

KILIFI COUNTY ROADS AND BRIDGES ACT

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THE KILIFI COUNTY ROADS AND BRIDGES ACT

AN ACT for the County Assembly of Kilifi to provide for the County Government of Kilifi 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.

Interpretation

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

“Assembly in charge” means the County Assembly Transport, Roads and Public Works Committee;

“County” means the County Government of Kilifi;

“County Executive Committee” means Executive Committee of Kilifi County;

“Chief Officer” means the Chief Officer in charge of Roads, Transport and Public Works;

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

“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

Functions of the
Directorate

Appointment of
the Director

Qualifications of
the Director

3. There is 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.
4. The Directorate shall have the following functions and duties—
 - 1) constructing, upgrading, rehabilitating and maintaining roads and bridges 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 Executive 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 Chief Officer.
5. The Directorate shall be headed by a Director who shall be competitively recruited and appointed by the County Public Service Board and shall serve for a term of six years renewable once.
6. (1) A person shall be qualified for appointment as Director if such person –
 - a) is registered with the Engineer’s Registration Board 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. The County Public Service Board in consultation with the directorate may appoint such other officers and staff as may be necessary for the performance of its functions.

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 Chief Officer;
- 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 III: CONSTRUCTION AND MAINTENANCE OF COUNTY ROADS.

Power to construct and Maintain County roads

9. The Directorate shall–

- 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 county roads.

PART IV: 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 V: CLASSIFICATION OF COUNTY ROADS

Classification of
County roads

11. (1) The directorate shall in consultation with the relevant National Authority responsible for classification of roads, classify each public road.

(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 fall under the jurisdiction of the national trunk road where–

- a) the road is neglected and has become inaccessible; and
- b) the road is posing danger to the road user;

provided that a written notice has been issued to the cabinet secretary responsible for roads and no action has been taken within three months from the date of the notice.

(4) The cost of maintaining such roads shall be computed and reimbursements demanded directly from the relevant national government entity.

PART VI: GENERAL REQUIREMENTS AND DETOUR OF COUNTY ROADS

Roads clear from
obstruction

12. A county road of any class must be clear of any 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 authority over the road as over an established public road.

(3)The Directorate shall–

- a) post all signs necessary for the convenience and guidance of the public at each end of a county detour road; and
- b) maintain a county detour road so that it is reasonably adequate for normal traffic requirements.

PART VII: ESTABLISHING AND CLOSING ROADS

General
Directorate of the
County roads

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

Vote of County
Executive
Committee

15. A unanimous vote of the County Executive Committee in concurrence with the Assembly Committee is required to–

- (1) close, abandon, or vacate a public road; or
- (2) alter a public road, except to shorten it from end to end.

Discontinuing a
county road

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

Duration to
discontinue county
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 VIII: COUNTY BRIDGES

General directorate to
erect and maintain
bridges

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. 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, on equitable terms agreed to by the County Authorities or any appropriate authorities of the Counties.

PART IX: 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; and
- 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. The Directorate may permit the temporary use of a county road located in an Unincorporated area of the county for a civic event including a festival and 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.

Offenses

23. Any person who unlawfully—

- (1) 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
- (2) 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
- (3) 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;

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 both.