

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 9th March, 2015

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**THE MACHAKOS COUNTY DESIGNATED PARKING PLACES
BILL, 2015**

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**THE MACHAKOS COUNTY DESIGNATED PARKING PLACES
BILL, 2015**

A Bill for

**AN ACT of Machakos County Assembly to provide for regulation on
parking of motor vehicles on designated parking areas and for
connected purposes**

ENACTED by Machakos County Assembly, as follows—

PART I—PRELIMINARY

Citation

1. This Act may be cited as Machakos County Designated Parking Places Act, 2015.

Interpretation

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

“authorized officer” means an officer authorized by County Executive Committee to do or to order another to do or not to do in accordance with the provisions of this Act;

“charge” includes fees;

“clamp” means a metallic instrument used to lock wheels of a vehicle;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to transport and includes authorized officers;

“County Government” means the County Government of Machakos;

“County Government motor vehicle” means a vehicle owned by the Machakos County Government and registered as a Government of Kenya vehicle;

“inspector” means an officer of the County Government authorized by the County Executive Committee to control and supervise the designated parking places and includes any authorized assistant;

“parking permit” means a permit issued by the County Executive Committee Member authorizing the owner of a vehicle to use a designated parking place;

“parking space” means a space in a parking place, which is provided for parking of a single vehicle;

“owner” means the person in whose name a vehicle is registered under Part II of the Traffic Act, and in relation to a vehicle which is a subject of

a hire purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“revenue officer” means an officer of the County Government authorized in writing by the County Executive Committee Member to collect fees; and

“vehicle” includes any motor vehicle, motor cycle, tractor, trailer, wagon or cart.

PART II—REQUIREMENTS FOR PARKING AND PARKING PERMIT

Designation of Parking Spaces

3. The area on the roads or off the road described in the first schedule as designated parking places for vehicles.

Number and Situation of Parking Spaces

4. The number and situation of parking places shall be determined by the County Executive Member.

Marking of Parking Spaces

5. The limits of—

- (a) each parking place; and
- (b) limits of parking space shall be marked on the road, by line studs or such other indication as the County Executive Member may determine.

Duration of Parking Place Payments

6. A vehicle shall not be parked in a designated parking area for duration exceeding the paid for duration.

No Reserved Parking

7. A person shall not put up a signpost or any other sign in a parking space stating that the parking is reserved without prior consent of the County Executive Committee Member and on payment of prescribed fee.

Manner of Parking

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8. A person shall not park in, or drive into or drive out of a designated parking place, a vehicle—

- (a) in such manner that the vehicle stands in, or passes over part of one parking space and part of another; or
- (b) any line, stud or other indication marking the limits of a parking space.

Charges of Parking

9. (1) An owner or driver of a vehicle shall drive into or park within the limits of a parking place without first paying the prescribed parking fees as set out in the second schedule.

(2) All vehicles parked within a designated area shall be liable to parking fees.

Charges for Clamping

10. (1) Where a vehicle is parked in a designated parking place or space with no prior payment of the required charge, an authorized officer shall clamp the vehicle after which the motor vehicle shall be towed by an enforcement officer or police officer for safe custody.

(2) Where a vehicle has been clamped or removed in pursuance to this section, the owner of such vehicle shall pay, or cause to be paid to the County Executive Committee Member the prescribed clamping fee set out in the second schedule.

(3) Where the owner of a vehicle which has been clamped or removed under this section does not pay the fees and expenses due within a period of sixty days from the day on which the vehicle was removed from a designated area, the County Government may sell or otherwise dispose of such vehicle by public auction.

(4) Notice of the intended auction under subsection (3) shall be placed in the print media, and the proceeds of such sale or disposal, if any, be used to recover the cost incurred by the County Executive Committee Member in removing, storing and disposing the said vehicle.

Display of Parking Permit

11. (1) A driver or other person in charge of a motor vehicle who drives or parks within the limits of a parking place and has paid a parking fee shall display the parking permit in front of the windscreen showing the amount paid and the date and time the vehicle entered the parking place.

(2) A person who does not display the parking permit in accordance with subsection (1) shall be deemed not to have paid required parking fees and provisions of section 10 shall apply to that motor vehicle.

Free Parking

12. (1) Parking fees shall not be payable whole day on Sunday, Public Holidays and after 2.00 pm on Saturdays.

(2) Save for reservation for official use by Cabinet Secretaries, Permanent Secretaries, Heads of Diplomatic Missions, County Executive Committee Members, County Chief Officers, County Assembly Speaker, Clerk and Members of the County Assembly and persons with disabilities no place within designated parking areas shall be a free parking area.

Identification of Officers

13. All revenue officers shall at all material times in the course of their duties, put on a uniform, carry and have in their possession a proper identification badge, issued by and bearing the authority of the County Government.

Multiple Parking

14. A parking permit issued for a particular vehicle shall not be used for another vehicle other than the one whose registration number appears on a parking permit.

Transfer

15. A parking permit shall not be transferred so as to apply to a vehicle other than that the one to which it was originally issued.

Permit for parking business

16. (1) A person having a commercial private parking place within the shall also obtain a permit from the County Executive Committee Member to carry on such business under the provisions of the single business permit.

(2) A person who contravenes subsection (1) commits an offence.

Signaling, Guiding or Directing Driver

17. (1) A person who without justifiable cause or excuse—

- (a) guides or directs or attempts to signal, guide or direct the driver of a vehicle into or out of any parking place provided by the County Government; or
- (b) on any road under the County Government or land owned by the County Government or under its control or in or

adjoining any area on roads designated as parking places for vehicles under the designated parking places;

commits an offence.

Offences Concerning Designated Parking Spaces

18. A person who—

- (a) with intent to defraud, interferes with the writings or marks on a parking permit already issued;
- (b) without authority of the County Executive Committee Member uses a parking space for the purpose of advertisement;
- (c) willfully damages vehicle clamp or any of its part;
- (d) willfully uses the parked vehicle to carry out business on a County Government designated parking space;
- (e) without the authority of the County Executive Committee Member removes or attempts to remove a clamp from a clamped vehicle; and
- (f) willfully parks in a parking place reserved for people living with disabilities;

commits an offence.

Obstruction

19. A person, who willfully obstructs, hinders or otherwise interferes with an authorized officer in the execution of their duties under this Act commits an offence.

Removal of a Vehicle

20. (1) Where a vehicle—

- (a) is left in a designated parking place and the parking charge or de-clamping charge incurred is not duly paid;
- (b) is left in a designated parking place and any of the provisions of part VI A of the Traffic Act or this Act relating to the manner in which the vehicle should stand in a parking place are contravened;
- (c) is left in a designated parking place otherwise than is authorized by Part VI A of the Traffic Act or by this law;
- (d) has remained clamped, an authorized officer may remove such vehicles and keep the same in safe custody by means

of break down or any other means of removal available at that moment at the owners risk.

(2) Where a vehicle has been removed in pursuance of this Act, the owner of such vehicle shall pay, or cause to be paid to the County Executive Committee Member pounding charges for safe custody, together with towing fees in respect of expenses incurred by the County Executive Committee Member in removing and keeping such vehicle in safe custody before he can recover the vehicle.

Parking on Pavements

21. (1) A vehicle shall not be parked on a pavement on County Government garden or an area not designated as a parking area.

(2) A vehicle parked at a pavement as envisaged in subsection (1) shall be towed and the owner shall be liable to pay towing fees and charges for illegal parking which shall be paid to County Executive Committee Member.

(3) A vehicle which knocks down an electric pole shall be towed and detained by the County Executive Committee Member and shall be held until the owner of the said vehicle pays for the restoration of the said pole.

(4) The owner of the vehicle referred to under subsection (3) shall also pay prescribed towing and storage charges.

PART III—MISCELLANEOUS PROVISIONS

Personal Liability

22. No matter or thing done by an authorized officer, employee or agent of the County Executive Committee Member shall, if the matter or thing is done in good faith while executing the functions, powers or duties under this Act, render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

Management of Information

23. (1) The County Executive Committee Member shall publish and publicize all important information affecting the county within its mandate.

(2) A person may request for information within the mandate of the Board in public interest.

(3) A request for information under subsection (2)—

(a) shall be addressed to the County Executive Committee Member or such other person as the County Executive

Committee Member may designate for that purpose;

- (b) may, where the Board incurs expense in providing the information, be subject to payment of a reasonable fee; and
- (c) may be subject to confidentiality requirements of the Board.

(4) Subject to the provisions of Article 35 of the Constitution and the law relating to freedom of information and data protection, the County Executive Committee Member may decline to give information to an applicant where the—

- (a) request is unreasonable in the circumstances; or
- (b) applicant fails to satisfy any confidentiality requirements imposed by the County Executive Committee.

(5) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

Penalties

24. A person who commits an offence under this Act shall be liable on conviction in respect of a—

- (a) first offence a fine not exceeding two thousand shillings or to an imprisonment term not exceeding six months or both;
- (b) second offence to a fine not exceeding three thousand shillings or to an imprisonment term not exceeding nine months or both; or
- (c) any other appropriate penalty the judge or magistrate deems fit for a repeat offender.

Regulations

25. The County Executive Committee Member may make regulations for the better carrying into effect of the provisions of this Act.

Revision

26. (1) The County Executive Committee Member shall from time to time revise the—

- (a) schedules for designated parking areas;
- (b) charges for parking, clamping and towing; or
- (c) fines for offences under this Act.

(2) The County Executive Committee Member shall issue a 30 day notice for any revisions intended under subsection (1), in two daily

newspapers of wide circulation within the County.

(3) After issuance of a notice provided under subsection (2), the County Executive Committee Member shall gazette the intended revisions in the *County Gazette*.

FIRST SCHEDULE

s.3

AREAS OF DESIGNATED PARKING PLACES

MAVOKO TOWN

Road/Building

A. Pepe-Makadara Road

- (1) Stadium view business centre frontage.
- (2) Nyambura -Sulami supermarket frontage.
- (3) Box in restaurant frontage.
- (4) Green Mount plaza and Equity Auto branch.
- (5) Starehe Butchery frontage (County's open plot).
- (6) Little Rock restaurant frontage.
- (7) Frontage of the CDF office.
- (8) The frontage of building up to the Pepe junction.
- (9) 24 hours clinic frontage.
- (10) Makadara EPZ Road.
- (11) Road shoulders before matatu stage.
- (12) Kivutuni wines and spirits frontage.
- (13) Mzee Pauranha Road.
- (14) Nzambuni 1900 Woodstock frontage.
- (15) All areas adjacent along the Mzee Pauaranha road.
- (16) Pepe -Shell Road.
- (17) Existing barter market space when modern market complete.
- (18) Mlolongo-Mombasa Road.
- (19) Old Mombasa road from barriers (Mlolongo main) both sides.
- (20) View point pub.
- (21) All area opposite Mlolongo public bus park.
- (22) Around Bamburi, new hospital and Namanga junction.
- (23) Kyumbi shopping centre.
- (24) Joska shopping centre.

(25) Kinanie shopping centre.

(26) Githunguri shopping centre.

MACHAKOS

- (1) All that part of central area bounded by Kangundo road, Rashid Road, Kitui road, Mulu Mutisya Highway, Konza road, Mackenzie, Nthula road, Ngei road and Nairobi road.
- (2) All that area along Syokimau, Kitui road.
- (3) All that area of retail market, Uhuru Market, wholesale market, Lukindo Road, along Mbolumalu Park, around Bus Park and Mulu Mutisya.
- (4) Masii.
- (5) Mbiuni.
- (6) Kivaa.
- (7) Miu.
- (8) Kithyoko.
- (9) Kathiani.
- (10) Mitaboni.
- (11) Vyulya.

KANGUNDO SUB –COUNTY

- (1) Kangundo town.

MATUNGULU SUB COUNTY

- (1) Tala town.

MATUU

- (1) Matuu town.
- (2) Kithimani.
- (3) Sophia.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of the Bill is to provide a legislative framework for regulation on parking of motor vehicles on designated parking areas and for connected purposes.

Part I provides for preliminary matters, i.e. citation and interpretation.

Part II provides for requirements for parking and parking permits. This part includes the following provisions; designation of parking spaces, number and situation of parking spaces, marking of spaces, duration of parking place payments, no reserved parking, manner of parking, charges of parking, charges for clamping, display of parking permit, free parking, identification of officers, multiple parking, transfer, parking for permit business, signaling, guiding or directing driver, offences concerning designated parking spaces, obstruction, removal of a vehicle and parking on pavements.

Part III provides for miscellaneous provisions. It contains the following provisions; personal liability, management of information, penalties, regulations and revision.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

Dated the 23rd February, 2015.

HON. FELIX NGUI,
Member of the County Assembly.

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