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TANA RIVER COUNTY ACTS, 2017

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THE TANA RIVER COUNTY TRANSPORT ACT, 2017

No. 4 of 2017

Date of Assent: 11th April, 2017

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**THE TANA RIVER COUNTY TRANSPORT
ACT, 2017**

**AN ACT of the County Assembly of Tana River to
establish the County Department of Transport, to
provide for matters relating to traffic, parking,
county roads, street lighting, public road transport
and for connected purposes**

ENACTED by the County Assembly of Tana River, as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Tana River County
Transport Act, 2017, and shall come into force upon
publication in the *Gazette*.

Short title and
commencement.

2. In this Act—

Interpretation.

“animal cart” means a two wheeled cart for carriage of
goods propelled by animal energy;

“authorised person” means any person—

(a) responsible for carrying out any duty or function;
or

(b) to whom a function or duty is delegated to under
this Act, and includes a traffic marshal, traffic
conductor and any other person authorised under
any other law;

“bicycle” means any bicycle or tricycle not self-
propelled;

“cattle” includes oxen, bulls, cows, horses, camels,
mules, asses, sheep, goats and swine;

“County Executive Committee Member” means the
County Executive Committee Member for the time being
responsible for transport;

“County Public Service Board” means the County
Public Service Board established under the County
Governments Act;

“county roads” means roads that are under the
jurisdiction of the county;

“County Department of Transport” means the County
department of transport established under section 5 of this
Act;

“Director” means the County director of transport appointed under this Act;

“hand cart” means a two- or three-wheeled cart for the carriage of goods propelled by human energy;

“hazardous materials” means a substance or material in a quantity and form which may pose unreasonable risk to health and safety or the environment;

“motorcycle” Means a motor vehicle with less than four wheels the weight of which unladen does not exceed eight hundred weights;

“motor vehicle” includes a vehicle, machine, bus, tractor, truck, trailer or semi-trailer, propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;

“permit” means operating authority issued under this Act;

“person” includes an individual, firm, partnership, Association or corporation;

“public road” has the same meaning as assigned to it under section 2 of the public roads and roads of access act;

“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.

“ride” means to operate, manage or to be in control of a two-wheeled motor cycle;

“road” means any public road within the meaning of the Public Roads And Roads of Access Act (Cap.399), and includes any other road or way, wharf, car park, footpath or bridle-path on which vehicles are capable of travelling and to which the public has access;

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

“trailer” means any vehicle designed to be drawn by a motor vehicle, but does not include a sidecar attached to a motor cycle.

3. The objects and purpose of this Act is to provide for all matters necessary to—

Objects and purpose.

- (a) provide for adequate, safe and efficient county transport facilities and services at reasonable cost to the public;
- (b) facilitate the development, planning and management of county transport facilities and transport infrastructure; and
- (c) give effect to, and ensure a balanced transport policy and planning.

4. This Act applies to County roads and County transport, infrastructure and services.

Application.

PART II—COUNTY DEPARTMENT OF TRANSPORT

5. (1) There is established in the County public service a County Department of Transport.

County Department of transport.

(2) The head of the County Department of Transport shall be the Director of transport, who shall be appointed by the County Public Service Board.

6. (1) The appointment of the Director shall be—

Appointment and qualifications of the Director.

- (a) carried out in a competitive and transparent manner;

- (b) based on merit; and
 - (c) in line with the constitutional requirements for public service.
- (2) A person is qualified for appointment as Director if that person—
- (a) is a citizen of Kenya;
 - (b) holds a degree from a recognised university;
 - (c) has relevant knowledge and experience of at least five years;
 - (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.
- (3) A person shall not be qualified for appointment as Director under subsection (1) if such person—
- (a) is of unsound mind;
 - (b) is an undischarged bankrupt; or
 - (c) has been removed from office for contravening the provisions of the Constitution or any other written law.
7. The Director shall be appointed for a term of three years and is eligible for re-appointment for another one term.
8. The Director shall be paid such allowances and benefits as the County Public Service Board shall, on the advice of the Salaries and Remuneration Commission, determine.
9. The Director may be removed from office for—
- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
 - (b) gross misconduct;
 - (c) incompetence or negligence of duty;
 - (d) bankruptcy;
 - (e) being found guilty of professional misconduct by the relevant professional body;
 - (f) in any particular case, failure to declare his or her interest in any matter being considered or to be considered by the board or committee; or

Term of office.

Remuneration.

Removal.

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- (g) absence from three consecutive meetings of the Directorate without a reasonable explanation.

10. A person shall cease to be Director if that person—

Vacation of office.

- (a) resigns in writing to the Governor;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (e) dies

11. (1) The County Department of Transport may, in consultation with the County Public Service Board from time to time, create, abolish, transfer and consolidate divisions, and other units within the County Department of Transport not expressly established by law as may be necessary for the efficient operation of the department.

Organization of department.

(2) The County Public Service Board shall appoint public officers and employees qualified by training and experience for the performance of the duties assigned to them.

12. (1) The County Department of Transport, by or through the Director shall be responsible for—

Functions, powers and duties of the department.

- (a) co-ordination and development of a comprehensive and balanced transport policy and planning for the county;
- (b) co-ordination of and assistance in the balanced development and operation of transport facilities and services in the County;
- (c) making such studies and analysis of transport problems relating to any aspect of transport in the County;
- (d) partnering and co-operating with—
 - (i) officials of the National Government department having duties and responsibilities concerning transport;
 - (ii) officials and representatives of public corporations;

- (iii) official representatives of neighboring counties and of inter-county agencies on problems affecting transport in the county or counties;
- (iv) officials and representatives of transport facilities and systems in the county; and
- (v) persons, organizations and groups utilizing, served by, interested in or concerned with transport facilities and systems in the county;
- (e) exercising all functions, powers and duties relating to traffic regulation and control as set forth in this Act;
- (f) formulation and execution of contracts, keeping accounts, recording personnel data, compiling statistics and engaging in research opportunities;
- (g) preparation of plans, specifications, designs and estimates, and, by the procedures and methods provided by the laws relating thereto, to construct and reconstruct—
 - (i) the public roads that are under the jurisdiction of the County;
 - (ii) the canals, waterways of the County and structures that are under the jurisdiction of the County;
 - (iii) the bridges and grade separation structures that are under the jurisdiction of the County;
 - (iv) parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities;
- (h) operation and maintenance of —
 - (i) the County roads, other public ways, bridges and grade separations;
 - (ii) the canals, waterways and structures of the County; and
 - (iii) parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities;

(2) The County Department of Transport shall have all powers necessary for the execution of its functions under this Act.

(3) The County Department of Transport shall cooperate with the agencies of other counties and of the National government which are connected with national defense, in the formulation and execution of plans for the rapid and safe movement over county roads of troops, vehicles of a military nature, and materials affecting national defense.

PART III—TRAFFIC AND PUBLIC ROAD TRANSPORT

13. (1) The County Department of Transport shall promote safety in the transportation of hazardous materials by all modes of transport.

Transportation of
hazardous materials.

(2) The County Executive Committee Member shall make rules and regulations to govern transportation of hazardous materials.

(3) No person shall transport or undertake transport operation in the County in a manner that exposes the public to danger.

(4) Any person who contravenes this section or regulations made there under commits an offence and shall on conviction be liable to imprisonment for a period not exceeding two years or a fine not exceeding one hundred thousand or both.

14. An authorised officer may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

Right of entry.

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

15. (1) No person shall operate a motor vehicle on a County public road—

Operating licence.

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the relevant law; and

- (b) unless he or she keeps such licence or document or any other prescribed authorization with him or her in the motor vehicle.

16. No person shall through use of force, intimidation, threats or any other means, prevent or try to prevent—

Preventing engagement of a public transport vehicle.

- (a) any person from obtaining or engaging a public transport vehicle;
- (b) the driver of a public transport vehicle from taking on passengers; or
- (c) the operation of any public vehicle which is lawfully operated.

17. (1) Any 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—

Conveying dangerous or offensive articles in public transport vehicles.

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has reasonably been exposed to or contaminated by an infectious or contagious disease.

(2) For purposes of this section, a person contemplated by section (1) shall include—

- (a) an escaped convict;
- (b) any person escaping from a quarantined area; or
- (c) any other person as the County Executive Committee Member may, by regulation, determine.

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

Boarding and disembarking of public transport vehicles.

(2) No person shall board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.

(3) No person shall board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

19. (1) A passenger must pay the determined and prescribed fare for the journey.

Payment of fares.

(2) The fare to be paid shall not exceed the amount displayed on the vehicle.

20. (1) Every corporation, person or public transport service provider performing a transport service in the county, shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable.

Safe and adequate service; just and reasonable charges.

(2) All charges made or demanded by any such corporation, person or transport service provider for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith shall be just and reasonable.

(3) All public transport service providers have a general duty to deal reasonably with customers and adequately address customer complaints.

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

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

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

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

(4) Where the vehicle has become defective in an area, the driver shall take reasonable steps to ensure the security of the passengers.

22. (1) The following actions are prohibited on a public transport vehicle when passengers are on board—

Actions prohibited on a public transport vehicle.

(a) smoking;

- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (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;
- (i) showing or displaying any pornographic material; and or
- (j) any other actions prohibited by any other law.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding fifty thousand or to imprisonment for a term not exceeding six months or both.

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

Obstruction and
disruption of traffic.

(2) No public transport vehicle shall traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

(3) No public transport vehicle may park in a demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

24. (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 100 meters from such pedestrian crossing or intersection.

Duties of
pedestrians.

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a

pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

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

Use of hooter.

26. (1) Subject to any other law, no person shall 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 cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used;

Prohibition on use of communication device while driving.

(2) An authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device;

(3) When confiscating any hand held communication device, the authorised officer shall —

- (a) inform the owner of such communication device of the reasons of confiscating and impounding;

- (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- (c) follow all procedures contained in any policy of the County dealing with the confiscation and impoundment of property.

27. (1) Any person who contravenes the provisions of this Part to which no express penalty is provided, commits an offence and is liable, on conviction to a fine not exceeding one hundred thousand or imprisonment for a term not exceeding one year, or both.

General penalty.

(2) This section does not prevent a court of competent jurisdiction to award any further or additional penalty as may be prescribed under any other written law.

PART IV—STREET LIGHTING

28. (1) The County Government shall install street lights within the County with special attention to the following areas—

County to install street lighting.

- (a) major traffic routes;
- (b) high crime urban areas;
- (c) town centres;
- (d) pedestrian crossings;
- (e) pedestrian subways;
- (f) residential areas;
- (g) foot bridges; and
- (h) shopping centres.

(2) The County shall, subject to sufficient allocation or availability of funds, realise the dictates of subsection (1).

29. (1) The County Department of Transport shall be responsible for the maintenance of streetlights.

Maintenance of street lights.

(2) To assist the County Department of Transport maintain the street lights and other transport and road related infrastructure, a court may award cost or require a person found guilty of vandalism or damage of road infrastructure to remit such fees or charges as are reasonable to the Department

(3) The funds realised as a consequence of subsection (2) shall be used for the maintenance of County roads.

30. (1) No person shall willfully, carelessly or negligently cause damage to any streetlight.

Damage to street lights.

(2) Any person who contravenes this section shall, upon conviction be liable to a fine not exceeding thirty thousand shillings or a term of imprisonment not exceeding one year or to both.

(3) In addition to the fine prescribed under subsection (2), the person found guilty shall be required repair the street light at such cost as the Court may award upon assessment.

PART V— PARKING

31. (1) No person shall park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic.

Parking on a public road.

(2) Any person who contravenes section (1) commits an offence.

32. 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, a person shall not stop or park a vehicle—

Prohibited parking areas.

- (a) at an intersection nearer than ten (10) metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten (10) metres on the approach to a stop sign or yield signs;
- (c) within five (5) metres of any fire hydrant, or when the hydrant is not located at the curb, within five (5) metres of the point on the edge of the roadway nearest the hydrant;
- (d) within ten (10) metres of the approach to a pedestrian crossing;
- (e) on a sidewalk;
- (f) facing oncoming traffic;
- (g) on any bridge or approach to any bridge;
- (h) in a passenger loading or unloading space posted

as such by a traffic control device except when actually taking or discharging passengers;

- (i) on any portion of a public road marked 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 marked as a fire lane except for emergency vehicles;
- (l) on any space marked for persons living with disabilities parking unless such vehicle is designated as a persons living with disabilities vehicle;
- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit; or
- (o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

33. Notwithstanding any other provision in this Act, the County Department of Transport through any of its authorised officers or employees, is hereby authorised to cause moveable signs to be posted on or near a road to indicate “No Parking”, or “Street Maintenance” and when so posted, such signs shall take precedence over all other traffic control devices.

‘No parking’ and
‘street maintenance’
signs.

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

Towing away of
vehicle.

(2) The owner of the vehicle towed under subsection (1) shall be charged in a court of law for violation of this Act.

35. (1) No person shall park a vehicle on any alley unless a traffic control device otherwise permits, except for the following purposes—

Parking on alleys.

- (a) the loading or unloading of goods from a commercial vehicle for a reasonable period; or

- (b) the loading or unloading of goods or passengers from a vehicle other than a commercial vehicle for a reasonable period.

(2) Notwithstanding subsection (1), no person, while loading or unloading passengers or goods, shall park in such a manner as may obstruct the passage of other vehicles along the alley.

36. No person shall park a vehicle or permit a vehicle to be parked on private property without the permission or authorisation of the owner of the private property or a person having lawful possession or control of the private property.

Parking on private property.

37. No person shall park or permit to be parked, any trailer upon any public road unless the trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed part of the vehicle and subject to the provisions pertaining to vehicles.

Parking of trailers on public road.

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

Parking on taxi zone.

39. (1) The operator of a taxicab, except when answering a call, shall not park the taxicab upon any roadway other than within a taxi zone, unless such taxicab is displaying a "Not for Hire" sign and the operator is out of the taxicab.

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

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

40. 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.

PART VI— LIGHT RAILWAY

41. The County Department of Transport may develop light railway works in the county and in connection thereto may maintain, improve or repair the light railway.

Development of Light Railway.

42. (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—

Power to enter upon land

- (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) carryout 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.

43. (1) The County Executive Committee Member may make regulations generally for the purposes of giving effect to this part.

Regulation of light
railway.

(2) The County Executive Committee Member may make regulations for the management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters—

- (a) the regulation of the times of arrival and departure of light railway vehicles;
- (b) the prevention of the commission of nuisances in or upon light railway vehicles;
- (c) the prevention of damage to light railway vehicles;
- (d) the removal from or the prohibition of the use on a light railway line of any vehicle or thing which is or may become a danger to life, health, the

operation or maintenance of a light railway or would otherwise interfere with the proper operation of a light railway;

- (e) the fixing, altering, charging and recovery of fares, fees, tolls and charges in respect of the travelling upon or use of light railway vehicles;
- (f) the general regulation, subject to any statutory provisions in that behalf, of the travelling upon or use of light railway vehicles and the working of light railway transport services by the Board;
- (g) the safe custody and redelivery or disposal of any property found on or in any light railway vehicles of the County and the fixing of charges in respect thereof.

(2) Regulations under this section may contain such incidental, subsidiary and ancillary provisions as the County Executive Committee Member considers necessary or expedient for the purposes of the regulations.

(3) A person who contravenes a regulation under this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding One million shillings or to imprisonment for a term not exceeding three years or to both.

44. 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 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings fifty thousand shillings.

Trespass on a railway.

45. 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 Department shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Use of a vehicle on a light railway.

46. 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 part shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Obstructing
authorized officers

**PART VII—OFFENCES BY DRIVERS OF
VEHICLES OTHER THAN MOTOR VEHICLES
AND OTHER ROAD USERS**

Motorcycles

47. (1) A person, including a passenger, shall not ride on a motor cycle of any kind, class or description without wearing a helmet and a jacket that has reflectors.

Helmets and
reflector jackets.

(2) A person who rides a motor cycle shall provide a helmet and a jacket that has reflectors to be worn by the passenger.

(3) For the purposes of this section, a helmet shall be of such shape, construction and quality as may, from time to time, be prescribed by the County Executive Committee Member by notice in the *gazette*.

48. (1) It shall not be lawful for more than one person in addition to the driver to be carried on any two-wheeled motorcycle, nor shall it be lawful for any such one person to be so carried otherwise than sitting astride the motorcycle and on a proper seat securely fixed to the motorcycle behind the driver's seat.

Restrictions on
pillion riding

(2) If any person is carried on any such motorcycle in contravention of this section, the driver of the motorcycle shall be guilty of an offence and be liable to a fine not exceeding ten thousand shillings.

49. Every motor cycle shall be insured against third party risks in accordance with the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405).

Insurance against
third party risks

50. (1) A person shall not ride a motorcycle unless that person has a valid driving licence issued in accordance with the provisions of this Act.

Operating licence.

(2) The Registered owner of a motorcycle shall ensure that any person who rides the motorcycle has a valid

driving licence issued in accordance with the provisions of this Act.

51. (1) No person shall ride a motor cycle 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;

Prohibition of use of communication device while riding a motor cycle

(2) An authorized officer may, in the public interest and safety of the public confiscate and impound a hand held communication device;

(3) When confiscating any hand held communication device, the authorized officer shall—

- (a) inform the owner of such communication device of the reasons of confiscating and impounding;
- (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- (c) follow all procedures contained in any policy of the county dealing with the confiscation and impoundment of property.

Bicycles

52. (1) Not more than one person shall be carried in addition to the rider on any bicycle, nor shall any such one person be so carried otherwise than sitting on a carrier securely fixed to the bicycle or on a step especially fitted to carry a passenger.

Restrictions on riding bicycles.

(2) No person shall carry on a bicycle a load which because of its size or the manner in which it is carried is likely to be a danger to other persons using a road.

(3) Any person contravening the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

Animal carts and hand carts

53. (1) No person shall use or permit to be used an animal cart or a hand cart within the County unless the owner thereof has been granted and is in lawful possession of an unexpired licence issued by the County Executive Committee Member under this Act.

Licence.

(2) Any person who contravenes the provisions of subsection (1) of this Act shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

54. (1) Application for a licence by the owner of an Animal cart or hand cart shall be made to the County Executive Committee Member, who may cause such vehicle to be inspected and may refuse to license such vehicle if its condition is unsatisfactory.

Application for
licence.

(2) The licence shall be in such form as may be determined from time to time by the County Executive Committee Member and shall contain—

- (a) the name and address of the licensee;
- (b) a description of the licensed vehicle;
- (c) the date on which the licence expires;
- (d) the maximum load which such vehicle is permitted to carry; and
- (e) any conditions which the County Executive Committee Member may deem it necessary to impose.

55. (1) No licence shall be granted for a longer period than one year and every licence shall expire on the thirty-first December of the year in which it is granted.

Expiration of
Licence.

(2) The licensee shall pay to the county upon the issue of every licence under this Act the appropriate fee therefore as may be prescribed by the County Executive Committee Member in the regulations.

56. No person shall—

Weight limit.

- (a) load any animal cart with a load exceeding one ton in weight or with a load exceeding ten feet in height measured from the ground; or
- (b) use any animal cart width of which, whether loaded or unloaded, exceeds eight feet.

(2) Every person who loads or is in charge of an animal cart or a hand cart shall ensure that the load is

securely fastened to the vehicle.

(3) No person shall carry or cause to be carried any load on any animal cart or hand cart so as to project more than six feet behind the hindmost part of the body of such vehicle or more than six feet in front of the foremost part of the body of such vehicle or more than one foot outside the wheel hubs of such vehicle except with the written permission of the County Executive Committee Member obtained in writing and in accordance with the terms or any conditions which may be attached to such permission.

(4) Any person who contravenes the provisions of subsections (1), (2) and (3) of this Act shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

57. (1) If the County Department of Transport is satisfied it is expedient for facilitating the passage of traffic, it may from time to time make a resolution as regards any street in the county prohibiting the use of the street by animal carts or hand carts either generally or subject to exceptions specified in the resolution and either at all times or at times, on days or during periods so specified;

Prohibition of use of
animal and hand
cart.

Provided that every such resolution shall be published in the *Gazette* and notices to that effect shall be posted in conspicuous places within the County.

(2) Any person who contravenes the provisions of subsection (1) of this Act shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

58. (1) No person shall for the purpose of taking up or depositing a load from an Animal cart or hand cart stop such Animal cart or hand cart except at the side of the road.

Animal or hand cart
to be stopped at the
side of the road.

(2) Any person who contravenes the provisions of subsection (1) of this Act shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

59. The County Executive Committee Member may, with the consent of the licence holder, upon the payment of a fee as shall be prescribed from time to time by the County Executive Committee Member, transfer a licence from the holder thereof to another person:

Transfer of licence.

Provided no licence shall be transferred in such a manner as to make it cover any vehicle other than that in respect of which such a licence was first issued.

60. Any person who is guilty of an offence against this subpart shall be liable to a fine not exceeding Sh. 200 or to imprisonment for a term not exceeding one month.

Penalty.

General provisions

61. Any person who when driving or attempting to drive, or when in charge of a vehicle, other than a motor vehicle, on a road or other public place is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months..

Driving under influence of drink.

62. Any person who on any road or in any public place drives any vehicle, other than a motor vehicle, recklessly or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is actually at the time or which might reasonably be expected to be on the road, shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Reckless driving.

63. Any person who on any road or in any public place drives a vehicle, other than a motor vehicle, without due care or attention, or in such a manner as to be an annoyance to the public, shall be guilty of an offence and is liable, on conviction to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

Careless driving

64. Any person driving or conducting any cattle, dog or other animal who, on any road, fails to exercise reasonable care to keep it or them under proper control, or

Carelessness while in charge of animals.

allows such cattle, dog or animal to become a danger or annoyance to the public, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

65. The County Department of Transport may refuse to renew a licence and may also cancel a licence if the holder of such licence has been convicted within the preceding twenty-four months of any offence against this part.

Renewal of licence.

PART VII— MISCELLANEOUS

66. The County Executive Committee Member in consultation with the Director may pursuant to this Act make any further regulations for the administration of this Act including but not limited to regulations relating to—

Power to make further regulations.

- (a) matatu termini;
- (b) taxi- cabs;
- (c) motor cycles;
- (d) bicycles; and
- (e) tri-cycles;

67. Any person who contravenes any of the provision of this Act to which no express penalty is provided commits an offence and shall be liable on conviction—

General penalty.

- (a) for a first offence, to a fine not exceeding one hundred thousand shillings; and
- (b) for second or subsequent offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months.