

**SPECIAL ISSUE**

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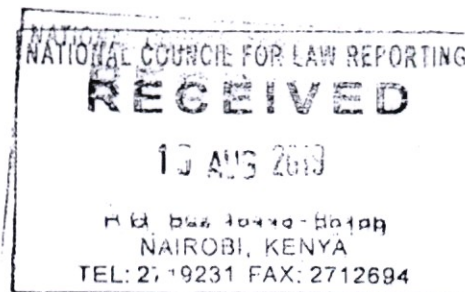
**KENYA GAZETTE SUPPLEMENT**

**ACTS, 2019**

**NAIROBI, 22nd July, 2019**

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**THE PHYSICAL AND LAND USE PLANNING ACT,  
2019**

**AN ACT of Parliament to make provision for the  
planning, use, regulation and development of land  
and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Physical and Land Use Planning Act, 2019.

Short title.

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

Interpretation

“advertisement” means any word, letter, devise, model, sign, placard, board, notice or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purpose of the advertisement of proprietary article and without prejudice to the foregoing includes any hoarding or similar structure used or adapted for use for the display of advertisement, and references to the display of advertisements shall be construed accordingly;

Provided that any advertisement displayed inside a building shall not be included;

“building” means any structure or erection and any part of any structure or erection of any kind whatsoever whether permanent, temporary or movable, and whether completed or uncompleted;

“building operations” include rebuilding operations, structural alterations or additions to buildings and other similar operations and the making of access roads, railways, waterworks, sewerage and drainage works, electrical and telephone installations and any road works preliminary to, or incidental to, the erection of buildings;

“building or works” include waste materials, refuse and other matters deposited on land and reference to the erection or construction of building or works shall be construed accordingly;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to physical and land use planning;

the area in which the building or works are situated, and includes a building or works, as the case may be, commenced before, but completed after such date;

“existing use” means in relation to any building or land the use of that building or land for any purpose of the same character as that for which it was used before the date this Act becomes applicable to the area in which the building or land is situated:

Provided that where an existing use of land is, after such date, extended onto, under or over adjoining land, whether such adjoining land is held under the same title or not, such extension shall not be an existing use for the purposes of this Act;

“industrial use” includes manufacturing, processing, distilling, brewing, warehousing and storage, workshops and garages, mining and quarrying, power generation and similar industrial activities including petroleum filling stations;

“Inter-County physical and land use development plan” means a plan for the area covering two or more counties or parts thereof;

“land use planning” means the process of designating, regulating, evaluating, zoning and organizing the present and future use and development of land in all its geographical areas and its resources to secure the physical, economic and social efficiency, health and well-being of urban and rural communities;

“local physical and land use development plan” means a plan for the area or part thereof of a city, municipality, town or urban centre and includes a plan with reference to any trading or market centre;

“physical planning” means the active process of organizing the physical infrastructure and its functions to ensure orderly and effective siting or location of land uses, and it encompasses deliberate determination of spatial plans with an aim of achieving the optimum level of land utilization in a sustainable manner;

“planning authority”—

- (a) with respect to national government planning functions means the Cabinet Secretary; and

- (c) the procedures and standards for development control and the regulation of physical planning and land use;
- (d) a framework for the co-ordination of physical and land use planning by county governments;
- (e) a mechanism for dispute resolution with respect to physical and land use planning;
- (f) a framework for equitable and sustainable use, planning and management of land;
- (g) the functions of and the relationship between planning authorities;
- (h) a robust, comprehensive and responsive system of physical and land use planning and regulation; and
- (i) a framework to ensure that investments in property benefit local communities and their economies.

**4.** Every State organ, State officer, public officer and person engaged in physical planning or land use regulation is bound by the Constitution and in particular—

Values and principles.

- (a) the national values and principles set out in Articles 10 and 232 of the Constitution;
- (b) the principles of land policy set out in Article 60 of the Constitution;
- (c) the leadership and integrity principles set out in Articles 73 and 75 of the Constitution; and
- (d) the principles, procedures, and standards of physical and land use planning contemplated in this Act.

**5.** Every person engaged in physical and land use planning and regulation shall adhere to the following principles and norms of physical and land use planning—

Principles and norms of physical and land use planning.

- (a) physical and land use planning shall promote sustainable use of land and liveable communities which integrates human needs in any locality;
- (b) development activities shall be planned in a manner that integrates economic, social and environmental needs of present and future generations;

- (f) the Cabinet Secretary for the time being responsible for matters related to the environment or a designated principal secretary;
- (g) the Cabinet Secretary for the time being responsible for matters related to roads and infrastructure or a designated principal secretary;
- (h) the Cabinet secretary for the time being responsible for matters related to social and community development or a designated principal secretary;
- (i) the Cabinet Secretary for the time being responsible for matters related to culture or a designated principal secretary;
- (j) the Cabinet Secretary for the time being responsible for matters related to defence or a designated principal secretary;
- (k) a person nominated by the Kenya Institute of Planners;
- (l) a person nominated by the Institution of Surveyors of Kenya;
- (m) a person nominated by the Architectural Association of Kenya;
- (n) a person nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary;
- (o) a person nominated by the registered associations representing residents;
- (p) a person nominated by the National Council for Persons with Disability; and
- (q) any person co-opted by the Forum for that person's special skills, interest and knowledge.

(3) The Cabinet Secretary shall appoint members nominated under subsection (2)(k), (l), (m), (n), (o), (p) and (q) by notice in the *Gazette*.

7. The functions of the National Physical and Land Use Planning Consultative Forum shall be to—

- (a) provide a forum for consultation on the national physical and land use development plan;

Functions of the  
National Physical  
and Land Use  
Planning  
Consultative  
Forum.

- (b) issuing in the *Gazette* policy statements, guidelines and circulars on general and specific aspects of physical and land use planning;
- (c) approval and oversight over the preparation of national physical and land use development plans; and
- (d) co-ordinating the national and county levels of physical and land use planning.

**11.** (1) There is established the office of the Director-General of Physical and Land Use Planning which shall be an office in the public service.

Director-General of Physical and Land Use Planning.

(2) The Director-General of Physical and Land Use Planning shall advise and be responsible to the Cabinet Secretary responsible for physical and land use planning.

(3) The Director-General of Physical and Land Use Planning shall hold office for a term of three years, renewable once.

**12.** A person is qualified for appointment as the Director-General of Physical and Land Use Planning if that person—

Qualifications of the Director-General of Physical and Land Use Planning.

- (a) is a citizen of Kenya;
- (b) holds a master's degree in urban and regional planning or related discipline from a recognized university;
- (c) is registered as a physical planner under the Physical Planners' Registration Act, 1996 and is in good standing with the relevant professional body;
- (d) has at least ten years' post-qualification professional experience in physical and land use planning; and
- (e) is not otherwise disqualified under the provisions of Chapter 6 of the Constitution or any other written law.

No. 6 of 1996.

**13.** The Director-General of Physical and Land Use Planning shall be responsible for—

Responsibilities of the Director-General of Physical and Land Use Planning.

- (f) the County Executive Committee Member responsible for matters related to roads and infrastructure;
  - (g) the County Executive Committee Member responsible for matters related to social and community development;
  - (h) a person nominated by the Commission;
  - (i) a person nominated by the Director-General of Physical and Land Use Planning;
  - (j) a person residing and working or conducting business in the respective county nominated by the Kenya Institute of Planners;
  - (k) a person residing and working or conducting business in the respective county nominated by the Institution of Surveyors of Kenya;
  - (l) a person residing and working or conducting business in the respective county nominated by the Architectural Association of Kenya;
  - (m) a person residing and working or conducting business in the respective county nominated by Kenya Private Sector Alliance;
  - (n) a person residing and working or conducting business in the respective county nominated by the registered associations representing residents in the county;
  - (o) a person residing and working or conducting business in the respective county nominated by the National Council for Persons with Disability; and
  - (p) any person co-opted by the County Physical and Land Use Planning Consultative Forum for that person's special skills, interest and knowledge.
- (3) The respective County Executive Committee Member shall appoint members nominated under subsection (2)(h), (i), (j), (k), (l), (m), (n), (o) and (p) by notice in the *Gazette*.

15. The functions of the County Physical and Land Use Planning Consultative Forum shall be to—

Functions of the  
County Physical and  
Land Use Planning  
Consultative Forum.

- (c) is registered as a physical planner under the Physical Planners Registration Act, 1996 and is in good standing with the relevant professional body;
- (d) has at least five years' post-qualification professional experience in physical and land use planning; and
- (e) is not otherwise disqualified under the provisions of Chapter Six of the Constitution or any other written law.

No. 3 of 1996.

20. The County Director of Physical and Land Use Planning shall be responsible for—

Responsibilities of  
the County  
Director of  
Physical and Land  
Use Planning.

- (a) advising the county government on physical and land use planning matters that impact the county;
- (b) formulating county physical and land use planning policies, guidelines and standards;
- (c) preparation of county physical and land use development plans;
- (d) preparation of local physical and land use development plans;
- (e) participating in the preparation of inter-county physical and land use development plans;
- (f) undertaking research on matters relating to physical and land use development planning at the county level;
- (g) recommending to the county government the establishment of planning units as may be necessary;
- (h) maintaining a land information system to guide physical and land use planning;
- (i) communicating decisions of the county government on development applications; and
- (j) issuance of development permission and other development control instruments under this Act with the approval of the county executive committee member;

- (b) promote the safeguarding of national security;
- (c) ensure effective participation by the public and relevant stakeholders; and
- (d) consult the National Physical and Land Use Planning Consultative Forum prior to the initiation of the National Physical and Land Use Development Plan and submit the proposed plan to the National Physical and Land Use Planning Consultative Forum for consideration and input before its final approval.

(2) The Cabinet Secretary shall, at least fourteen days before commencement of the preparation of a National Physical and Land Use Development Plan, publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media of the intention to prepare a National Physical and Land Use Development Plan.

(3) A notice published in accordance with this section shall state the objectives of National Physical and Land Use Development Plan, the purpose of the National Physical and Land Use Development Plan, the information to be set out in the plan and the places where members of the public may provide written comments on the National Physical and Land Use Development Plan.

**24.** (1) A National Physical and Land Use Development Plan shall include—

- (a) the objectives of the plan;
- (b) situation analysis including—
  - (i) an analysis of the state of physical and land use development in Kenya; and
  - (ii) the relevant studies and reports concerning physical and land use development in Kenya;
- (c) policies, strategies and measures necessary to optimize opportunities and potentials and resolve challenges relating to physical and land use development planning in Kenya;

Content of  
National Physical  
and Land Use  
Development  
Plan.

(4) A person dissatisfied with the decision of the Cabinet Secretary may, within fourteen days of the publication of the notice under subsection (3), apply to the Cabinet Secretary for review of his or her decision and the Cabinet Secretary shall consider the same and communicate his or her decision within sixty days of receipt of application for review."

**26.** (1) If there have been no applications for review of the decision of the Cabinet Secretary or if the applications for review have been heard and determined, the Cabinet Secretary shall submit the draft National Physical and Land Use Development Plan to the National Physical and Land Use Planning Consultative Forum for comments.

Approval of  
National Physical  
and Land Use  
Development  
Plan.

(2) The National Physical and Land Use Planning Consultative Forum shall consider the plan and may propose changes which shall be incorporated in the plan.

(3) Upon incorporation of the proposed changes by the National Physical and Land Use Planning Consultative Forum, the plan shall be submitted to the Cabinet for approval.

(4) Upon approval by the Cabinet, the Cabinet Secretary shall submit the plan to Parliament for consideration and approval.

(5) Upon approval by Parliament, the Cabinet Secretary, shall publish the approved plan in the *Gazette*, in at least two newspapers of national circulation and through electronic media within fourteen days of the approval of the National Physical and Land Use Development Plan.

**27.** (1) The planning authorities shall base the preparation of inter-county physical and land use development plans, integrated county physical and land use development plans, city physical and land use development plans, urban area physical and land use development plans and sectoral plans on the National Physical and Land Use Development Plan.

Implementation of  
a National  
Physical and  
Land Use  
Development  
Plan.

(2) Notwithstanding the lack of a National Physical and Land Use Development Plan, planning authorities at the county level shall prepare County and Local Physical and Land Use Development Plans.

(7) The Director-General of Physical and Land Use Planning shall co-ordinate meetings of the inter-county joint physical and land use planning committee and provide it with secretariat services.

**30.** An Inter-County Physical and Land Use Development Plan shall—

- (a) define the scope of the plan; and
- (b) define the geographical area to which the plan relates.

Scope of the Inter-County Physical and Land Use Development Plan.

**31.** (1) The Inter-County Physical and Land Use Planning Joint Committee preparing an Inter-County Physical and Land Use Development Plan shall publish a notice of intention to prepare a plan in the *Gazette*, in at least two newspapers with a national circulation and through electronic media.

Commencement of Inter-County Physical and Land Use Planning Process.

(2) The notice published under sub-section (1) shall state the constitution of the Inter-County Physical and Land Use Planning Joint Committee, the broad reasons for the constitution of the joint committee and the joint committee's address where comments on the plan may be submitted.

(3) The joint committee shall prepare and complete the Inter-County Physical and Land Use Development Plan within two years from the time notice of intention to prepare the plan is published.

(4) The joint committee shall consult, publish, consider national security and hold stakeholders' meetings during the preparation of the Inter-County Physical and Land Use Development Plan.

**32.** (1) Within thirty days of the completion of an Inter-County Physical and Land Use Development Plan, the Inter-County Physical and Land Use Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that the plan is available at the place and time specified in the notice for inspection and that any interested person may, within fourteen days, comment on the content of the plan.

Notice of and objections to an Inter-County Physical and Land Use Development Plan.

(2) The Inter-County Physical and Land Use Planning Joint Committee shall, within twenty-one days of the

the relevant counties shall adopt the plan at a joint meeting of the relevant governors that shall be organized by the Inter-County Physical and Land Use Planning Joint Committee.

(4) The approved Inter-County Physical and Land Use Development Plan shall be deposited with the relevant County Director of Physical and Land Use Planning who shall submit certified copies of the plan to the Director-General of Physical and Land Use Planning and the Commission.

34. (1) In addition to the national physical and land use development plan, the Inter-County Physical and Land Use Development Plan shall inform the preparation of a county physical and land use development plan, a local physical and land use development plan or an urban area physical and land use development plan for the county governments within the planning area covered by the Inter-County Physical and Land Use Development Plan.

Implementation of the Inter-County Physical and Land Use Development Plan.

(2) Where a National Physical and Land Use Development Plan and an Inter-County Physical and Land Use Development Plan have not been prepared or approved, county governments may prepare other physical and land use development plans which will be incorporated into the National Physical and Land Use Development Plan or the relevant Inter-County Physical and Land Use Development Plan after they have been prepared and approved in accordance with this Act.

35. At least three months before the end of a financial year, every county executive committee member in a county covered by an Inter-County Physical and Land Use Development Plan shall submit a report on the implementation of the Plan to the Commission and the Cabinet Secretary for their purposes.

Status Reports on an Inter-County Physical and Land Use Development Plan.

36. (1) Once in every ten years, a county government shall prepare a county physical and land use development plan for that county.

County Physical and Land Use Development Plan.

(2) Each county physical and land use development plan shall be in conformity with the National Physical and Land Use Development Plan and any relevant Inter-County Physical and Land Use Development Plan

(3) The county executive committee member shall ensure the county physical and land use development plan

39. (1) A county physical and land use development plan shall consist of—

- (a) policies, strategies and general proposals for the development and use of land;
- (b) a summary of the situational analysis;
- (c) proposals for proper county development, resource utilization and linkage with neighboring counties;
- (d) diagrams, illustrations and description of current and anticipated developments in the county;
- (e) an implementation strategy;
- (f) a reporting, monitoring and evaluation strategy; and
- (g) any other matters as may be prescribed.

(2) In addition to the provisions of sub-section (1) the county government shall take into account those matters specified in the First Schedule.

40. (1) Within thirty days of the preparation of a county physical and land use development plan, the county planning authority shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that the draft county physical and land use development plan is available at the places and times specified in the notice.

(2) The county executive committee member shall facilitate public participation.

(3) The county executive committee member shall consider the comments made about the draft county physical and land use development plan and may incorporate the comments in the plan.

(4) A person aggrieved by a decision of the county planning authority concerning the county physical and land use development plan or matters connected therewith, may within sixty days of receipt by him of notice of such decision, appeal to the county physical and land use planning liaison committee in writing against the decision in such manner as may be prescribed.

(5) Subject to sub-section (4), the county physical and land use planning liaison committee may reverse, confirm

Contents of a county physical and land use development plan.

Public Participation in the preparation of a county physical and land use development plan.

programmes and projects in the county and sub-county levels.

42. (1) A county executive committee member, on his own motion or on recommendation of the county government, may initiate the modification of a county physical and land use development plan if—

Modification of a  
County Physical  
and Land Use  
Development  
Plan.

- (a) there are practical difficulties in the execution or enforcement of that county physical and land use development plan; or
- (b) there has been a change of circumstances since the county physical and land use development plan was approved.

(2) On the approval of the county government, the County Executive Committee member shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media notifying any interested parties of the proposed amendments to the county physical and land use development plan and the period within which interested parties may make representations to the County Executive Committee member.

(3) A proposal for amending a county physical and land use development plan shall—

- (a) state the reasons for the proposed amendment;
- (b) comply with the relevant provisions of the County Governments Act, 2012; and
- (c) be in conformity with the National Physical and Land Use Development Plan and all relevant Inter-County Physical and Land Use Development Plans.

No. 17 of 2012.

(4) Where a county executive committee member determines that a proposed amendment to the county physical and land use development plan shall affect other counties, the county executive committee member shall consult the county executive committee members in the counties that are likely to be affected and shall take into account their comments before incorporating the amendment to the county physical and land use development plan.



- (b) guiding and co-ordinating the development of infrastructure;
- (c) regulating the land use and land development;
- (d) providing a framework for coordinating various sectoral agencies; and
- (e) providing a framework and guidelines on building and works development in the city, municipality, urban area, or other smaller urban centres including local centres, and market centres.

47. The preparation of a local physical and land use development plan may be initiated by the county executive committee member .

Initiation and preparation of local physical and land use development plan.

48. (1) A local physical and land use development plan shall consist of—

Contents of a Local Physical and Land Use Development Plan.

- (a) a survey report in respect of the area to which the plan relates carried out as the manner specified in the Second Schedule; and
- (b) any Geographical Information System-based maps and descriptions as may be necessary to indicate the manner in which the land in the area may be used in accordance with the requirements of the Second Schedule.

(2) The survey report in a local physical and land use development plan should include technical annexes and a sieve analysis of gradient, environment and infrastructure so as to provide for maximum locations for new developments.

49. (1) Within thirty days of the preparation of a local physical and land use development plan, a county planning authority shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that the plan is available at the places and times designated in the notice for inspection and that an interested person may comment on the content of the plan.

Notice of, objections and approvals to a Local Physical and Land Use Development Plan.

(2) The provisions of section 40 relating to the making of representations or objections to the county physical and land use planning liaison committee concerning county

- (b) that area has been identified as suitable for intensive and specialized development activity;
- (c) the development of that area might have significant effect beyond that area's immediate locality;
- (d) the development of that area raises significant urban design and environmental challenges; or
- (e) the declaration is meant to guide the implementation of strategic national projects; or guide the management of internationally shared resources.

(2) Where a county government has declared an area as a special planning area, the county executive committee member may, by notice in the *Gazette*, suspend for a period of not more than two years any development in the special planning area until a physical and land use development plan in respect of that area has been approved.

(3) Despite sub-section (2), where planning permission has been granted in an area declared to be a special planning area before the declaration is made, the permitted development shall be permitted to continue but only if planning permission was granted more than six months before the declaration of the special planning area.

(4) The county government shall declare an area as a special planning area by notice in the *Gazette* and in at least two newspapers of national circulation and the notice shall specify the area declared as a special planning area and the nature of the proposed development for which the declaration has been made.

(5) A county planning authority may publish such Regulations as may be necessary to promote public participation during the process of declaring an area a special planning area.

(6) A physical and land use development plan prepared for a special planning area shall undergo the process of approval in accordance with section 49 of this Act.

**53. A special area plan shall contain—**

- (a) a written statement highlighting the grounds for the declaration of a special plan area;

Contents of a  
Special Area Plan.

**56.** Subject to the provisions of this Act, the Urban Areas and Cities Act, 2011, and the County Governments Act, 2012, the county governments shall have the power within their areas of jurisdiction to—

Power to undertake development control

- (a) prohibit or control the use and development of land and buildings in the interests of proper and orderly development of its area;
- (b) control or prohibit the subdivision of land;
- (c) consider and approve all development applications and grant all development permissions;
- (d) ensure the proper execution and implementation of approved physical and land use development plans;
- (e) formulate by-laws to regulate zoning in respect of use and density of development;
- (f) reserve and maintain all the land planned for open spaces, parks, urban forests and green belts in accordance with the approved physical and land use development plans; and
- (g) consider and determine development planning applications made in respect of land adjoining or within reasonable vicinity of safeguarding areas.

No.13 of 2011  
No.17 of 2012

**57.** (1) A person shall not carry out development within a county without a development permission granted by the respective county executive committee member.

Development permission.

(2) A person who commences any development without obtaining development permission commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

(3) A county executive committee member shall require a person who has commenced a development without obtaining development permission to restore the land on which the development is taking place to its original condition or as near to its original condition as is possible and that such restoration shall take place within ninety days.

(4) Where a person who is required to do so fails to comply with the provisions of sub-section (3), the relevant

such permission shall be assumed to have been given in terms of this Act.

(7) A person applying for development permission shall also notify the public of the development project being proposed to be undertaken in a certain area in such a manner as the Cabinet Secretary shall prescribe.

(8) The notification referred to under sub-section (7), shall invite the members of the public to submit any objections on the proposed development project to the relevant county executive committee member for consideration.

**59.** (1) A person applying for development permission shall ensure that any documents, plans and particulars that are provided to the respective county executive committee member while applying for development permission have been prepared by the relevant qualified, registered and licensed professionals.

Plans and documents to be prepared by qualified person.

(2) A person who purports to prepare a document, plan or particulars required under this Act shall prove that person's credentials when asked to do so by a county executive committee member and shall be required to authenticate the copies of the documents, plans or particulars provided to the county executive committee member in that person's name.

**60.** (1) Within seven days of receiving an application for development permission, the county executive committee member shall give a copy of the application to the relevant authorities or agencies to review and comment and the relevant authorities or agencies shall comment on all relevant matters including—

Development application referred to relevant authorities.

- (a) land survey;
- (b) roads and transport;
- (c) agriculture and livestock;
- (d) health;
- (e) public works and utilities;
- (f) environment and natural resources;
- (g) urban development;
- (h) national security in respect of land adjoining or

(b) refuse to grant the applicant the development permission in the prescribed form and state the grounds for the refusal in writing.

(3) An applicant or an interested party that is aggrieved by the decision of a county executive committee member regarding an application for development permission may appeal against that decision to the County Physical and Land Use Planning Liaison Committee within fourteen days of the decision by the county executive committee member and that committee shall hear and determine the appeal within fourteen days of the appeal being filed.

(4) An applicant or an interested party who files an appeal under sub-section (3) and who is aggrieved by the decision of the committee may appeal against that decision to the Environment and Land Court.

**62.** (1) Each county executive committee member shall maintain a register of documents submitted by applicants for development permission and shall issue a submission certificate to every applicant who submits such documents.

Registers.

(2) Each county executive committee member shall maintain a register of development permission and shall enter the details of each applicant for development permission, whether or not development permission was granted to that applicant and the details of the proposed project for which development permission has been applied for.

(3) A register maintained by a county executive committee member under this Act shall be open to the public for scrutiny and the Cabinet Secretary shall publish guidelines for public access to that register.

**63.** (1) A county executive committee member may levy a development fee against an applicant for development permission.

Development fees.

(2) Each county government may, by notice in the *Gazette*, publish Regulations determining the circumstances under which a development fee shall be levied, the rates that shall be payable and the circumstances under which a development fee may be waived.

- (ii) a development where development permission has been modified and the development does not comply with the modifications in the development permission; or
  - (iii) a development where the building works are inconsistent with the plans approved by the county executive committee member.
- (c) being a public officer, grants development permission or comments on an application for development permission contrary to this Act or any other law.

(2) Despite the provisions of subsections (1) (a) and (1) (b) (iii) of this section, in case of any material variations in a development permission, the applicant may apply to the county executive committee member for development permission.

(3) A person who commits an offence under this section is liable, on conviction to a fine of not less than one million shillings or to imprisonment for a term of not less than five years or to both.

**68.** (1) A county executive committee member may demand the production of, and make extracts from, all registers or other records or any deeds or instruments belonging to, or in the custody or possession of, any public officer or any person and in which are contained particulars of any land or property affected by the relevant physical and land use development plan.

Access to information.

(2) The information obtained by a county executive committee member in accordance with sub-section (1) shall be treated confidentially and shall not be disclosed to any other person except by an order of a court in connection with any legal proceedings.

(3) Any request for information shall protect the rights enshrined in Article 31 of the Constitution.

**69.** (1) The Cabinet Secretary shall consider and offer policy guidance to any public institution proposing a project of strategic national importance.

Strategic national or inter-county projects.

(2) Any inter-county physical and land use development projects shall be approved in accordance with section 33.

- (a) specify the development alleged to have been carried out without development permission or the conditions of the development permission alleged to have been contravened;
- (b) specify measures the developer shall take, the date on which the notice shall take effect, the period within which the measures shall be complied; and
- (c) require within a specified period the demolition or alteration of any building or works or the discontinuance of any use of land or the construction of any building or the carrying out of any other activities.

(3) Where a person on whom an enforcement notice has been served is aggrieved by that notice, that person may appeal to the relevant County Physical and Land Use Planning Liaison Committee within fourteen days of being served with the notice and the committee shall hear and determine the appeal within thirty days of the appeal being filed.

(4) Any party aggrieved with the determination of the county physical and land use planning liaison committee may appeal to the court only on a matter of law and the court shall hear and determine the appeal within thirty days.

(5) A person who has been served with an enforcement notice and who refuses to comply with the provisions of that notice commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

#### **PART VI— PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEES**

73. There is established the National Physical and Land Use Planning Liaison Committee.

Establishment of  
the National  
Physical and Land  
Use Planning  
Liaison  
Committee.  
Composition of  
National Physical  
and Land Use  
Planning Liaison  
Committee

74. (1) The National Physical and Land Use Planning Liaison Committee shall consist of—

- (a) a representative of the National Land Commission;

(4) The Chairperson of the committee shall be a person appointed under paragraphs (h), (i), (j), (k), (l) or (m).

(5) The National Physical and Land Use Planning Liaison Committee may co-opt any other persons with special skills, interest and knowledge to assist in its deliberations but not more than three persons at any one time.

(6) The co-opted members of the National Physical and Land Use Planning Liaison Committee may not vote on any matter for which a vote of the committee is required and the numbers of the co-opted members shall not count in determining the quorum of the National Physical and Land Use Planning Liaison Committee.

**75.** (1) The National Physical and Land Use Planning Liaison Committee shall—

- (a) advise the Cabinet Secretary on broad physical and land use planning policies, strategies and standards; and
- (b) hear and determine appeals under this Act or as may be provided for under any other written law.

(2) The National Physical and Land Use Planning Liaison Committee may hear appeals against decisions made by the national planning authority including decisions on—

- (a) the development of major infrastructure facilities;
- (b) the reserving of public land for public projects;
- (c) the implementation of national or inter-county physical and land use development plans; or
- (d) the environmental impacts on ecologically sensitive areas by the implementation of strategic projects.

**76.** There is established a County Physical and Land Use Planning Liaison Committee for each county.

**77.** (1) The County Physical and Land Use Planning Liaison Committee shall consist of—

- (a) an advocate of the High Court nominated by the Law Society of Kenya and appointed by the

Functions of the National Physical and Land Use Planning Liaison Committee.

Establishment of County Physical and Land Use Planning Liaison Committees. Composition of the County Physical and Land Use Planning Liaison Committee.

- (b) hear appeals against decisions made by the planning authority with respect to physical and land use development plans in the county;
- (c) advise the County Executive Committee Member on broad physical and land use planning policies, strategies and standards; and
- (d) hear appeals with respect to enforcement notices.

**79.** (1) The County Physical and Land Use Planning Liaison Committee shall, subject to this Act or any other written law, determine its own procedure.

Procedure of the County Physical and Land Use Planning Liaison Committees.

(2) Despite sub-section (1), the quorum of the County Physical and Land Use Planning Liaison Committee shall be half the members of the Liaison Committee.

(3) Every decision of a County Physical and Land Use Planning Liaison Committee shall be by a majority vote of the members present and voting and where there is a tied vote, the chairperson of that committee or the person acting as the chairperson of that committee shall cast the deciding vote.

(4) Where the chairperson of a County Physical and Land Use Planning Liaison Committee is unable to exercise his functions owing to illness, genuine absence or any other reason, the members present shall elect one of their own to be the chairperson of the respective Liaison Committee.

(5) A County Physical and Land Use Planning Liaison Committee shall meet at least four times in a year.

**80.** (1) A person who appeals to County Physical and Land Use Planning Liaison Committee shall do so in writing in the prescribed form.

Appeal to a County Physical and Land Use Planning Liaison Committee

(2) A County Physical and Land Use Planning Liaison Committee shall hear and determine an appeal within thirty days of the appeal being filed and shall inform the appellant of the decision within fourteen days of making the determination.

(3) The chairperson of a County Physical and Land Use Planning Liaison Committee shall cause the determination of the committee to be filed in the Environment and Land Court and the court shall record the determination of the committee as a judgment of the court

**84.** The provisions of sections 80, 81, 82 and 83 shall apply with the necessary modifications in the case of appeals to the National Physical and Land Use Planning Liaison Committee.

Appeals to National Physical and Land Use Planning Liaison Committee.

**85.** (1) A member of the National Physical and Land Use Planning Liaison Committee or a County Physical and Land Use Planning Liaison Committee who has an interest in a matter being considered by that committee shall disclose that interest at the meeting in which that matter is being considered.

Declaration of personal interest.

(2) A member of a Physical and Land Use Planning Liaison Committee who makes a disclosure under sub-section (1) shall not take part in any proceedings related to that matter.

(3) A member of a physical and land use planning liaison committee who does not disclose an interest as required under this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

**86.** (1) A person shall not disclose, without the consent of the National Physical and Land Use Planning Liaison Committee or a County Physical and Land Use Planning Liaison Committee, as the case may be—

Disclosure of information.

(a) any information obtained while serving on that committee; or

(b) any information obtained from the committees in the performance of its functions.

(2) A person who contravenes the provisions of sub-section (1) commits an offence and on conviction is liable to a fine not exceeding one hundred thousand shillings.

(3) Despite sub-section (1), a person may disclose information that person obtained while serving on the National Physical and Land Use Planning Liaison Committee or a County Physical and Land Use Planning Liaison Committee in the performance of their duties to a person authorized by any written law to be given that information or as may be required by a court of law.

**87.** (1) Each Physical and Land Use Planning Liaison Committee shall maintain a register of each appeal filed,

Physical and Land Use Planning Liaison

- (d) procedures for the conduct of Physical and Land Use Planning Liaison Committees;
  - (e) procedure and process of handling applications for development permission;
  - (f) any other matter generally required to give effect to the provisions of this Act.
- (3) For the purposes of Article 94(6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;
  - (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.
- (4) The principles and standards applicable to the delegated power referred to under this Act are those found in—
- (a) the Statutory Instruments Act, 2013;
  - (b) the Interpretation and General Provisions Act;
  - (c) the general rules of international law as specified under Article 2(5) of the Constitution; and
  - (d) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

23 of 2013.

Cap 2.

#### **PART VIII—MISCELLANEOUS PROVISIONS**

**91.** The Physical Planning Act, 1996, is hereby repealed.

Repeal of No. 6 of 1996

**92.** (1) Any approval for development granted in accordance with the provisions of any written law in force immediately prior to the commencement of this Act shall be deemed to be a development permission granted under this Act.

Transitional provisions.

(2) Despite the provisions of sub-section (1), if a development for which approval was granted under the provisions of any written law in force immediately before

**FIRST SCHEDULE (s.24, 39 & 44)****CONTENTS OF NATIONAL, INTER-COUNTY AND COUNTY  
PHYSICAL AND LAND USE DEVELOPMENT PLANS****PART I**

## 1. Introduction

- (1) Background of the Plan
- (2) Vision statement
- (3) Objectives
- (4) Scope of the Plan
- (5) Principles of the Plan
- (6) Methodology
- (7) Outline of the Plan

## 2. Planning Context

- (1) Location-national, inter-county, local context
- (2) Legal and policy context
- (3) Stakeholder concerns

**PART II**

## 3. Situational Analysis

- (1) Population and demographic
- (2) Physiographic dynamic
- (3) Land analysis
- (4) Economy- industry, agriculture, commerce, mining and quarrying, fisheries
- (5) Transportation and communication
- (6) Infrastructure services
- (7) Urbanization
- (8) Rural developments
- (9) Housing
- (10) Environments
- (11) Climate change
- (12) Governance

## 4. Synthesis

(b) Contours.

(c) Main man-made features such as trunk roads, railway lines, water reticulation facilities, terminus, way leaves, and human settlements, urban nodes among others.

(2) Contents of Plan Proposal Maps

(a) Selected existing features and elaborated presentation of the proposals. The maps should be geo-referenced and in layers.

11. Purpose of the survey report

The survey report shall provide for—

(1) matters that may be expected to affect development of the County;

(2) an inventory of the principal physical, economic, environmental, and social characteristics;

(3) a statement on national policies on economic, social, physical and environmental management and conservation;

(4) the principal and expected land use effects on the County;

(5) population size, composition, structure, quality, distribution and trends;

(6) communications, transport system, and traffic flow;

(7) inter and intra county linkages and relations;

(8) projected changes on all sectoral aspects and effects that the projected changes are likely to have on development, or the Planning of the county; and

(9) any other matter that may be prescribed.

12. Adoption of the survey report

(1) The County Executive Committee Member shall submit the survey report to the relevant County Assembly for adoption.

(2) If the County Assembly disapprove the survey report it shall state the reasons for its refusal and refer it to the county Director for review.

(3) Submission of a reviewed survey report shall be undertaken as provided in the manner provided in sub-paragraph (1).



- (c) Economic analysis focusing on;
    - (i) Employment and incomes and places of work.
    - (ii) Development trends and
    - (iii) Problems of service delivery.
    - (iv) Agricultural potential of the urban region.
    - (v) Problems of transforming the agricultural land into urban use.
  - (d) Contextual analysis
    - (i) Peri-urban slum settlements and problems they pose.
    - (ii) Potential, distribution and size of service centres within and outside the urban boundary.
    - (iii) Evaluation of urban boundary extension.
    - (iv) Evaluation of the importance of such factors as commerce and tourism within extended areas.
    - (v) Historical patterns and conditions.
  - (e) Housing and infrastructure analysis
    - (i) Housing occupancy rates, accommodation density, housing requirements, type of residential areas and industrial locations.
    - (ii) Education.
    - (iii) Recreation areas and other public purpose land uses.
    - (iv) Power lines and way leaves.
    - (v) Water and sewerage networks.
    - (vi) Housing and infrastructure programmes.
  - (f) Transportation and communication analysis
    - (i) Roads networks, footpaths, cycle ways, railway lines, depots, water ways, docks, etc.
    - (ii) Telephone lines.
- 6. Projections**
  - (a) Land Use Projection Tables
- 7. Maps and modeling**
  - (a) Existing land use map



**PART C—CONTENT FOR RENEWAL AND RE-DEVELOPMENT PLAN**

9. Maps of the project area
10. Justification statement for eligibility of the areas as a substandard, decadent or blighted open area
11. Land use pattern analysis and proposals
12. Project objectives including specifications of all proposed redevelopment and detailed job creation and retention estimates
13. A financial Plan including cost estimates and a project budget
14. Local approvals
15. Site preparations including land protections and measures to address environmental or flood problems, conservation of areas of historic, architectural significance
16. Traffic systems including safe pedestrian movement, access to buildings convenient and ample public car parks as well as efficient road links
17. Public improvements including how the improvements will help achieve the objectives of the Plan
18. A relocation Plan
19. Redeveloper's obligations (restrictions that are or will be placed on owners of individual parcels)
20. Disposition for each parcel including any known redeveloper
21. A report on citizen participation describing meaningful citizen participation in the Planning process and expected citizen participation during project execution

**THIRD SCHEDULE (s.55)**

**DEVELOPMENT CONTROL**

1. The development control process and procedures may relate to any of the following—
- Aspects of development control.
- (a) change of user;
  - (b) extension of users;
  - (c) extension of lease;
  - (d) sub-division scheme and amalgamation proposals;
  - (e) building plans;



- (d) defined location and size of the land;
  - (e) current user;
  - (f) area zoning regulations;
  - (g) infrastructure availability and adequacy.
- 6. Extension of Lease** Consideration of extension of lease.
- (a) Whether the land is required for public purpose.
  - (b) Whether special conditions in the lease were adhered to.
  - (c) Whether the land is developed.
  - (d) Whether the buildings on the land have been well maintained.
  - (e) Provisions of relevant approved physical and land use development Plans.
  - (f) Defined location and size of the land.
  - (g) Current user of the land.
  - (h) Infrastructure availability and adequacy.
- 7. Sub-division and amalgamation proposals** Considerations for subdivision and amalgamation.
- (a) The design of the Plan.
  - (b) Provisions of relevant approved physical and land use development Plans.
  - (c) Land reference number, Size and shape of land.
  - (d) The location Plan/inset.
  - (e) Resultant subplots, their access and adequate truncations.
  - (f) The owner of the property, name, signature, identification and telephone number.
  - (g) Linkage and indication of classified roads, and other Infrastructure availability and adequacy.
  - (h) Surrender of land for public utilities.
  - (i) Change of user considering the minimum size of sub-plots.
  - (j) Consent from the relevant agency in case of agricultural land.

- (b) architectural drawings and specifications;
- (c) civil and Structural engineer's drawings and specifications;
- (d) electrical engineer's drawings and specifications; and
- (e) mechanical and plumbing drawings and specifications.

**12.** The following services require easements and ways leaves—

Considerations for Easements and Way-leaves.

- (a) telecommunications;
- (b) electrical power supply;
- (c) water and sewerage networks;
- (d) oil pipeline;
- (e) fibre optic;
- (f) base transmission stations; and
- (g) any other service as may require easement and or way leave.

**13.** The owner of a building may display the following illustrated advertisements without the prior consent of the relevant county government —

Consideration in approving advertisements.

(1) In the case of shops: the name and occupation of the occupier:

Provided that the letters are not greater than 0.3 metre. (12 inches) in depth and contains not more than 6 words.

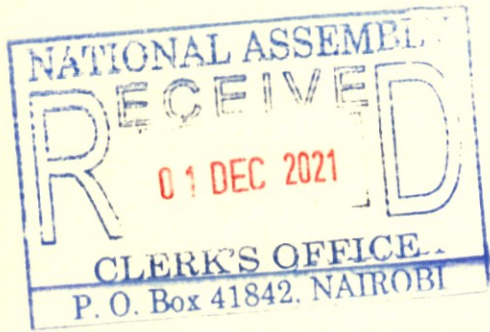
(2) In the case of offices: a notice board displayed at the ground floor entrance to the premises not exceeding 0.3 sq.metre. (1 sq. ft.) total for all occupiers.

(3) Any advertisement displayed within a building or on land or building not visible from a street.

**14.** The display of advertisements not mentioned in (1) shall require permission from the relevant county government.

(1) The grant of permission under paragraph (1) shall depend on—

- (2) the location, size and colours of the billboard.



THE NATIONAL ASSEMBLY  
PAPERS LAID

REPUBLIC OF KENYA DATE: 02 DEC 2021 DAY: \_\_\_\_\_

TABLED BY: \_\_\_\_\_

CLERK-AT THE-TABLE: \_\_\_\_\_

Ardhi House  
1<sup>st</sup> Ngong Avenue  
P.O. BOX 30450-00100  
Nairobi, KENYA

**MINISTRY OF LANDS AND PHYSICAL PLANNING**  
Office of the Cabinet Secretary

Tel: +254(0)20 2718050  
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Email: [csslandskenya@gmail.com](mailto:csslandskenya@gmail.com)  
Web: [www.ardhi.go.ke](http://www.ardhi.go.ke)  
When replying please quote:

*Handwritten notes:*  
② Handwritten note: "Handwritten note regarding the registration of the regulations to operationalise the Physical and Land Use Planning Act, 2019." (with "com" written above)  
① DLSP, 2/12/2021

Ref. No. MOLPP/ADM/CSO/1/908

November 30, 2021

**Mr. Michael Sialai, EBS**  
Clerk, National Assembly  
Parliament Buildings  
P.O Box 41842-00100  
**NAIROBI**

Dear *Mr. Sialai,*

**RE: REGULATIONS TO OPERATIONALISE THE PHYSICAL AND LAND USE PLANNING ACT, 2019**

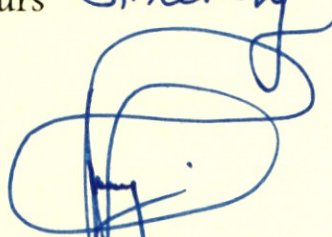
Reference is made to the above matter and our earlier letter dated November 23, 2021 where we requested for a meeting with the Committee on Delegated Legislation to consider the published Regulations to operationalise the Physical and Land Use Planning Act, 2019.

In line with Section 11 of the Statutory Instruments Act (No. 23 of 2013), I hereby forward the published Regulations and the Explanatory Memorandum together with the relevant supporting documents as follows:

1. Physical and Land Use Planning (Institutions) Regulations, 2021 (L.N No. 238 of 2021)
2. Physical and Land Use Planning (Building) Regulations, 2021 (L.N No. 239 of 2021)
3. Physical Land Use Planning (County Physical and Land Use Development Plan) Regulations, 2021 (L.N No. 240 of 2021)
4. Physical and Land Use Planning (National Physical and Land Use Development Plan) Regulations, 2021 (L.N No. 241 of 2021)
5. Physical and Land Use (Advertisement) Regulations, 2021 (L.N No. 242 of 2021)

6. Physical and Land Use Planning (Planning Fees) Regulations, 2021 (L.N No. 243 of 2021)
7. Physical and Land Use Planning (Inter-County Physical and Land Use Development Plan) Regulations, 2021 (L.N No. 244 of 2021)
8. Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2021 (L.N No. 245 of 2021)
9. Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2021 (L.N No. 246 of 2021)
10. Physical and Land Use Planning (Development Control Around Strategic Installations) Regulations, 2021 (L.N No. 247 of 2021)
11. Physical and Land Use Planning (Local and Physical Development Plan) Regulations, 2021 (L.N No. 248 of 2021)
12. Physical and Land Use Planning (Special Planning Area) Regulations, 2021 (L.N No. 249 of 2021)
13. Regulatory Impact Statement and
14. Evidence of public participation

We thank you for your continued support and cooperation..

Yours *Sincerely*  


Farida Karoney, EGH  
**CABINET SECRETARY**

Encl.