

SPECIAL ISSUE

Trans Nzoia County Gazette Supplement No. 11 (Bills No. 11)



REPUBLIC OF KENYA

**TRANS NZOIA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

NAIROBI, 5th April, 2016

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COUNTY ASSEMBLIES FORUM (CAF)
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THE TRANS NZOIA COUNTY WAYLEAVES BILL, 2016

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THE TRANS NZOIA COUNTY WAYLEAVES BILL, 2016

A Bill for

**AN ACT of the County Assembly of Trans Nzoia to
provide for Wayleaves and for connected purposes
thereto**

ENACTED by the County Assembly of Trans Nzoia as
follows—

PART I—PRELIMINARY

1. This Bill may be cited as the Trans Nzoia County Wayleaves Bill, 2016.

Short Title

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

Interpretation

“Chief Officer” means the chief officer for the time being responsible for Public Works, Transport and Infrastructure;

“county government” means the County Government of Trans Nzoia;

“department” means the county department of public works, transport and infrastructure;

“Executive Committee Member” means the County Executive Member in charge of Public Works, Transport and Infrastructure;

“private land” does not include any land sold or leased under an act of parliament dealing with Government land or any land owned or held in trust for public use;

“waterway” means rivers, water running naturally or artificially created by the Government.

3. The purpose and object of the Bill is to provide for all necessary matters to enable the county government carry out any works on sewer, drainage, waterway or pipeline, electric power line and underground cables as need arises.

Objects and Purpose
of the Bill

PART II—PRINCIPLES OF OPERATIONS

4. (1) The county government shall at least seven (7) days before carrying out any sewer, drainage, waterway or pipeline, electric power line and underground cables into, through, over or under any private land without the consent of the owner of the land, give notice of the intended work.

Notice to be given

(2) The notice shall describe the nature of the intended work and shall name such a place(s) where the plan of the intended work is open for inspection at all reasonable hours.

(3) A copy of the notice shall either be served on every person resident in the County whose place of residence is known or believed to be the owner of any private land through, over or under which is intended that any sewer, waterway, road, drainage or pipeline and shall be carried or shall be posted in a conspicuous position on that land or at any county government Offices in the locality.

5. (1) If any owner, lessee or occupier of any private land through, over or under which it is intended that any sewer, drainage or waterway shall be carried objects to the intended work and serves notice in writing of his objection at nearest the office of the sub county administrator or the Chief Officer in which the land is situate at any time within one month, the intended work, in so far as it affects the land of the person serving the notice of objection shall not be commenced without the sanction of the chief officer.

Objection by owner
or occupier

(2) The executive committee member may appoint such person(s) as he may think fit to make inquiry on the spot into the propriety of the intended work, and into the objection(s) thereto, and report to the county executive member on the matter in respect to which the inquiry was directed, and on receiving such report of such person(s), may make an order disallowing or allowing, with such modification (if any) as he may deem necessary, the intended work.

6. An authorised person in the service of the county government and contractor(s) executing any work for the county government, together with his agents and servants, may at any time enter upon any land for the purpose of surveying, setting out and marking the line of any intended sewer, drainage or pipeline, or for the purpose of inspecting, repairing, removing, relaying or cleansing any sewer, waterway, drainage, pipeline or for any other purpose under this Bill.

Power to enter land
at time for the
purpose of the Bill

7. (1) The county government shall make good all damage done, and shall pay compensation to the owner of any development, tree or crops destroyed or damaged in the

Compensation

execution of any power conferred to this Bill upon recommendation by the county government valuer.

(2) In the event of disagreement as to the amount of the compensation to be paid or as to the person entitled to receive compensation, any person interested may apply to the chief officer, who shall award to the person entitled to receive compensation as he thinks reasonable, and that award, subject to appeal to the county executive member shall be final.

8. (1) The Executive Member shall in consultation with the Executive Member responsible for finance determine fees chargeable on Wayleaves.

Fees chargeable on
Wayleaves

(2) The County Executive Member for the time being responsible for finance shall in consultation with the County Executive Committee grant waivers to persons upon application which shall be made to the County Executive Member responsible for finance.

9. The county government shall take into cognizance riparian conservancy in accordance with the Environmental Management and Conservancy Act, 1999.

Riparian Zone
Conservancy

10. (1) Encroachment of road reserves will attract a fine of Fifty Thousand Shillings (Kshs. 50,000/=) or an imprisonment for a term of upto six months or both.

Fines

(2) Any person who causes any building to be newly erected over any sewer, waterway, drainage or pipeline the property of the government or obstructs any waterways shall be guilty of an offence and liable to a fine of twenty thousand shillings, and a further fine of two thousand shillings, for every day during which the offence is continued after a written notice is issued in that regard from the chief officer who may cause any building erected in contravention of this section to be altered, demolished or otherwise dealt with as may think fit, and may further recover any expenses incurred by the government in so doing from the offender.

Fine and penalty
authorized building
over sewer, drainage,
pipeline

11. The executive committee member may make rules or issue guidelines for the purposes of the better carrying out of the provisions and purposes of this Bill.

Rules and Guidelines

MEMORANDUM OF REASONS AND OBJECTS

The purpose and object of the Bill is to provide for all necessary matters to enable the county government carry out any works on sewer, drainage, waterway or pipeline, electric power line and underground cables as need arises.

Dated the 24th February, 2016.

SAMUEL YATOR,
Chairperson,
Transport and Public Works Committee.

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