

SPECIAL ISSUE

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**NAKURU COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

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**THE NAKURU COUNTY PARKING
REGULATIONS ACT, 2016**

No. 11 of 2016

Date of Assent: 16th May, 2016

Date of Commencement: 16th May, 2016

ARRANGEMENT OF SECTIONS

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**THE NAKURU COUNTY ZONING AND
PARKING ACT, 2016**

**AN ACT of the County Assembly of Nakuru to provide
for parking of vehicles within Nakuru County;
and to provide for matters connected therewith
and incidental thereto**

ENACTED by the County Assembly of Nakuru County, as follows—

PART I — PRELIMINARY PROVISIONS

1. This Act may be cited as the Nakuru County Zoning and Parking Act, 2016 and shall come into operation upon assent. Citation and Commencement

2. For the avoidance of doubt, the provisions of this Act shall apply only to parking of vehicles within Nakuru County. Application

3. (1) In this Act, except where the context otherwise requires: Interpretation

“ inspector” means a person appointed by the County Government as an inspector for the purposes of this Act;

“ parking meter” means a device that indicates, or causes to be indicated, the payment of a charge, and—

- (a) the period in respect of which it has been paid and the time of the beginning or end of the period, or
- (b) whether or not the period for which it has been paid or any further period has elapsed, or
- (c) the period for which the vehicle in relation to which the parking device is used is permitted to park in the parking place, and the time of the beginning or end of the period, or
- (d) whether or not the period for which the vehicle in relation to which the parking meter is used is permitted to park in the parking place or any further period has elapsed;

“prescribed” means prescribed by this Act made under section 4(1);

“County government” means the county government of Nakuru;

“driver” means any person who drives or guides, or is in actual physical control of, any vehicle on any road;

“motor vehicle” means any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Act be declared not to be motor vehicles for the purposes of this Act;

“owner”, in relation to a vehicle which is the subject of a hire-purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“parking place” means a place designated under this Act where vehicles, or vehicles of any class, may wait;

“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 bridlepath on which vehicles are capable of travelling and to which the public has access;

“specified indication” means the device contained in a parking meter the appearance of which shows that the time for which a vehicle may be parked in a space in a parking place has expired.

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road;

4. (1) Where for the purpose of relieving or preventing congestion of traffic it appears to the County Government to be necessary to provide within their area suitable parking places for vehicles, the County Executive Committee member in charge of transport, may: -

Power of County Government to provide parking places

- (a) designate parking places on roads, within Nakuru County for vehicles or vehicles of any particular class or description, having regard to both the interests of traffic and the interests of owners and occupiers of adjoining property;
- (b) prescribe the manner in which vehicles shall stand in or be driven into or out of the designated parking place;
- (c) provide that a vehicle may not be left continuously

in the designated parking place for longer than a specified period;

- (d) empower an inspector, or police officer or any specified person to effect the moving, in case of emergency, of vehicles left in a designated parking place, or the moving of vehicles left in a designated parking place in contravention of this section, to suspend the use of a parking place or any part thereof when expedient and to provide for the temporary removal of a parking meter;
- (e) provide for the reservation of spaces in a parking place to any person upon the payment of a prescribed fee;
- (f) provide for the removal from a parking place, and the safe custody, of any vehicle in respect of which any requirement of this section has been contravened in relation to a parking place, and for the recovery of the cost of removal and safe custody;
- (g) prohibiting or restricting the carrying on of trades or other activities or the doing of any other thing within a designated parking place;
- (h) prescribe anything which under this section may be prescribed;

Provided that the County Government may—

- (a) provide off-street parking places (whether above or below ground and whether or not consisting of or including buildings) together with means of entrance to and egress from them, or
- (b) by order authorise the use as a parking place of any part of a road within their area, not being a road the whole or part of the width of which is within Nakuru County.

(2) The County Government may adapt for use as, or for providing means of entrance to or egress from, a parking place any land acquired or appropriated by them for the purposes of this section, and may, with the consent of the person responsible for the maintenance of a road, adapt any part of it for the purpose of providing means of entrance to or egress from a parking place.

- (3) Any power conferred by this section to provide a

parking place includes power to maintain it (if below ground) and to maintain buildings comprised in it, and to provide and maintain any cloakroom or other convenience for use in connection with it; and references in other provisions of this section to parking places shall accordingly be construed as including references to any such conveniences.

(4) Provided that an underground parking place shall not be deemed to be part of a road by reason only of its being situated under a road.

(5) Notwithstanding anything to the contrary contained in any written law, the County Government may provide for the use of clamps on motor vehicles parked elsewhere than in a designated parking place.

5. (1) The power of the County Government to provide off-street parking places shall include power to provide them in buildings used also for other purposes, and to erect or adapt, and to maintain, equip and manage, buildings accordingly; and the authority by whom a parking place is so provided may let, on such terms as they think fit, parts of the building which are not used for the parking place, and may provide services for the benefit of persons occupying or using those parts, and may make such reasonable charges for those services as they may determine.

Additional powers
of the County
Government in
connection with
off-street parking
places

(2) The County Government may adapt for use as a temporary off-street parking place any land owned by them or under their control, not being, in the case of land owned by them, land acquired or appropriated by them for use as an off-street parking place.

(3) The County Government may let for use as a parking place any off-street parking place provided by them; and, where the parking place is in a building, they may let the parking place separately from the rest of the building or let the whole or any part of the building with the parking place.

(4) The County Government may, on such terms as they think fit—

(a).let land on which they could erect or adapt a building for the purpose of providing an off-street parking place with a view to its being provided by

some other person, or

- (b).arrange with any person for him to provide such a parking place on any land of which he is the owner or in which he has an interest.

(5) The County Government may, at an off-street parking place provided by them, provide and maintain such buildings, facilities and apparatus as they think fit for the storage and sale of fuel and lubricants and the supply of air and water for the vehicles, and may let or hire out, on such terms as they think fit, the buildings, facilities or apparatus so provided, but shall not themselves sell or supply fuel or lubricants.

(6) The County Government shall have power to enter into arrangements with any person under which, in consideration of the payment by him to the County Government of a lump sum, or of a series of lump sums, he is authorised to collect and retain the charges made in respect of the parking of vehicles in an off-street parking place provided by the County Government.

6. (1)Where it appears to the County Government that—

- (a) it would relieve or prevent congestion of traffic on a highway or a road if use were made of the parking place to provide a means of access from the highway or road to premises adjoining, or abutting on, the parking place; and
- (b) that it would be possible to provide such access and at the same time ensure that vehicles using the parking place to obtain access to the premises in question would, while in the parking place, proceed in the direction in which other vehicles using the parking place are to be, or are, required to proceed;
- (c) the County Government may provide such a means of access in accordance with the provisions of this section.

(2) The County government may adapt for use as, or for providing, means of access under this section—

- (a) an off-street parking place;
- (b) any land acquired or appropriated by them for the

Provision of access to premises through off-street parking place

purposes of this section; or

- (c) with the consent of the person responsible for the maintenance of a road, any part of that road.

(3) The County Government may under this section—

- (a) enter into an agreement with the occupier of the premises with respect to the use of the means of access and for the making by him of contributions towards the expenses incurred by the County Government in providing the means of access;
- (b) for such consideration and on such terms and conditions as may be agreed, grant to the occupier of the premises, or any other person having an interest in them, a right of way over any such part of the land comprised in the parking place as is to be used as the means of access, and such other rights (if any) incidental to, or connected with, the use of the means of access as they think it necessary or expedient to grant.

7. (1) An inspector may place a cover bearing the words “Meter Out of Use” over any parking meter or parking meter case in or adjacent to a designated parking place –

Meters may be
taken out of use

- (a) for the purpose of facilitating the movement of traffic or promoting its safety;
- (b) for the purpose of any building operation, demolition or excavation adjacent to the parking place or the maintenance, improvement or reconstruction of the parking place, or the laying, erection, alteration or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of water or electricity or of any telegraphic line or other public utility service;
- (c) for the convenience of occupiers of premises adjacent to the parking place on the occasion of the removal of furniture, otherwise than by way of trade; or
- (d) on any occasion on which it is likely by reason of some special attraction that any road will be thronged or obstructed.

(2) Where a parking meter for a space in a parking

place bears a cover bearing the words "Meter Out of Use", no vehicle shall be left in that space.

8. Where parking meters are installed in a designated parking place, it shall be the duty of the County Government to take the prescribed steps to ensure that they are maintained in good working order, and in particular—

Duty of County Government concerning parking meters

- (a) for causing them to be periodically inspected; and
- (b) for causing any faults then or at any other time found to be remedied or the parking meters replaced;
- (c) for testing the meters (both before they are brought into use and not less frequently than the prescribed intervals and on other prescribed occasions); and
- (d) recording the date of testing and the persons carrying out the testing.

9. (1) Where—

- (a) a vehicle is left in a designated parking place, and any standard charge which is thereby incurred is not duly paid; or
- (b) a vehicle is left in a designated parking place and any of the provisions of this Act relating to the manner in which vehicles shall stand in or be driven into or out of parking places is thereby contravened; or
- (c) a vehicle is left in a designated parking place otherwise than as authorized by this Act, the owner of the vehicle or the driver of the vehicle shall each be guilty of an offence and liable to a fine not exceeding ten thousand shillings, or in the case of a second or subsequent offence to a fine not exceeding twenty thousand shillings:

Offences and proceedings in connection with parking places

Provided that —

- (i) the owner of the vehicle shall not be guilty of an offence if he proves that the vehicle was being driven without his permission; and
- (ii) where the owner of a vehicle has been convicted of an offence under this subsection, the driver of the vehicle shall not be convicted

of such an offence in respect of the same act or omission, and, where the driver of a vehicle has been convicted of an offence under this subsection, the owner of the vehicle shall not be convicted of such an offence in respect of the same act or omission.

(2) In subsection (1), "driver", in relation to a vehicle, means the person who was driving the vehicle at the time it was left in the designated parking place.

(3) Where, in a prosecution for an offence under this Act, it is proved that the charge which has become due, or any part of that charge, has not been duly paid, the court, in addition to or instead of imposing a penalty in respect of the offence, shall order the payment of the money not paid, and any sum ordered to be so paid shall be recoverable as a penalty.

(4) Any person who, whether he is the driver of a vehicle or not, contravenes provisions of this Act, otherwise than in the manner specified in subsection (1), shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, or in the case of a second or subsequent offence to a fine not exceeding ten thousand shillings.

(5) Any person who—

- (a) wilfully damages a parking meter or its case or stand; or
- (b) without the authority of the County Government, paints, marks or otherwise disfigures a parking meter or its case or stand; or
- (c) without the authority of the County Government, uses a parking meter or its case or stand for the purpose of advertisement, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five thousand shillings or to both.

(6) Where a parking meter relating to the space in which a vehicle is left in a parking place indicates that the period for which payment made for the vehicle by the standard charge has expired, and the County Government by whom the parking place is controlled is satisfied that

that standard charge was not paid, acceptance by the County Government of payment of the standard charge shall be a bar to prosecution for an offence under this section of failing duly to pay the standard charge.

10. The exercise by County Government of its powers under this Act shall not render the County Government liable in respect of any loss or damage to any vehicle or to the contents or fittings thereof.

Protection of
County
Government from
Liability