until a new road designated by the County Executive Committee as a replacement is ready to replace it.

Duration to discontinue public road

17. The Directorate may not discontinue, close, or abandon an entire first-class or second-class road unless the road has been vacated or unused for at least three years.

PART X- COUNTY BRIDGES

General Directorate to erect and

18. The Directorate may erect and maintain any necessary bridge in the county and make any necessary appropriation for that purpose.

Erection of joint bridges

19. On equitable terms agreed to by the County Authorities or any appropriate authorities of the Counties, two or more Counties may jointly erect a bridge over the sea or river that forms the boundary between counties or at any other location at which the counties choose to erect a bridge.

PART XI-MISCELLANOUS PROVISIONS: COUNTY TRAFFIC

REGULATIONS

Load Limits on roads and Bridges

- 20.** (1)The Directorate shall ;
- (a). establish load limits for any county road or bridge.

(b). authorize a traffic officer or other official to weigh a vehicle to ascertain whether the vehicle's load exceeds the limit prescribed by the Directorate.

Temporary use of County roads

21. (1) The Directorate;

- (a). may permit the temporary use of a county road located in an unincorporated area of the county for a civic event, including a festival.
- (b). shall establish procedures for the temporary diversion of traffic from the road being used for the event.

Liability for road damage

22. A person who operates or moves a vehicle or other object on a public road or bridge and the owner of the vehicle or other object are jointly and severally liable for damage sustained by the road or bridge as a result of the negligent operation or moving of the vehicle or other object or as a result of the operation or movement of the vehicle at a time prohibited by the officials with Directorate over the road.

Offences

23. Any person who unlawfully—

- (a) does any act which obstructs or is likely to obstruct the working of any equipment or vehicle belonging to the County Government used in its operations and which act endangers or is likely to endanger the life of any person therein; or
- (b) damages or in any way interferes with any road or other property of the County Government in such a manner as to endanger the life of any person; or
- (c) does any act which obstructs or is likely to obstruct the operation of vehicles on any road or the use of any weighbridge or bridge; or

commits an offence and is liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred thousand shillings, or to both.

MEMORANDUM OF OBJECT AND REASONS

The purpose of this Bill is to provide the County Government of Kilifi with powers, functions and responsibilities to deliver services connected with County Roads and Bridges.

The Bill is structured as follows;-

Part I- provides for the short title and interpretation of the terms used in the Act.

Part II- provides for the County Roads and Bridges Directorate including its establishment, duties and functions.

Part III- provides for the Executive Member in Charge of the Directorate including its membership.

Part IV - provides for the administration of the Directorate including the appointment of the Director General and his functions.

Part V- provides for the construction and maintenance of public roads and gives the Directorate the power to make and enforce all necessary rules and orders for the construction and maintenance of roads.

Part VI- provides for the preparation of the annual road report by the Director.

Part VII - provides for the classification of the County roads into first, second and/or third class and also on the width of the roads.

Part VIII- sets out the general requirements and the establishment of detour roads for the convenience of the public when a county road is closed for traffic or construction.

Part IX - provides for the establishment and closing of roads and the procedure to be undertaken before a county road is established and or closed.

Part X- provides for the erection of County bridges and also on the establishment of joint bridges between two or more Counties.

Part XI - provides for the miscellaneous provisions including load limits, the temporary use of County roads and the liability of owner or operator for road damage and offences.

Dated the 14th May, 2015

ANTHONY KENGA MUPE,
Chairperson, Transport and Public Works Committee.