

CITY COUNCIL OF NAIROBI

**(INSTANT TICKETING) BY-LAWS
2009**

**THE LOCAL GOVERNMENT ACT
(CAP 265)**

IN EXERCISE of the powers conferred upon it by section 201 of the Local Government Act, the City Council of Nairobi hereby makes the following By- Laws:

THE CITY COUNCIL OF NAIROBI (INSTANT TICKETING) BY-LAWS 2009

PART 1 - PRELIMINARY

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| Citation | 1. These By-laws may be cited as the City Council of Nairobi (INSTANT TICKETING) By-Laws, 2009. |
| Interpretation | 2. In these By-laws, except where the context otherwise requires -

‘City’ means the City Council of Nairobi;

‘Council’ means the City Council of Nairobi

‘Enforcement officer’ means any officer appointed in writing by the Council for the purpose of enforcing these by-laws;

‘Town Clerk’ means the person for the time being holding the office of the Town Clerk, his Deputy and any other officer of the Council authorized by the Town Clerk in writing for the purpose of these By-laws.

‘City Council Offence Ticket’ means a ticket that may be issued under this By-Law. |
| Applications | 3 This Act applies to all proceedings except proceedings under the Traffic Act;

a) To determine if a person has committed an offence under a By-law for the City Council of Nairobi for which he is liable to imprisonment, fine, penalty or other punishment; or

b) Before a Magistrate for an order for the payment of money or other remedy authorized by this Bylaw.

c) Except as otherwise provided by any Bylaw, where imprisonment, fine, penalty or other punishment prescribed by this By-law may be enforced or |

recovered upon summary conviction, it shall be enforced or recovered before a magistrate in the manner provided by this Bylaw.

PART II SUMMARY PROCEEDING

Summary Proceedings

4. For the purpose of any Bylaw, penalties and/or corrective actions to this Bylaw may be imposed, upon a guilty plea, by an Enforcement Officer.
- a) The Provision of the Criminal Code as amended from time to time, including provisions relating to appeals, applicable to offences punishable on summary conviction apply with the necessary changes to proceedings to which this Bylaw applies.
 - b) All offences under this Bylaw shall be punishable on summary conviction.
 - c) In addition to the procedure set out in the Criminal Code for laying information and for issuing a summons, information may be laid and a summons issued by means of a ticket in accordance with this section for an offence under any provisions of a Bylaw passed by a City Council.

Form

5. A ticket shall include provision for the information, summons, report of conviction and police record and the form of the ticket shall be set out in 'Schedule A' to this Bylaw.

Designation

6. The offences under the provisions of the Bylaws set out in 'Schedule B' to this Bylaw are designated in respect to which a ticket may be issued.
- b) The words or expressions set out in Column 1 of 'Schedule B' may be used on a ticket to designate an offence under the provision of the Bylaw referred to in Column 2 thereof.
 - c) Notwithstanding subsection 6(a) any words or expressions used on a ticket which describe with sufficient clarity the offence committed shall be for all purposes a sufficient description of an offence under this Bylaw.

d) Where the offence charged in the ticket is one for which the penalty may be paid out of court, the enforcement officer issuing the summons may enter the amount of the penalty in the place provided therefore on the ticket, and that entry constitutes the endorsement required by this Section.

Wording
Bylaw to
offence

7. The use on the ticket of any word authorized by this or any other designate an offence is sufficient for all purposes to describe the designated by that word or expression.

Service

8. Upon completing a ticket, the issuing enforcement officer shall print his name on the summons portion and deliver the summons portion to the person charged with an offence therein, and delivery of the ticket shall summons in accordance with this subsection shall be deemed to be personal service.

Delivery of
Ticket
Summons

9. Delivery of a ticket summons may be made on a holiday.

Issuance

10. The issuing enforcement officer shall sign the information portion of the ticket and certify that he personally delivered the summons portion of the ticket to the person charged therein and the certifications shall be in the following words:

‘I certify that I did personally deliver the summons portion of this ticket on the accused on the.....day of....., 20.....

Evidence

11. A certificate of delivery purporting to be signed by the issuing enforcement officer shall be received in evidence as sufficient proof of personal service in the absence of evidence to the contrary.

Information

12. Every ticket information shall be:

- a) Signed by the informant and sworn to before an Enforcement Officer.
- b) In the event of a trial, and upon the entering of a not guilty plea, deposited, together with the ticket report of conviction, with the proper Magistrate.
- c) The ticket information need not be sworn to before the summons portion of the ticket is delivered and the informant need not be the same person as the person who issued the ticket summons.

- Endorsement 13. There may be endorsed upon a ticket summons a notice that the person to whom the summons is directed may pay out of court a specified penalty.
- Interference With powers 14. Any person who obstructs, hinders or interferes with any police or enforcement officer in the exercise of any of his duties under these By-laws shall be guilty of an offence.

PART III PLEA OF GUILTY

- Plea of Guilty 15. (a) Where a ticket summons is so endorsed, it shall provide for a plea of guilty in the following form:
I am aware that I have the legal right to a hearing in respect of the offence with which I am charged, that by signing this plea of guilty I am waiving my right to a hearing and that my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged.
Signature of the Accused.
- (b) A signature affixed to the form of plea of guilty purporting to be that of the person to whom the summons is directed prima facie proof that it is the signature of that person.
- (c) The enforcement officer or other person delivering a summons endorsed under this section shall not receive payment of the penalty payable out of court, or any part thereof.
- (d) Upon receipt of the summons with a plea of guilty made thereon in accordance with Section 2.9 (a), a Judge or magistrate may convict the person to whom the summons is directed of the offence described in the summons.
- Failure to 16. Where a person to whom a ticket summons has been delivered fails to appear as directed by the ticket summons and there has been no plea of guilty made on the ticket summons and there has been no plea of guilty made on the ticket pursuant to 13 subsections (a) and (b), the Judge or magistrate shall:
- (a) Where the information portion of offence ticket is sworn to by the informant and is complete and regular on its face, issue a warrant for the arrest of the person to who the offence ticket is directed for failure to attend.
- (b) Where the information portion of the offence ticket is not complete and regular on its face, quash the proceeding.

- Penalties 17.
- 1) Any person who is guilty of an offence under these Bylaws shall be liable on conviction to a fine not exceeding two thousand shillings in respect of a first offence and not exceeding three thousand shillings in respect of a second or subsequent offence or imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a second or subsequent offence or to both such fine and imprisonment.
 - 2) Any person who fails to comply with the requirements of any notice served under these by-laws within the time specified by such notice shall be guilty of an offence and be liable on conviction to the penalties specified in paragraph (1) of this by-law.

Made this----- day of ----- 2009

By order of the City Council of Nairobi.

TOWN CLERK

Approved this -----day of ----- 2009

MINISTER FOR LOCAL GOVERNMENT

DATED OF PUBLICATION IN KENYA GAZETTE: ----- 2009