



THE NATIONAL ASSEMBLY
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REPUBLIC OF KENYA



MINISTRY OF LANDS AND PHYSICAL PLANNING

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

EXPLANATORY MEMORANDUM AND REGULATIONS

Table of Content

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)

EXPLANATORY MEMORANDUM TO:

THE NATIONAL ASSEMBLY
PAPERS LAID

THE PHYSICAL AND LAND USE PLANNING INSTITUTIONS
REGULATIONS, 2021

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PART I

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Name of the Statutory Instrument : The Physical and Land Use
Planning (Institutions) Regulations,
2021

Name of the Parent Act : The Physical and Land Use Planning
Act, No. 13 of 2019

Enacted pursuant to : Section 90 of the Physical and Land
Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical
Planning

Gazetted on : 26th November 2021

Tabled on :

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to operationalise Part II-Physical and Land Use Planning Institutions of the Physical and Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Institutions) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
 - a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.
 - d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and

give them clear roles in the preparation of the Integrated Development Plan.

- e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

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SPECIAL ISSUE

1649

Kenya Gazette Supplement No. 215

26th November, 2021

(Legislative Supplement No. 96)

LEGAL NOTICE NO. 238

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

**THE PHYSICAL AND LAND USE PLANNING
(INSTITUTIONS) REGULATIONS, 2021**

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY


- 1—Citation
- 2—Object of the Regulations

**PART II—NATIONAL PHYSICAL AND LAND USE
PLANNING CONSULTATIVE FORUM**

- 3—Qualifications of nominated members
- 4—Nomination process
- 5—Notice
- 6—Submission of names of nominees
- 7—Appointment of nominees
- 8—Tenure
- 9—Quorum
- 10—Decisions of the Forum
- 11—Communication channel
- 12—Implementation of the resolutions of the National Physical and Land Use Planning Consultative Forum
- 13—Vacancies
- 14—Review of national policy
- 15—Annual reports

**PART III—COUNTY PHYSICAL AND LAND USE PLANNING
CONSULTATIVE FORUM**

- 16—Qualifications for appointment of the members of the County Physical and Land Use Planning Consultative Forum
- 17—Nominating bodies to present two names
- 18—Deadline for nominations

 THE NATIONAL ASSEMBLY PAPERS LAID	
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- 19—Appointment of members
- 20—Tenure
- 21—Quorum
- 22—Decisions of the County Physical and Land Use Planning Consultative Forum
- 23—Communication Channel
- 24—Implementation of the resolutions of the Forum
- 25—Vacancies
- 26—Sectoral projects to be submitted to Forum
- 27—Meetings
- 28—County policy on physical and land use planning
- 29—Reports by County Directors

**PART IV — INTER-COUNTY PHYSICAL AND LAND USE
PLANNING CONSULTATIVE FORUM**

- 30—Establishment of Inter-County Joint Physical and Land Use Planning Committees
- 31—Director-General to convene the first meeting
- 32—Quorum
- 33—Decisions
- 34—Record-keeping
- 35—Venue

PART V — MISCELLANEOUS PROVISIONS

- 36—Circulars by Cabinet Secretary
- 37—Policy statements by Cabinet Secretary

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (INSTITUTIONS) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Institutions) Regulations, 2021.

Citation.

2. The object of these Regulations is to provide guidelines and procedures for the matters specified in Part II of the Act.

Object of the Regulations.

PART II—NATIONAL PHYSICAL AND LAND USE PLANNING CONSULTATIVE FORUM

3. A member of the National Physical and Land Use Planning Consultative Forum nominated under section 6 (2) (k), (l), (m), (n), (o) and (p) of the Act shall—

Qualifications of nominated members.

- (a) be a registered member of good standing of the Architectural Association of Kenya, Institute of Surveyors of Kenya or Kenya Institute of Planners, as the case may be;
- (b) not be employed by the national or county government, ministries, departments and agencies;
- (c) not be a member of Parliament or a county assembly;
- (d) not be a member of a governing body of a political party;
- (e) not be an undischarged bankrupt; and
- (f) satisfy the requirements of Chapter Six of the Constitution.

4. (1) The institutions or organisations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall nominate two persons of the opposite gender and submit their names to the Cabinet Secretary for appointment.

Nomination process.

(2) The institutions or organisations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall submit to the Cabinet Secretary the record of the proceedings at which the nominees were selected.

5. Wherever a vacancy arises in the office of a member of the National Physical and Land Use Planning Consultative Forum nominated under section (6) (2) (k), (l), (m), (n), (o) and (p), the Cabinet Secretary shall notify the respective institution or organization of the vacancy within fourteen days of the vacancy and invite the institution or organization to nominate two qualified persons of opposite gender to fill in the vacancy.

Notice.

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|---|---|
| <p>6. The institutions or organizations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall submit to the Cabinet Secretary the names of the nominees within fourteen days of the notice under regulation 5.</p> | <p>Submission of names of nominees.</p> |
| <p>7. Within thirty days after receipt of the names of nominees under subregulation (6), the Cabinet Secretary shall appoint the nominees by name and by notice in the <i>Gazette</i>.</p> | <p>Appointment of nominees.</p> |
| <p>8. The members appointed in accordance with subregulation (8) shall serve for a term of three years and shall be eligible for reappointment for one further term of three years.</p> | <p>Tenure.</p> |
| <p>9. The quorum for the conduct of business at a meeting of the National Physical and Land Use Planning Consultative Forum shall be half of the total membership.</p> | <p>Quorum.</p> |
| <p>10. (1) All decisions made by the National Physical and Land Use Planning Consultative Forum shall be in writing under the hand of the Chairperson and Secretary.</p> | <p>Decisions of the Forum.</p> |
| <p>(2) The decisions of the National Physical and Land Use Planning Consultative Forum shall be taken by vote of the majority of the members, except co-opted members, present and voting, and in the case of a tie, the chairperson or the member acting as chairperson shall have a casting vote in addition to his deliberative vote.</p> | |
| <p>11. The resolutions of the National Physical and Land Use Planning Consultative Forum shall be communicated to relevant ministries, departments, agencies, county governments and other parties for information and necessary action by the chairperson.</p> | <p>Communication channel.</p> |
| <p>12. Where relevant agencies have not acted on the resolutions of the National Physical and Land Use Planning Consultative Forum, the chairperson shall refer the matter to the Cabinet, relevant ministries, departments, the National Physical and Land Use Planning Liaison Committee and the Council of Government for information and action.</p> | <p>Implementation of the resolutions of the National Physical and Land Use Planning Consultative Forum.</p> |
| <p>13. Within fourteen days of a position falling vacant under section 6 (2) (k), (l), (m), (n), (o) or (p), the Cabinet Secretary shall initiate the appointment of a new member as provided under regulations 3, 4, 5, 6 and 7 and the member so appointed shall serve for a full term.</p> | <p>Vacancies.</p> |
| <p>14. The Cabinet Secretary shall cause the review of the national policy on physical and land use planning—</p> <p>(a) upon receipt of a recommendation from a planning authority;</p> <p>(b) when, in the opinion of the Cabinet Secretary, it is necessary to undertake the review of the policy; or</p> <p>(c) at the expiry of the implementation period of the policy.</p> | <p>Review of national policy.</p> |
| <p>15. The Cabinet Secretary shall cause the Director-General to prepare an annual report on the implementation of the national physical</p> | <p>Annual reports.</p> |

and land use development plans for eventual submission to the National Assembly and National Land Commission.

PART III—COUNTY PHYSICAL AND LAND USE PLANNING
CONSULTATIVE FORUM

16. A member nominated to the County Physical and Land Use Planning Consultative Forum established under section 14 (2) (h), (i), (j), (k), (l), (m), (n) and (o) of the Act shall—

Qualifications for appointment of the members of the County Physical and Land Use Planning Consultative Forum.

- (a) be a registered member in good standing with either the Architectural Association of Kenya, Institute of Surveyors of Kenya and Kenya Institute of Planners;
- (b) not be an employee of the national or county government or any government agency;
- (c) not be a member of the county assembly;
- (d) not be a member of a governing body of a political party; and
- (e) satisfy the requirements of Chapter Six of the Constitution.

17. For nominations under section 14 (2) (h), (i), (j), (k), (l), (m), (n) and (o) of the Act, the County Executive Committee Member shall require the nominating bodies to present two names of either gender for appointment.

Nominating bodies to present two names.

18. The relevant institutions shall submit the names and particulars of the nominees within fourteen days of request by the County Executive Committee Member.

Deadline for nominations.

19. The County Executive Committee Member shall, within thirty days of receipt, cause the names and particulars of the nominees to be published in the *Gazette*.

Appointment of members.

20. The members of the County Physical and Land Use Planning Forum shall serve for a term of three years and shall be eligible for reappointment for one further term of three years.

Tenure.

21. The quorum for the conduct of business at a meeting of the County Physical and Land Use Planning Forum shall be half of the total membership.

Quorum.

22. (1) All decisions made by, the County Physical and Land Use Planning Forum shall be in writing under the hand of the chairperson and Secretary.

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

(2) The decisions of the County Physical and Land Use Planning Forum shall be taken by way of a majority vote of the members present and voting, excluding the co-opted members.

(3) Where there is a tie in a vote by the County Physical and Land Use Planning Forum the chairperson or the member acting as chairperson shall have a casting vote in addition to his deliberative vote.

23. The resolutions of the County Physical and Land Use Planning Forum shall be communicated by the chairperson to the county executive, county assembly, relevant departments and other parties for information and necessary action.

Communication Channel

24. Where relevant agencies have not acted on the resolutions of the forum, the chair person shall refer the matter to the county executive, county assembly, Cabinet Secretary, the National Land Commission and the County Physical Liaison Committee for their information and action.

Implementation of the resolutions of the Forum.

25. Within fourteen days of a vacancy occurring in a County Physical and Land Use Planning Forum under section 14 (2) (h), (i), (j), (k), (l), (m), (n) and (o) of the Act, the County Executive Committee Member shall initiate the process for the appointment of a new member in accordance with regulations 15, 16, 17 and 18 and the member so appointed shall serve for a full term.

Vacancies.

26. (1) For the purpose of effective co-ordination and integration, all sectoral projects identified by various sectors shall be submitted to the County Physical and Land Use Planning Forum to ensure compliance with the county Physical and Land Use Development Plan.

Sectoral projects to be submitted to Forum.

(2) In matters cutting across more than two counties, the respective counties shall deliberate and in consultation with the Director-General cause the establishment of an inter county joint physical and land use planning joint committee for the purposes of making an inter county physical and land use development plan.

(3) The Inter-County Physical and Land Use Development Plan shall be circulated to the the National Physical and Land Use Planning Consultative Forum for comments.

(4) In the event the emerging issues leading to the formation of the inter-county Joint physical and land use planning committee affects other counties which are not part of the committee, the Director-General shall communicate the decision for the purposes of incorporating them to the plan.

27. The National Physical and Land Use Planning Consultative Forum and the County Physical and Land Use Planning Consultative Forum shall meet at least four times in a year and not more than three months shall elapse between the meetings of the Forum.

Meetings.

28. (1) After enactment of the National Policy on Physical and land use planning, the County Executive Committee member shall formulate a county policy on physical and land use planning within a period of one year.

County policy on physical and land use planning.

(2) The County Executive Committee Member shall establish a coordination framework comprising of sectoral heads or their

representatives to ensure integration of the physical and land use planning with sectoral planning.

(3) The County Executive Committee Member may, in writing, give general or special approval to the County Director, the authority to consider development applications and issue development permissions and other development control instruments under the Act.

Provided that the authority shall not be deemed to have divested the County Executive Committee Member of any of his or her functions, and he or she may perform such functions notwithstanding the authority given to the County Director.

29. (1) The County Director shall prepare quarterly briefs on county physical and land use planning matters to the County Executive Committee Member.

Reports by
County
Directors.

(2) In performing the functions as outlined in section 20 (b), (c), (d) and (e) of the Act, the County Director shall certify the same and forward them to the County Executive Committee member for processing.

(3) The County Director shall ensure that preparation of the Physical and Land Use Plans is informed by research.

(4) In undertaking his function under section 20 (f) the County Director shall establish a resource center that will inform physical and land use planning.

(5) In undertaking the duties under section 20 (g) or (i) of the Act, the County Director shall recommend formation of a technical committee in line with section 60 (1) of the Act to the County Executive Committee Member for submission to the Governor for appointment.

PART IV—INTER-COUNTY PHYSICAL AND LAND USE PLANNING CONSULTATIVE FORUM

30. The agreement to establish an Inter-county Joint Physical and Land Use Planning Committee in accordance with section 29 (1) of the Act shall be in writing and binding to the parties.

Establishment of
Inter-County
Joint Physical
and Land Use
Planning
Committees.
Director-General
to convene the
first meeting.
Quorum.

31. In convening the first meeting, the Director-General shall consult the participating counties on the agenda and venue.

32. The quorum for the meetings of the Inter-County Joint Physical and Land Use Planning Committee shall be the County Executive Committee Members in charge of physical and land use planning of respective counties and the Director-General.

33. The decisions made at the meetings of the Inter-County Joint Physical and Land Use Planning Committee shall be made by consensus.

Decisions.

34. The Director-General shall keep and maintain up-to-date records of the resolutions of the meetings.

Record-keeping.

35. The venue of the meetings of the Inter-County Physical and Land Use Planning Liaison Committee shall be agreed by consensus. Venue.

PART V—MISCELLANEOUS PROVISIONS

36. (1) In this regulation, “circular” means a communication issued by the Cabinet Secretary or the Director-General to ministries, departments, agencies, county executive committee members, physical planners and the public on new legislative requirements, policy guidelines, strategies, standards and norms for necessary application and compliance. Circulars by Cabinet Secretary.

(2) The Cabinet Secretary may issue a circular to ministries, departments, agencies, county executive committee members, physical planners and the public notifying them of new policies, norms and standards on physical and land use planning.

(3) The circular shall contain a brief statement of the purpose of the policies, norms and standards.

(4) In addition to the issuance of the circular under subregulation (2), the Cabinet Secretary may publish such communication in two newspapers with a national circulation in the English and Kiswahili languages.

(5) All circulars may be posted on the Ministry’s website in a format that allows the printing of the content free of cost and remain accessible for as long as practically possible.

37. (1) In this regulation, “policy statement” means a statement issued by the Cabinet Secretary or the Director-General on any aspect of physical and land use planning meant for application across the country in the context of the applicable laws and policies. Policy statements by Cabinet Secretary.

(2) On his own initiative, or as ordered by a court of law, or on the request of the National Land Commission, the National Physical and Land Use Planning Consultative Forum, the County Physical and Land Use Consultative Forum and the National Physical and Land Use Planning Liaison Committee, the Cabinet Secretary may, in the public interest, issue policy guidelines on physical and land use planning to provide concise and practical guidance to county executive committee members, physical planners and the public in a clear and accessible form.

(3) Planning authorities at the national and county levels shall take into account policy guidelines issued by the Cabinet Secretary in exercising their planning functions and powers.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (BUILDING) REGULATIONS, 2021

**THE NATIONAL ASSEMBLY
PAPERS LAID**

DATE: 02 DEC 2021

DAY.

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Name of the Statutory Instrument

TABLED BY: The Physical and Land Use Planning (Building) Regulations, 2021

CLERK THE-TABLE: 2021

Jalau

Name of the Parent Act

: The Physical and Land Use Planning Act, No. 13 of 2019

Enacted pursuant to

: Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical Planning

Gazetted on

: 26th November 2021

Tabled on

:

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide for procedure of processing development applications for change of user and extension of user, extension of lease and renewal of lease, subdivision and amalgamation, building plans, easements, wayleaves and riparian reserves, public buildings and facilities including general provisions under the Physical and Land Use Planning Act, 2019.

2. Legislative Context

The development of the Physical and Land Use Planning (Building) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations

under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
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 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
- a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.

- c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.
 - d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition,

the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.

11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.

11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.

12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.

12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

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THE NATIONAL ASSEMBLY
PAPERS LAID

LEGAL NOTICE No. 239

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (BUILDING)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

DATE:	02 DEC 2021	DAY:	
TABLED BY:	lem		
CLERK-AT-THE-TABLE:	Kalama		

PART I—PRELIMINARY

- 1—Citation
- 2— Interpretation
- 3— Objects

PART II— BUILDING PLANS

- 4— Application
- 5— Standards and considerations
- 6— Siting of the building within the plot
- 7— Building line
- 8— Back-to-back dwellings
- 9— Tenure
- 10— Space in front of buildings
- 11— Minimum measurements for courtyards
- 12— Service area
- 13— Offensive sites
- 14— Reduction in plot area
- 15— Reduction in plot area
- 16— Building heights
- 17— Plot size
- 18— Safety, security and lighting
- 19— Canopies and projections
- 21— Front frontages
- 22— Access to rear of buildings from street
- 23— Secondary means of access
- 24— External passages
- 25— Access for persons with disabilities
- 26— Access for non-motorised transport

27— Infrastructure services

28— Drainage

PART III— PUBLIC BUILDINGS AND FACILITIES

29— Application

30— Standards and considerations

PART IV— GENERAL PROVISIONS

31— Aspects of urban design

32— Demolition

33— Unsafe buildings

34— Sale of materials

35— Closing of streets

36— Computation of time

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (BUILDING)
REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Building) Regulations, 2021. Citation.

2. In these Regulations, unless the content otherwise requires— Interpretation.

“amenity” means physical attributes which contribute to the quality of the environment and enhanced enjoyment of a permitted use;

“applicant” means the owner, lessee or occupier of land or premises and includes his or her duly authorized agent or representative;

“building line” means a line drawn across a parcel of land such that no building or permanent structure, except a wall of approved design enclosing the parcel, may be within the area contained between that line and the nearest road, railway, other infrastructure or utilities on which the parcel has frontage;

“canopy” has the meaning assigned to it in the National Building Code;

“dwelling” means a building or any part or portion of a building used or constructed, adapted or designed to be used for human habitation as a separate tenancy or by a single family, whether detached, semi-detached or separated by walls or by floors from adjoining buildings, together with such out-buildings as are reasonably required to be used and enjoyed therewith;

“dwelling house” means a building designed for use exclusively as one self-contained dwelling by a single family, together with such out-buildings as are ordinarily used therewith;

“external wall” means an outer wall or vertical enclosure of a building not being a party wall even though adjoining a wall of another building;

“frontage” means a strip of land between a commercial development and a carriage way;

“highest water mark” means the highest level or boundary reached by a river or lake during floods, and by the ocean during periods of high tides

“national building code” means the National building code made by the Cabinet Secretary for the time being responsible for public works under section 42 (a) of the National Construction Authority Act, 2011;

“partition” means the separation, by legal instrument of the share of land or a lease held by owners in common so that each owner takes their share free of the rights of the others;

“plinth area” means the sum total of the floor area contained in all the storeys of a building, the measurements for which shall be taken from the external faces of the enclosing walls or other boundaries of such building;

“plot ratio” means the factor by which the area of a plot is multiplied to determine the maximum plinth area of a building permitted on that plot;

“public building” means a building used or constructed or adapted to be used ordinarily or occasionally as a place of public worship or as a hospital, college, school (not being a dwelling house so used), theatre (including a private theatre), an institution for persons admitted by ticket or otherwise or used or adapted to be used for any other public office or public purpose;

“registrar” has the meaning assigned to it under section 2 of the Land Registration Act, 2012

“re-parcellation” as provided for in section 23 of the Land Registration Act, 2012;

“renewal of lease” means the process by which the lessee seeks re-allocation of the property and a new lease after the expiry of a lease;

“special block of flats” means a building with at least two storeys designed in part to contain two or more self-contained dwellings, together with outbuildings as are ordinarily used therewith and where one or more floors of the building are not used for dwelling;

“subdivision” in relation to land means the division of a specific parcel of land, including buildings into units held under single ownership, into two or more parts whether the subdivision is by conveyance, transfer or partition or for the purpose of sale, gift, lease or any other purpose

“use” or “purposes” or “purpose” means the particular use or purpose for which a building or part thereof has been erected or to which it has lawfully been altered and not solely its general purpose as a domestic building, public building or other type of building and in a domestic building only that portion thereof which has been erected as a dwelling may be used as such; and

“user” means a specific designation to a registered parcel of land with development conditions for continued use or enjoyment of a right.

3. The object of these Regulations is to provide for the procedures, standards and forms for carrying out development control applications and processes, and the regulation of physical planning and land use in respect of buildings.

Objects of the
Regulations.

PART II—BUILDING PLANS

4. (1) Any person who intends to erect a new building or make alterations or additions to an existing building whether permanent or temporary, shall be required to submit Building Plans before obtaining development permission. Application.

(2) Buildings constructed for purposes exclusively listed below shall be exempted from the application of these Regulations, except those that require notice to be given of the intention to erect the building, submission of site and block plans, written particulars and notice of any material Change of User—

- (a) a dog kennel for domestic use and not holding more than ten dogs;
- (b) poultry house holding less than fifty chickens in urban areas;
- (c) a greenhouse not measuring more than five hundred square metres in an urban area;
- (d) a garden tool shed or small storage;
- (e) car shade and gazebos;
- (f) temporary and semi- permanent structure in an area not categorized as an urban area, a municipality or city under the Urban Areas and Cities Act, 2011;
- (g) a temporary site house or store;
- (h) moveable tent meant for temporary accommodation not exceeding thirty calendar days; or
- (i) site camps for major projects subject to compliance to other relevant laws.

5. (1) An applicant shall, when making an application under these Regulations, ensure that the application complies with the provisions of the Act, these Regulations and any other relevant written law. Standards and considerations.

(2) An application for a housing estate shall make provide for a tree cover of at least five per cent of the total land area of the housing estate intended to be developed.

(3) For an application in respect of agricultural land, the applicant shall be required to provide a minimum of ten per cent of the land for farm forestry.

(4) A person shall only put up a building in accordance with approved plan of the area, zoning regulations and registered user on the land parcel.

6. (1) Any person intending to erect a new building or re-erect an existing building shall comply with the provisions of the existing Siting of the building within

building code, planning authority by-laws and the physical planning requirements and such conditions as may be imposed by the approving authority regarding the siting, size, height, shape and appearance of such building in order to safeguard, maintain or impose the dignity or preserve the amenity and general appearance of street, square, or public place or have effect on the complemented appearance of such street, square or public place. the plot.

(2) A new building and any addition to an existing building, particularly an out-building, a latrines and any drains and sanitary apparatus of any kind pertaining thereto shall be situated on such plot, sub-plot or other piece of land on which they may be built, as to ensure the best practicable hygienic and sanitary conditions and avoid as much as possible any nuisance or annoyance from the position and appearance of such latrine or building or from noise caused by the occupants of the out-building or from any other cause whatsoever.

(3) Before erecting a new building, the developer shall erect an onsite construction board clearly indicating the role of each professional involved.

7. (1) The planning authority may prescribe a building line on any road, canal, wharf, retaining wall, port, berth, pier, quay, dock, railway facility, jetty or any other linear feature or wayleave to be such distance from the reserve boundary as the authority may deem expedient for preserving the amenity: Building line.

(2) No person shall erect any building other than a boundary wall, a gate or a gate house or other fence nearer to the road than such building line may be prescribed.

Provided that at the discretion of the County Executive Committee Member with advice from the County Director of Physical and Land Use Planning and in consultation with relevant road authorities such building line may vary in distance from the road boundary throughout a road or part thereof.

(3) A building line prescribed under this regulation shall generally be in accordance with the following specifications—

- (a) where the main local access roads is between nine metres and eighteen metres in width, the building line shall be six metres;
- (b) for any road that is wider than eighteen metres, the building line shall be nine metres; and
- (c) for any road within a community or serving less than ten properties, the building line shall be not less than three metres.

8 (1) A person shall not erect a building in such manner as to provide any back-to-back dwelling. Back-to-back dwellings.

(2) "Back-to-back" dwelling includes any dwelling the whole of the habitable portion of which is not adequately and efficiently through-

ventilated by means of ventilating aperture communicating directly with the external walls.

9. Except in the case of a dwelling contained in a special block of flats or a block of flats where any building is designed or constructed or used so as to provide within the same building more than one dwelling for a single family, each such dwelling shall be deemed to be a separate house and shall have its own separate area, cartilage or open space which shall be contiguous with such dwelling as if it were a separate building.

Cartilage.

10. (1) A domestic building shall be so sited as to leave an open space immediately in front thereof, which space shall extend throughout the whole width of the front of the building to a distance of at least six metres measured at right angles therefrom:

Space in front of buildings.

Provided that, if the building fronts on a street of lesser width, the width of such open space may be not less the width of the street, together with one half of the difference between that width and six metres.

(2) The A may require the developer to provide additional space in front of buildings for purposes of providing services or public space and compensate this with allowance for additional height of the development.

11. Where any building contains more than one dwelling and is designed to have an internal courtyard or open space, there shall be provided within such courtyard or open space an area free from obstruction of not less than thirty-two point five square metres and having no dimension less than four point five metres.

Minimum measurements for courtyards.

12. A person erecting a building shall provide to the satisfaction of the planning authority in consultation with the County Director, a service area for the security serving that building, loading and unloading of vehicles, dustbins, and such other purposes as the County Director of Physical Planning may require, and the means of the access thereto shall be of a width not less than three metres.

Service area.

13. A building shall not be erected on any site which has been made up or filled up by offensive or insanitary materials or which has been used for the deposit of the refuse, excrementious materials or carcasses of dead animals or other filthy or offensive matter until such site has dealt with to the satisfaction of the Medical Officer of Health, Chief Materials Engineer, Environment Officer and the County Director.

Offensive sites.

14. A plot on which a building is erected shall not be reduced in area so that, in relation to the reduced site, the area covered by the building exceeds the percentage permitted for that class of building, except where the reduction in area is caused by acquisition of land by a proper authority.

Reduction in plot area.

15. Each planning authority shall, in accordance with norms and standards prescribed in physical and land-use planning standards, approved development plans and land-use zoning regulations determine

Plot coverage.

the plot coverage and plot ratios depending on the zoning of the urban area and the level of urban services available.

16. (1) A planning authority may prescribe allowable building heights for designated zones in accordance with the approved development plan and land-use zoning regulations. Building heights.

(2) Despite the provisions of subregulation (1), a planning authority may allow a developer extra height in lieu of provision for space in front of the building and pedestrian access within the development.

17. (1) The size of plot within the area shown on any development plan, advisory plan, zoning plan, subdivision plan approved by the planning authority shall not be subdivided into smaller sub-plots than the minimum specified thereon for the area within which the plot is situated without the amendment or review of such a plan. Plot size.

(2) The minimum size of the plot or sub-plot prescribed for any area may be increased to a satisfactory extent if such minimum size is inconsistent with the amenity of the environs of any plot or portion of the area or if such increase is necessary for the proper development of the plot or sub-plot and if the nature of the ground necessitates large plots or sub-plots to obtain good hygienic conditions.

18. (1) Every storey of every building used or intended to be used for the purpose of an office or for habitation shall be provided with effectual means of lighting and ventilation. Safety, security and lighting.

(2) Every building shall be provided with adequate access to persons living with disabilities.

(3) Every storey of every building used or intended to be used for the purpose of an office, shall be provided with lactation rooms and baby changing facilities.

(4) Every building for offices and commercial use shall have adequate and accessible sanitation facilities.

(5) Buildings shall be erected in such a manner so as to allow for adequate natural cross-ventilation. In permitted cases, buildings may be permitted to use ventilating aperture.

(6) Security features and access to buildings should be installed so as not to inconvenience the patrons of the building and to afford their safety in case of emergencies. No emergency exits should be blocked or closed on account of security.

(7) For commercial buildings, and other establishments as may be determined by the County Director, boundary walls may be permitted provided that the solid base or opaque part of the wall is not more than one hundred and thirty-nine centimetres high with the rest of the wall made of transparent materials as may be prescribed.

19. (1) A canopy may, with the permission of the planning authority, be erected over a footway but such canopy— Canopies and projections.

- (a) shall not be less than 3 m above the level of the footway;
- (b) shall not extend outwards from the building so as to be nearer the vertical plans of the kerb line of the footway than sixty centimetres;
- (c) shall be impervious to moisture on the upper surface and drained in a manner which shall prevent the discharge of water on the footway.

(2) A canopy shall not be used in conjunction with or as a means of access to any room or apartment.

(3) A load or article shall not be placed on a canopy without the written approval of the planning authority.

(4) Where it is considered desirable that a canopy should be erected in front of a new building, the planning authority may require the owner of the building to provide in the design of such building for a canopy and such structure shall conform to the conditions or design and materials as the structural engineer may prescribe.

(5) On being so required, the owner shall at his own cost, when he or she erects the new building construct such canopy and execute the requisite canopy agreement.

(6) The footway under the canopy shall not be made of slippery material.

(7) A canopy erected on a road reserve shall only be erected with the written permission from the relevant road authority.

(8) The County Executive Committee Member shall ensure public participation on applications for development of canopies and projections.

20. (1) Every domestic building, every part of a building which in the opinion of the Planning Authority may be from a separate tenancy or occupancy, shall have independent access to a street, such street not being a sanitary lane or passage:

Access to dwellings and other buildings.

Provided that dwellings contained in a special block of flats or a block of flats; or separate offices within a building may have a common access to a street.

(2) Within every plot or sub-plot upon which it is intended to erect a domestic building there shall be laid out and constructed sufficient and suitably made footpaths of not less than one metre in width and where applicable, such vehicular ways as to provide adequate means of passage between the building and the nearest or most convenient road to which the plot or sub-plot has a frontage.

(3) Where any roadway is laid out and constructed for the purpose of providing access from any building to any road, street or lane it shall be extended from the boundary of the plot to the edge of the carriageway within the road, street or lane and the siting of such access road shall be in accordance with the specifications of the relevant road agency.

21. (1) A person shall not erect a building on any plot or sub-plot which has no proper and sufficient frontage to a street, such street not being a sanitary lane or passage. Front frontages.

(2) A person shall not erect a building, except with the prior written permission of the County Executive Committee Member with the advice of the County Director, so as to have the building's principal access to or the building's principal frontage abutting on a service lane, alley or passage.

(3) The planning authority shall require a property owner to maintain the property owner's property frontage.

(4) The planning authority shall approve any improvement on the frontage in adherence to the street and road designs and in accordance with regulations of relevant agencies.

(5) Means of access from a service lane, railway line or tramway for use by the public shall not be permitted in any premises used for retail trade or commercial.

22. Access of not less than one metre and sixty centimetres in width shall be provided from the street to the rear of buildings other than through the building where such access is not provided from a side passage or rear line. Access to rear of buildings from street.

23. Unless the planning authority otherwise agrees, a building shall be provided with a secondary means of access. Secondary means of access.

24. Any passage between buildings erected on the same plot or between a building and the boundaries of the plot on which such building is situated, shall have minimum dimensions of one metre and twenty centimetres in width and two metres and ten centimetres in height. External passages.

25. Every building shall provide adequate access to persons with disability, and the following provisions— Access for persons with disabilities.

- (a) every commercial, special block of flats, office block and other public building as may be prescribed by the planning authority shall provide wheelchair access of not less than one metre and fifty centimetres wide with a handrail and constructed with non-slippery material and such access should be free of any obstructions; and
- (b) at least one parking space for every five hundred square metres or one per cent of the available car parking spaces whichever is higher, shall be reserved for persons with disabilities, and the parking should be accessible through a lift or a wheel chair access ramp.

26. (1) Buildings shall not discriminate against pedestrians and cyclists. Access for non-motorised transport.

(2) Every building shall have footpaths that are well-maintained and connected and bicycle parking for bicycles.

(3) A developer may be required to provide an access for pedestrian access of not less than two metres wide through the development and may be compensated with additional floor area above the permitted building height.

27. (1) No developments shall be permitted where there is no provision of soft and hard infrastructure with the exemption that the developer has made provisions to provide the facilities on site or the service provider has agreed to provide the required infrastructure to meet the proposed demand. Infrastructure services.

(2) The planning authority may create an infrastructure index to identify areas or properties with the level of infrastructure provision and permitted development.

(3) The County Executive Committee Member may waive development fee in lieu of the developer developing infrastructure in relation to the property in question.

(4) Utility companies should be actively involved in comprehensive development to determine the availability of infrastructure to support such a development and where necessary identify the need for land surrender to cater for the provision of required infrastructure.

(5) New developments should not compromise service provision to existing developments.

(6) The Director-General is to continuously research and provide innovative approaches to provide infrastructure services and coordinate the efforts of various agencies in building capacities and implementing new technologies.

(7) All new subdivision, amalgamation, re-parcellation schemes to make provision for pedestrian footpaths or footways and cycling paths of not less than 2m each in addition to the minimum defined road reserve in this regulation.

(8) Footpaths shall have natural passage points and shall not be fenced off, or fenced in a way that would obstruct pedestrian traffic, well-maintained and landscaped.

(9) Where a footpath traverses a river or cliff, the footpath shall not be blocked.

28. Where a planning authority is of the opinion that the proposed development requires a comprehensive drainage plan, the planning authority may— Drainage.

- (a) notify the owner in writing and with reasons, the necessity for the plan; and
- (b) require the owner to submit plans and particulars of the drainage for approval.

PART III—PUBLIC BUILDINGS AND FACILITIES

29. In addition to the public facilities provided for in the Third Schedule, the following shall also apply— Application.

- (a) shopping centres and malls;
- (b) transportation termini;
- (c) major depots;
- (d) recreation and amusement parks;
- (e) public stadia;
- (f) agricultural produce markets and livestock markets; and
- (g) public Schools

30. The following shall apply for the erection of public buildings and facilities— Standards and considerations.

- (a) no person shall erect a public building on any site unless that site has been recommended through the preparation of relevant development plan or an advisory plan as the case may be;
- (b) the site is suitable for the purpose;
- (c) the erection on the site of any such public buildings would be in the public interest;
- (d) the site sufficiently provides for the safety and health and well-being of persons frequenting such public building or the general public;
- (e) lactation rooms or breastfeeding stations and baby changing facilities;
- (f) provision of smoking zones where necessary;
- (g) the discharge of audiences or patrons from any such building on a site is not likely to interfere with the safe conduct of traffic in the streets;
- (h) the site is not so close to another public building that congestion of traffic may be possible; or
- (i) car parking, non-motorized transport and people with disabilities provision on or in the vicinity of the site is, in the opinion of the planning authority, adequate;
- (j) in the case of a theatre, cinematography hall, music hall or concert hall, the site of the building shall have two sides as frontage to a public street and the street shall be of such width

and direction as shall enable the persons accommodated in the premises to disperse rapidly in case of fire or panic and as will afford facilities for the approach and use of fire appliances and for emergency evacuations;

- (k) a private open and paved passageway for the exclusive use of the audience of a theatre, cinematography hall, music hall or concert hall leading to a street and having a minimum width of seven meters;
- (l) access to the facility has been permitted by the relevant authority and is compliance to the stipulated acceleration and deceleration lane requirements;
- (m) siting of public facilities shall be in accordance with the provisions of the Alcoholics Drinks Control Act, 2010; and
- (n) the size of land is adequate for the intended purpose or use shall be guided by the manual prescribed by the Director-General.

PART IV—GENERAL PROVISIONS

31. The following considerations shall be borne in addition to paragraph 8 (d), (k), and (l) of the Third Schedule to the Act— Aspects of urban design.

- (a) the preservation of historic buildings, heritage and archaeological considerations;
- (b) landscape architects and urban designers to be incorporated in the planning and development control in urban areas including open spaces, parks, streetscapes, infrastructure reserves, housing developments, burial grounds, monuments, commercial and industrial complexes, sports grounds, zoos, game parks, botanical gardens and recreational areas;
- (c) comprehensive land-scape and urban design plans to be submitted for consideration to the planning authority;
- (d) aesthetics and the provision of desirable public spaces and experiences;
- (e) place making and the integration of different user communities; including informal traders, artists, activism, festivals and sporting activities;
- (f) adopting the use of green building technologies such as passive space cooling, water recycling, renewable energy, greening among others;
- (g) installation of solar water-heating systems in accordance with the Energy Act, 2019;
- (h) compliance to applicable national addressing system; and

- (i) urban renewal and regeneration to respect elements of urban design such as axis, nodes, landmarks, vistas or square and offer new spaces for public use and recreation and involve registered physical planners, landscape architects, urban designers, architects, engineers and quantity surveyors.

32. (1) An owner of any building which does not fall under regulation 4 (2) shall not demolish or cause to be demolished such building or any part without the prior written approval of the planning authority. Demolition

(2) A planning authority may within seven days of receipt of an application for demolition, grant a permit for demolition in Form PLUPA/BD/1 as prescribed in the Schedule, and therein impose any condition or requirement necessary for the safety, health and convenience of the public and for the safety of any other building or installation which in its opinion may be affected by the demolition.

(3) The planning authority may with reasons extend the period referred in in subregulation (2) in case of any particular application for a further fourteen days.

(4) A person may not, at any time during the course of or after the demolition of a building, leave the demolished building in a condition dangerous to the public or any adjoining property.

(5) The planning authority may serve a notice on the person requiring them to make the site safe within the time prescribed in the notice, and if the person fails to do so, the planning authority may itself carry out the necessary work and recover the costs incurred from the person.

(6) A registered contractor under the supervision of a structural engineer or architect shall carry out demolition of a building.

(7) The planning authority may prohibit the use of any method to be applied in the demolition of any building where in its opinion the method creates or cause to be created a danger to any person or other building or property, and where it prohibits, it shall give reasons in writing for the prohibition.

33. (1) Where any building appears to be in a ruinous, dangerous or dilapidated condition, the planning authority on its own volition or request by the public may— Unsafe buildings

- (a) serve upon the owner a notice in writing, requiring them within the time specified, to shore up, secure, repair, renew or otherwise make safe, to the satisfaction of the planning authority the building, or to remove the same; or
- (b) take the steps by way of shoring up or securing or otherwise making safe the building as necessary and enter upon the premises and upon any adjoining premises, which it may be necessary to enter for the said purpose.

(2) If the owner fails to commence the work specified in the notice referred to in subregulation (1) within three days after the expiration of the time specified in the notice, or fails to complete the work with the time specified in the notice, the planning authority, at the owner's cost may proceed under subregulation (1) (b).

34. (1) If a building is demolished by the planning authority under any of the powers conferred by the Act or these Regulations, the planning authority may remove and sell the materials or any portion of them, and apply the proceeds of the sale in or towards payment of the cost and expenses incurred by it in relation to the work and shall pay the balance, if any, to the owner. Sale of materials.

(2) If the proceeds of the sale are insufficient to cover the expenses incurred, the balance shall be recoverable as a civil debt from the owner.

35. (1) The planning authority may, temporarily close any street or public place and erect hoardings, barricades or other structures as it may consider necessary for that purpose. Temporary closure of streets.

(2) Where the closure has been occasioned by the condition of a building, the owner shall pay to the authority on demand, all costs and expenses incurred by it in connection with the erection and subsequent removal of the hoardings, barricades or other structures.

(3) Any person who unlawfully interferes with any of the hoardings, barricades or structures erected commits an offence under section 67 of the Act.

36. For purposes of computation of time, the deadline for electronic submission of documents and advisories issuing by the county executive committee member on development applications lodged electronically shall be 23:59:59 hours East African Time. Computation of time.

37. Where due to a reasonable cause that may include a system prolonged down time, resulting in the author's inability to submit an application electronically, the author may submit a hard copy application to the county executive committee member and thereof give reasons for not beating the deadline.

PLUPA/BD/1

(r. 32(2))

THE PHYSICAL AND LAND USE PLANNING ACT (No. 13 of 2019)

Registered Number of Application

REF No.....

Date.....

DEMOLITION PERMIT

TO

Property Location Details:

L/R	Plot No.	Sub County	Ward	Estate/Locality/Area	Nearest Street/Road

Reference is made to your application dated, on the above mentioned subject matter and your subsequent payment to the County Government of Kshs..... as fees.

The planning authority grants permission to carry out the under mentioned demolition works on the referenced plot subject to you having received consent for the same from the Landlord.

- 1.....
- 2.....
- 3.....

Subject to the following conditions-

- a) Compliance with the approved EIA& A Report
- b) To repair and make good any damage to adjacent building or structure caused by the demolition or negligent act or omission of any person engaged in it
- c) To remove material or debris resulting from demolition or clearance of the site
- d) To remove and seal at such a point as the statutory undertaker may reasonably require, any sewer or water pipe under the building
- e) To make arrangements with relevant statutory undertakers for disconnection of supply of gas and water to the building
- f) To leave the site following demolition in such a condition as the planning authority may consider reasonably necessary for protection of the public and preservation of amenity

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (THE COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

Name of the Statutory Instrument :

The Physical and Land Use Planning (The

County Physical and Land Use Development Plan) Regulations, 2021

Name of the Parent Act :

The Physical and Land Use Planning Act, No. 13 of 2019

Enacted pursuant to :

Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department :

Ministry of Lands and Physical Planning

Gazetted on :

26th November 2021

Tabled on :

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide a framework for preparation, public participation, completion, approval, modification of County Physical and Land Use Development Plans under the Physical and Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (The County Physical and Land Use Development Plan) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
- a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
- a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.

- c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.
 - d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition,

the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
State Department for Physical Planning
Ministry of Lands and Physical Planning
Ardhi House, 1st Ngong Avenue,
P. O. Box 45025-00100,
NAIROBI

Tel: (+254)722691843

Email: augustine.masinde@ardhi.go.ke.

- g) This approval is valid for days from the date of this letter.
- h) Any other condition.....

In addition, you are required to indemnify the County Government against any claims that may arise from your negligence and/or acts of omission during the demolition works.

This letter granting permission to undertake the said demolitions does not authorize alterations or additions to the structure. Further, it does not grant authority to change/extend/densify use of the premises or interfere with any tenancy agreement between or among parties to the premises.

Name..... Date

Designation..... Sign.....

For: County Executive Committee Member

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 240

THE PHYSICAL AND LAND USE PLANNING ACT


(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Object of the Regulations
- 4—Delimiting of planning areas
- 5—Notice of Intention to prepare a County Physical and Land Use Development Plan
- 6—Plan reference number
- 7—National security
- 8—Outsourcing of physical planning services
- 9—Presentation
- 10—Land use zones
- 11—Notice of completion
- 12—Circulation

 THE NATIONAL ASSEMBLY PAPERS L A I D		
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TABLED BY:		
CLERK-AT THE-TABLE:		

- 13—Public participation
- 14—Review of public comments
- 15—Appeals
- 16—Comments by consultative forums
- 17—County assembly approval
- 18—Publication
- 19—Modification
- 20—Notice of Approval of Modified County Physical and Land Use Development Plan
- 21—Revision
- 22—Submission of reports, notices and plans to be submitted to the Commission

FIRST SCHEDULE—FORMS

SECOND SCHEDULE—STRUCTURE OF COUNTY
PHYSICAL AND LAND USE
DEVELOPMENT PLAN

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (COUNTY
PHYSICAL AND LAND USE DEVELOPMENT PLAN)
REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (County Physical and Land Use Development Plan) Regulations, 2021. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.

“Consultative Forum” means the County Physical and Land Use Planning Consultative Forum established under the Act;

“County plan” means the County Physical and Land Use Development Plan; and

“liaison committee” means the County Physical and Land Use Planning Liaison Committee.
3. The object of these Regulations is to provide a framework, guidelines and procedures for the preparation, public participation, completion, approval, revision and forms in respect of County Physical and Land Use Development Plans. Object of the Regulations.
4. In defining the scope and geographic area of the plan, the County Executive Committee Member shall delimit a planning area guided by the physiographic characteristics, administrative boundaries, electoral units, agro-ecological zones and planning projections. Delimiting of planning areas.
5. (1) The County Executive Committee Member shall, at least twenty-one days before the commencement of the preparation of the County Physical and Land Use Development Plan, publish a notice of intention to prepare a County Physical and Land Use Development Plan in FORM PLUPA C-1. Notice of Intention to prepare a County Physical and Land Use Development Plan.

(2) The County Executive Committee Member shall publish a notice in the *Gazette*, and at least two newspapers of national circulation and electronic media informing the public of the intention to prepare the plan, the objects of the plan and matters to be considered in the County plan and the address to which any comments on the County plan may be sent.
6. (1) Upon publication of the notice of intention to prepare the county plan under regulation 5, the County Executive Committee Member shall request, in writing, the Director-General to issue a plan reference number in respect of the county plan. Plan reference number.

(2) The Director-General shall, within fourteen days from the date of the request under subregulation (1), issue in writing a plan reference number for the county plan.

7. (1) Where a county plan touches on, relates to, borders, involves or in any way affects a safeguarding area or any aspect of national security, the approval of the National Security Council shall be sought before the preparation of the county plan.

National security.

(2) The National Security Council shall approve or reject the preparation of a county plan to the extent that the plan relates to a safeguarding area or any aspect of national security submitted to the Council within sixty days from the date of receipt thereof from the County Executive Committee Member and notify the County Executive Member in writing of the decision and the reasons thereof.

(3) The National Security Council may impose such conditions as may be necessary to the preparation of county plans that touch on, relating to, bordering, involving or in any way affecting national security.

8. (1) The County Executive Committee Member may, where staff capacity is lacking, on his or her own initiative or a proposal made by any other person, outsource physical planning consultancy and other services in accordance with the relevant public procurement and disposal laws and any other applicable law relating to registration and licensing of professional practitioners in the field of physical and land use planning, land surveying and related disciplines in the built environment.

Outsourcing of physical planning services.

(2) Outsourced physical and land use planning consultancy and other services shall be submitted to the County Executive Committee Member through the County Director of Physical and Land Use Planning for scrutiny, authentication and processing for approval and shall remain the property of the county.

9. The presentation of a county plan shall be in paper and electronic form including geo-database or shapefiles.

Presentation of county plans.

10. A County Plan shall demonstrate land use zones including—

Land use zones.

- (a) housing;
- (b) industry;
- (c) education;
- (d) recreation, conservation, preservation and open spaces;
- (e) commerce;
- (f) public purpose;
- (g) public infrastructure and utilities;
- (h) transport;
- (i) agriculture; and
- (j) land banking and other reservations.

11. (1) The notice which the County Executive Committee Member shall use to inform the public that the draft County plan is complete and available for inspection and inviting public comments shall be in Form PLUPA C-2 as set out in the First Schedule.

Notice of completion.

(2) The period of time applicable for comments and representations from the public shall be sixty days.

12. (1) Upon completion, the County Director of physical and land use planning shall circulate the draft county plan to relevant agencies at the county level and to the Director-General for comments.

Circulation.

(2) The Director-General and the relevant agencies shall submit comments within sixty days of circulation.

13. (1) In the preparation of a county plan, the county executive committee member shall convene a meeting or meetings at which stakeholders and other parties affected by the planning process will be allowed to participate and give their views and suggestions.

Public participation.

(2) The object of the meeting convened under subregulation (1) shall be to achieve the following objectives—

- (a) sensitization and developing consensus on objectives of the plan;
- (b) creating awareness; and
- (c) identifying issues and development proposals and solutions thereof.

(3) In facilitating public participation, the county executive committee member may use any or a combination of the following methods but not limited to—

- (a) direct contact using interview guides and questionnaires;
- (b) public notices in newspapers;
- (c) mass media including radio and television;
- (d) information communication platforms;
- (e) newsletter;
- (f) public hearings and group discussions;
- (g) conferences, seminars, workshops, town hall meetings and citizen fora; and
- (h) placement of documents at a common place, available to the members of the public including notice boards.

14. When reviewing comments and other representations from the public relating to a draft county plan, the County Executive Committee Member may—

Review of public comments.

- (a) incorporate wholly the comments or representations;
- (b) incorporate partially the comments or representations; and
- (c) decline to incorporate any comments or representations altogether and in such a case, shall specify the reasons in writing.

15. (1) A person who is aggrieved by the decision of the County Executive Committee Member under these Regulations may lodge an appeal to the Liaison Committee against the decision in in Form PLUPA C-3 as set out the First Schedule stating the grounds for the appeal and the remedies sought. Appeals.
- (2) The Liaison Committee may reverse, confirm or vary the decision of the County Executive Committee member and in so doing, the Liaison Committee shall apply the rules of natural justice and fair administrative action.
- (3) The response by the County Executive Committee Member to an appeal lodged under this regulation shall be in writing.
- (4) A person dissatisfied with the decision of the Liaison Committee may lodge a further appeal with the Environmental and Land Court within fourteen days after the decision of the Liaison Committee.
16. (1) Pursuant to section 41 (1) of the Act, the County Executive Committee Member shall, after reviewing the public comments made in respect of a county plan and exhaustion of the appeal process, submit the county plan to the County Physical and Land Use Consultative Forum for comments within sixty days from the date the county plan is finalised. Comments by consultative forums.
- (2) The County Physical and Land Use Planning Consultative Forum shall consider and submit its comments on the county plan to the County Executive Committee Member in Form PLUPA C-4 as set out in the First Schedule.
- (3) Upon receipt of the comments from the Physical and Land Use Planning Consultative Forum, the County Executive Committee Member shall consider the comments for incorporation and completion of the plan within a period of thirty days.
17. Within fourteen days of completion the County Executive Committee Member shall cause the plan to be submitted to the County Executive Committee for endorsement and submission to the county assembly for approval. County assembly approval.
18. The County Executive Committee Member shall, by notice in the *Gazette*, publish the County Physical and Land Use Plan in Form PLUPA C-5 as set out in the First Schedule. Publication.
19. (1) Any person ordinarily resident in the county may apply to the County Executive Committee Member for the modification of a County Physical and Land Use Planning Plan. Modification.
- (2) An application under subregulation (1) shall be made in Form PLUPA C-6 as set out in the First Schedule.
- (3) Within fourteen days after receiving the application under subregulation (1), the County Executive Committee Member shall publish the proposed modification in Form PLUPA C-7 as set out in the First Schedule, notifying any interested party of the modification to the plan to submit representations in respect of the proposed modifications.

(4) Within thirty days after the publication of the notice under subregulation (3), the County Executive Committee Member shall consider application and representations in respect thereof and make modifications to the plan as may be necessary and submit the modified plan to the County Assembly for approval

(5) Within thirty days after receiving the modified plan from the County Executive Committee Member under subregulation (4), the County Assembly shall consider and approve or reject the modified plan and shall notify the County Executive Committee Member of its decision within fourteen days after the decision.

20. Within fourteen days after being notified by the county assembly of the approval of a modified County Physical and land Use Planning Plan, the County Executive Committee Member shall publish the modified plan in the *Gazette* in Form PLUPA C-8 as set out in the First Schedule.

Publication of modified County Physical and Land Use Development Plan.

21. The provisions of regulation 19 and 20 shall apply, with the necessary modifications, to the revision of a County Plan.

Revision.

22. All reports, notices and plans prepared under these Regulations shall be submitted to the Commission and the Director-General

Submission of reports, notices and plans to the Commission and Director-General.

FORM PLUPA C -1

r.5(1)

FIRST SCHEDULE
REPUBLIC OF KENYA



PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE A COUNTY PHYSICAL AND LAND USE
DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 38(1) of the Physical and Land Use Planning Act,
2019, NOTICE is hereby given that the County Government
of.....intends to commence preparation of the above Plan on
the.....day of20.....

The objectives of the Plan are:

.....

The purpose of the Plan is:

.....

Extent of the area covered.....

.....

The information to be set out in the Plan shall include:

.....

Suggestions that may be included in the proposed plan may be directed
to.....^{1*} not later than
.....^{2*}

Dated the, 20.....

County Executive Committee Member

Notes—

^{1*} provide details of the receiving entity.

^{2*} provide a twenty-one-day window.

FORM PLUPA C -2

r 11(1)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 40(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above draft Plan was on theday of.....20.....completed.

The Plan relates to land situated within.....

A copy of the draft plan has been deposited for public inspection, free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to^{2*} by^{3*} and such representations or comments shall state the grounds upon which they are made.

Dated the....., 20.....

County Executive Committee Member

Notes—

^{1*}provide details of the physical address and time the plan is available to the public and if electronic, give name and link to website.

^{2*}provide details of the physical address of the receiving entity.

^{3*}Specify actual date (60 days) for receiving comments

FORM PLUPA C -3

r.5(1)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST DECISION REGARDING COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

(To be filled in triplicate)

Title of Development Plan

To: The Secretary, County Physical and Land Use Planning Liaison Committee
..... County

I/We^{1*}, of P.O. Box..... appeal against the decision made by County Executive Committee Member regarding the Draft Plan

My/our grounds for appeal are as follows:

- 1)
2) 2*

The remedies sought are:

- 1)
2) 3*

Dated this day of 20.....

Signature^{4*}

Notes-
1*Delete as necessary.
2*Please attach additional written text if space is insufficient.
3* Please attach additional documentation as may be necessary.
4* Insert name and signature of authorized signatory.

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

COUNTY PHYSICAL AND LAND USE PLANNING CONSULTATIVE FORUM
NOTICE OF REVIEW

Title of Development Plan.....

Pursuant to the provisions of section 41(2) the Physical Land Use Planning Act, 2019, the County Physical and Land Use Planning Consultative Forum of..... County of Post Office Box Numberin the Republic of Kenya has reviewed the above County Physical and Land Use Development Plan on theday of20.....and proposes the following changes or approves the plan as^{1*}:

- (1)
- (2)

Dated the day of 20.....

Chairperson

Secretary

Notes—

^{1*} strike through where necessary.

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF A COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Approved Development Plan No.....

Pursuant to section 41(4) of the Physical and Land Use Planning Act, NOTICE is hereby given that on the day of 20.....the County Assembly of

..... approved the above Plan.

A certified copy of the plan as approved is available at^{1*}

Dated this day of20.....

Signed

County Executive Committee member.....County

Notes—

^{1*}Provide Physical address where the copies of the Plan can be accessed (Headquarters, Sub County, ward etc)

FORM PLUPA C-6

r.18(1)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

MEMORANDUM FOR MODIFICATION OF A COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Approved Development Plan No.

To: The County Executive Committee Member
County Government of

I/We^{1*}, of P.O. Box
..... propose modification to the County Physical and Land
Use Development Plan referenced above.

My/our reasons for the proposed amendments are as follows:

- (a)
- (b)
- (c)^{2*}

I/We certify that:

- (a) I/We have complied with the relevant provisions of the County Governments Act, 2012;
- (b) The proposed amendments are in conformity with the National and all relevant Inter-County Physical and Land Use Development Plans.

Dated this day of20

Name and Signature of Applicant^{3*}

Notes—

^{1*}Delete as necessary.

^{2*}Please attach additional written text if space is insufficient.

^{3*}Name and designation of authorized signatory

FORM PLUPA C-7

r.18(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF PROPOSED MODIFICATION TO THE COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 42(2) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the County Government of.....intends to amend the above Plan.

A copy of the proposed modification has been deposited for public inspection free of charge at^{1*}

Dated this day of 20.....

County Executive Committee Member

Notes—

^{1*} State the physical address and if website provide link.

^{2*} State the physical address and if website provide link.

^{3*} provide a thirty-day window.

FORM PLUPA C-8

r.9

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF MODIFICATION OF A COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Approved Development Plan No

Pursuant to the provisions of section 42(6) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the modified plan was approved on the day of20.....

The plan shall be available at.....^{1*} for inspection free of charge.

Dated the, 20.....

County Executive Committee Member

Notes—

^{1*} state physical address and opening hours. If online, state website and give link.

SECOND SCHEDULE

PART I

The outline structure of the County Physical and Land Use Development Plan Report

PART I

1. Cover Page
2. Introduction
3. Constitutional, legal and policy planning context

PART II

4. Geographic coverage, physiography and climate
5. Population and demography
6. Housing
7. Agriculture
8. Commerce
9. Industry
10. Education
11. Public purpose
12. Recreation, Conservation, preservation and open spaces
13. Public infrastructure and utilities
14. Transportation
15. Blue Economy

PART III

16. Synthesis and emerging issues

PART IV

17. Plan proposals
18. Action Plans
19. Implementation matrix - Timelines, Resource and Institutional requirements

Reference

Appendix

Annex

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (THE NATIONAL PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

PART I


- Name of the Statutory Instrument** : The Physical and Land Use Planning (The National Physical and Land Use Development Plan) Regulations, 2021)
- Name of the Parent Act** : The Physical and Land Use Planning Act, No. 13 of 2019
- Enacted pursuant to** : Section 90 of the Physical and Land Use Planning Act, 2019
- Name of the Ministry/ Department** : Ministry of Lands and Physical Planning
- Gazetted on** : 26th November, 2021

Tabled on

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulation is to provide a framework for preparation, content, approval and implementation of the National Physical and Land Use Development Plan by providing elaborate guidelines and procedures for matters governed therein.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	DAY.
TABLED BY:	<i>lpm</i>
THE TABLE:	<i>Lalama</i>

2. Legislative Context

The development of the Physical and Land Use Planning (The National Physical and Land Use Development Plan) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
 - a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.

- d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
State Department for Physical Planning
Ministry of Lands and Physical Planning,
Ardhi House, 1st Ngong Avenue,
P. O. Box 45025-00100,
NAIROBI

Tel: (+254)722691843
Email: augustine.masinde@ardhi.go.ke.

PART II

Preparation of the Maps

1. Notwithstanding the provisions of First schedule Part IV (9), the actual scale to be used in the map shall depend on the level of detail and circumstances.
2. The Maps prepared shall adopt a scale of a multiple of 500
3. Maps shall be prepared by a certified authority
4. Base Map” means a geo-referenced and geometrically accurate graphical representation of land which includes topographical maps, administrative boundary maps, sea charts, aeronautical charts and other thematic and special purpose maps obtained from the relevant authorities;
5. All the maps and plan reports shall adopt standard paper size series A4-A0
6. Fine details on the plan report shall be contained in an appropriate professional handbook and practicing notes.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 241

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (NATIONAL
PHYSICAL AND LAND USE DEVELOPMENT PLAN)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS


Regulation

PART I—PRELIMINARY

- 1—Citation
- 2—Interpretation
- 3—Object of the Regulations

PART II—NATIONAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

- 4—Planning area
- 5—Concept paper on the Plan
- 6—Notice of Intention Prepare Plan
- 7—National security
- 8—Notice of Completion of Draft Plan
- 9—Notice of publication of the revised plan

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	DAY:
TABLED BY:	<i>lem</i>
CLERK-AT THE-TABLE:	<i>Salama</i>

10—Final consultation with the Consultative Forum

11—Parliamentary approval

12—Publication of approval

13—Status report

14—Structure and technical specifications

**PART III—STRATEGIC NATIONAL INSTALLATION
PROJECTS**

15—Notice of preparation of strategic national installation and projects

16—Stakeholder involvement

17—Notice of completion of the draft plan

18—Circulation of the draft plan

19—Notice of completion of the draft plan

20—Approval of the plan

21—Appeals

22—Approval of the strategic national installation and project plan

23—Forms

FIRST SCHEDULE—FORMS

**SECOND SCHEDULE—THE STRUCTURE OF THE
NATIONAL PHYSICAL AND
LAND USE DEVELOPMENT
PLAN REPORT**

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (NATIONAL
PHYSICAL AND LAND USE DEVELOPMENT PLAN)
REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (National Physical and Land Use Development Plan) Regulations, 2021. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.
“electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

“Consultative Forum” means the National Physical and Land Use Planning Consultative Forum established under section 6 of the Act; and

“Plan” means the National Physical and Land Use Development Plan.

3. The object of these Regulations is to provide a framework for preparation, content, approval, implementation and forms thereof of the National Physical and Land Use Development Plan pursuant to sections 21, 22, 23, 25, 26, 27 and 28 of the Act. Object of the Regulations.

PART II—NATIONAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

4. In defining the scope and the geographic area of the Plan, the Director-General of Physical and Land Use Planning shall delineate the planning area through the services of the Director of Survey. Planning area.

5. (1) The Director-General of Physical and Land Use Planning shall forward the concept paper on the Plan to the Consultative Forum pursuant to section 23 (1) (d) of the Act for the purpose of obtaining the input of the Consultative Forum within a period of thirty days from the date of receipt of the concept paper on the plan. Concept paper on the Plan.

(2) The Director-General shall upon receiving input on the concept paper on the plan from the Consultative Forum notify the Cabinet Secretary of the input in writing.

6. The Cabinet Secretary shall upon receipt of the concept paper on the plan under regulation 6 (2) publish in the *Gazette* and in at least two newspapers of national circulation and through electronic media a notice of intention to plan in form PLUPA 1 as set out in the First Schedule. Notice of Intention Prepare Plan.

7. (1) Where the Plan touches on, relates to, borders, involves or in any way affects safeguarding areas or national security, the Consultative Forum shall submit the Draft Plan to the National Security Council for comments. National security.
- (2) The National Security Council shall give its comments on the Draft Plan submitted under subregulation (1) within a period of fourteen days from the date of receipt.
8. (1) The Cabinet Secretary shall pursuant to section 25 (1) of the Act, by notice in the *Gazette* and in at least two newspapers of national circulation and through electronic media notify the public that the Draft Plan is available for inspection and submission of comments in Form PLUPA 2 as set out in the First Schedule. Notice of Completion of Draft Plan.
- (2) The notice under subregulation (1) shall specify the manner by which comments on the Draft Plan may be sent to the Cabinet Secretary.
9. The Cabinet Secretary shall publish a notice in the *Gazette* and in at least two newspapers of national circulation and through electronic media pursuant to section 25 (3) of the Act in Form PLUPA 3 as set out in the First Schedule. Notice of publication of the revised plan.
10. (1) The Cabinet Secretary shall pursuant to section 26 (1) of the Act submit the Draft Plan to the Consultative Forum for its final comments within thirty days after the period for considering and incorporating comments in the Plan has elapsed. Final consultation with the Consultative Forum.
- (2) The Consultative Forum shall consider and submit its final comments on the draft Plan to the Cabinet Secretary in form PLUPA-4 as set out in the First Schedule.
11. Upon obtaining Cabinet approval, the Cabinet Secretary shall submit the Draft Plan to the National Assembly for approval. Parliamentary approval.
12. The Cabinet Secretary shall pursuant to section 26 (5) of the Act publish the duly approved plan by the National Assembly in form PLUPA5 in a notice in the *Gazette* and in at least two newspapers of national circulation and through electronic media, within fourteen days from the date of approval. Publication of approval.
13. The Status Report prepared in accordance with section 28 of the Act shall include— Status report.
- (a) the extent of the implementation of the plan;
 - (b) challenges in implementation or application;
 - (c) estimated timelines for completion;
 - (d) annexes (including photos, maps, matrices and graphs); and
 - (e) any other relevant matter.
14. Further to the provisions of section 24 (1) and the First Schedule to the Act, the structure of the final Plan report and the technical specifications on maps shall be as set out in the Second schedule. Structure and technical specifications.

**PART III—STRATEGIC NATIONAL INSTALLATION
PROJECTS**

15. (1) The Director-General shall, before preparing a strategic national installation and project plan pursuant to section 13 (g) of the Act, publish a notice of intention to plan in Form PLUPA 6 of the First Schedule.
- Notice of preparation of strategic national installation and projects.
- (2) Notwithstanding any form of publication for the intention to prepare a strategic national installation and project plan, sensitization may be conducted for members of the public to create awareness.
16. (1) Before completion of the preparation of the strategic national installation and project plan, the Director-General shall hold stakeholders meeting for the purposes of—
- Stakeholder involvement.
- (a) sensitization and developing consensus;
 - (b) creating awareness;
 - (c) identifying issues; and
 - (d) clarifying objectives of the plan.
- (2) To ensure effective participation by stakeholders, the Director-General shall identify key stakeholders and their interests and assess potential impact of the plan on the stakeholders.
17. (1) Within thirty days of the completion of draft strategic national installation and project plan, the Director-General 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 completion of the draft plan.
- (2) The notice in subregulation (1) shall be in Form PLUPA 7 as set out in the First Schedule.
- (3) Within twenty-one days of the expiry of the period for making comments under subregulation (1), the Director-General shall consider the comments made and may incorporate them.
18. (1) Within fourteen days of incorporating the comments under regulation 18 (3), the Director-General shall circulate the draft strategic national installation and project plan to ministries, departments, public agencies and statutory bodies for comments.
- Circulation of the draft plan.
- (2) Comments made on the circulated draft strategic national installation and project plan under subregulation (1) shall be submitted to the Director-General in written or electronic form within sixty days of circulation.
- (3) Within twenty-one days of the expiry of the period for comments received under subregulation (2), the Director-General shall consider the comments made and where necessary incorporate them in the plan.
19. Within seven days of making a decision under regulation 19 (3), the Director-General shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that a
- Notice of completion of the draft plan.

decision on the comments received has been considered and that the reviewed draft strategic national installation and project plan is available for perusal at the place and time specified in the notice.

20. Within fourteen days of the notice under regulation 20, the Director-General shall submit the draft strategic national installation and project plan to the Cabinet Secretary for approval as provided under section 69 (4) of the Act.

Approval of the plan.

21. (1) Any person dissatisfied with the decision of the Director-General may appeal to the National Physical and Land Use Planning Liaison Committee within fourteen days and the committee shall consider the application and make its determination within sixty days of the receipt of the application.

Appeals.

(2) The appeal under subregulation (1) shall be made in Form PLUPA LC-1A as set out in the First Schedule, setting out the grounds and the reliefs sought.

(3) The National Physical and Land Use Planning Liaison Committee shall consider the appeal and communicate its decision to the dissatisfied party in Form PLUPA LC-4(a).

(4) Any person dissatisfied with the decision of the National Physical and Land Use Planning Liaison Committee may, within fourteen days of the decision, appeal to the Environment and Land Court.

22. The Director-General shall issue a certificate in Form PLUPA 8 as set out in the First Schedule, confirming that the Cabinet Secretary has approved the Plan.

Approval of the strategic national installation and project plan.

23. The forms contained in the First Schedule shall be used for purposes specified in these Regulations and may be used in paper and electronic format for the purposes of these Regulations.

Forms.

FORM PLUPA 1

(r.7)

FIRST SCHEDULE



REPUBLIC OF KENYA

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE A NATIONAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 23(2) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the Cabinet Secretary.....^{1*}intends to commence the preparation of the above Plan on the.....day of20.....

The purpose of the Plan is:

.....

The objectives of the Plan are:

.....

The information to be set out in the Plan shall include.....

Comments on the proposed plan may be directed to.....^{2*} not later than^{3*}

Dated the day of 20.....

Cabinet Secretary

Notes—

^{1*} Insert name of relevant Ministry.

^{2*} provide details of the receiving entity.

^{3*} provide a fourteen-day window.

FORM PLUPA 2

(r.10)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF NATIONAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Plan.....

Pursuant to the provisions of section 25(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that preparation of the above draft Plan was on.....day of.....20.....completed

A copy of the Plan prepared is available for inspection by the public at^{1*}..... from.^{2*}.....

Any interested person who wishes to make any comments in connection with or the above draft Plan may send such comments in writing to the office the Cabinet Secretary not later than^{3*}..... Day of20.....and any such comments shall state the ground on which it is made

Cabinet Secretary

Notes—

^{1*} provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

^{2*} for physical locations, specify time when the plan is available for inspection.

^{3*} specify date of deadline.

FORM PLUPA 3

(r.12)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF PUBLICATION OF THE REVISED NATIONAL PHYSICAL AND
LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 25(3) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given to the general public that a decision has been made by the Cabinet Secretary.....^{1*} on the comments received in respect to the above draft Plan and the same is available for perusal at.....^{2*}from.....^{3*}.

Dated the, 20.....

Cabinet Secretary

Notes—

^{1*} Insert name of relevant Ministry.

^{2*} provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

^{3*} for physical locations, specify time when the plan is available for inspection.

FORM PLUPA 4

(r.13(2))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NATIONAL PHYSICAL AND LAND USE PLANNING CONSULTATIVE FORUM
FINAL COMMENTS ON THE DRAFT NATIONAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 26(3) of the Physical and Land Use Planning Act, 2019, the National Physical and Land Use Planning Consultative Forum considered the above Plan and under Minute in a meeting held on theday of20....., recommend for final approval subject to the following conditions:

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

Dated the day of 20.....

.....
(Name)
Chairperson

.....
(Name)
Secretary

FORM PLUPA 5

(r.15)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NATIONAL PHYSICAL AND LAND USE DEVELOPMENT PLAN
NOTICE OF APPROVAL

Title of Development Plan.....

Approved Development Plan No.....

Pursuant to the provisions of section 26(5) of the Physical and Land Use Planning Act, 2019. NOTICE is hereby given that on the day of20.....The above Plan was approved in accordance with the provisions of Physical and Land Use Planning Act, 2019.

A certified copy of the Plan as approved is available to the public at 1*

Copies of the Plan can be accessed through the Ministry's website.....

Dated this.....day of.....20.....

Cabinet Secretary

Notes—

1* Provide physical location where the plan is available for access by the public.

FORM PLUPA 6

(r.17)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE A STRATEGIC NATIONAL
INSTALLATION AND PROJECT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 13(g) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the Director-General of Physical and Land Use Planning intends to prepare the above Plan with effect from theday of20.....

The purpose of the Plan is:
.....

The objective of the Plan is:
.....
.....
.....
.....

Comments on the proposed plan may be directed to.....^{2*} not later than^{3*}

Dated the day of 20.....
Director-General of Physical and Land Use Planning

Notes—
^{1*} Insert name of relevant Ministry.
^{2*} provide details of the receiving entity.
^{3*} provide a fourteen-day window.

FORM PLUPA 7

(r.19)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF A STRATEGIC NATIONAL INSTALLATION AND PROJECT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 13(g) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Plan was on theday of.....20.....completed.

The Plan relates to land situated within.....

A copy of the plan as prepared has been deposited for public inspection free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to^{2*} and such representations or comments the grounds upon which they are made not later than the.....day of.....20.....^{3*}

Dated this day of 20.....

Director-General of Physical and Land Use Planning.

Notes—

^{1*} provide details of the Joint Director-General's address and if electronic, give name and link to website.

^{2*} provide details of the Joint Director-General's address and if electronic, give name and link to website.

^{3*} provide a 14-day window.

FORM PLUPA 8

(r.24)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

CERTIFICATE OF APPROVAL OF A STRATEGIC NATIONAL INSTALLATION AND PROJECT PLAN

Title of the Plan.....

Pursuant to the provisions of section 69(4) of the Physical and Land Use Planning Act, 2019, this is to CERTIFY that the Cabinet Secretary responsible for matters related to physical and land use planning have issued the approval in respect of the Plan enclosed herewith known as.....^{2*}

Dated this.....day of.....20.....

Issued By.....^{3*}

Cabinet Secretary

Department Seal^{4*}

Notes—

1*Insert title of Plan

2*Name of the Cabinet Secretary

3*Seal of the Cabinet Secretary

Made on the, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

SECOND SCHEDULE

The structure of the National Physical and Land Use Development Plan Report

PART I

1. Cover Page
2. Introduction
3. Constitutional, legal and policy planning context

PART II

4. Geographic coverage, physiography and climate
5. Population and demography
6. Housing
7. Agriculture
8. Commerce
9. Industry
10. Education
11. Public purpose
12. Recreation, Conservation, preservation and open spaces
13. Public infrastructure and utilities
14. Transportation
15. Blue Economy

PART III

16. Synthesis and emerging issues

PART IV

17. Plan proposals
18. Action Plans
19. Implementation schedule- Timelines, Resource and Institutional requirements

Reference

Appendix

Annex

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

EXPLANATORY MEMORANDUM TO:

**THE PHYSICAL AND LAND USE PLANNING (ADVERTISEMENT)
REGULATIONS, 2021**

PART I

Name of the Statutory Instrument : The Physical and Land Use Planning (Advertisement) Regulations, 2021

Name of the Parent Act : The Physical and Land Use Planning Act, No. 13 of 2019


Enacted pursuant to : Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical Planning

Gazetted on

: 26th November 2021

Tabled on

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	
DAY.	
TABLED BY:	lom
PART II THE TABLE:	Salama

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide procedure for processing development applications for advertisements under PART IV of the Physical Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Advertisement) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
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- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
 - a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.

- d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

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State Department for Physical Planning
Ministry of Lands and Physical Planning,
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NAIROBI

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Email: augustine.masinde@ardhi.go.ke.

LEGAL NOTICE NO. 242

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE (ADVERTISEMENT)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY


- 1—Citation.
- 2—Interpretation.
- 3—Object of the Regulations.

PART II—PROCESSING OF ADVERTISEMENT APPLICATIONS

- 4—Permitted advertisements.
- 5—Consent to display .
- 6—Exceptions.
- 7—Siting of advertisements.
- 8—Siting of billboards.
- 9—Safety of advertisement signs.
- 10—Consideration of applications.
- 11—Applications for billboards, sky signs and wall wraps.
- 12—Application for directional signs and signage, wall branding.
- 13—Other applications.
- 14—Circulation for advertisement.
- 15—Approvals, refusals and rejections.
- 16—Cancellations and amendments.

PART III—GENERAL PROVISIONS

- 17—Restoration to original state.
- 18—Appeals.
- 19—Advertisement that is integral to a building.
- 20—Election advertisements.
- 21—Standard conditions.

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THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE (ADVERTISEMENT)
REGULATIONS, 2021

PART I—PRELIMINARY

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

1. These Regulations may be cited as the Physical and Land Use Planning (Advertisement) Regulations, 2021.

Citation.

2. In these Regulations, unless the content otherwise requires—

Interpretation.

“amenity” means physical attributes in a neighborhood which contribute to the quality of the environment and to its better enjoyment for any permitted use and includes the effect upon visual and aural amenity in the immediate neighborhood of displaying the advertisement

“animated billboard” means an advertisement that displays, at any one time, one or more advertisements consisting of visual moving pictures or that are otherwise able to move or change color due to the use of electrical, mechanical or other sources of power;

“balloon advertisement” means an advertisement that is inflated, tethered to and suspended above any building or structure, water surface, earth surface and is conspicuously visible from any street or building

“banner” means a long strip of cloth bearing a slogan or design hung in a public place or carried in a demonstration or procession;

“beam advertisement” means advertising using illumination derived from any portion of the electromagnetic band width and includes a beam, laser and includes similar sources of illumination that produces a beam of light skywards to produce an image in the atmosphere;

“billboard” means a large sign for advertisement that is next to a road or side of a building or any other location agreed upon;

“construction site hoarding advertisements” means advertisement on the temporary fence of a construction site;

“election advertisement” means an advertisement designed to influence the outcome of an election called by a public body

Flyers and leaflets

“guardrail avert panel” means a strong metal bar along the side of a road or steep places that prevent vehicles and people from falling or on surface of door, wall or ceiling;

“illuminate” means to extend an internal or external artificial source of light, directly or by reflection, to any advertisement, billboard, directional sign, signboard or sky sign;

“illuminated advertisement” means an advertisement illuminated artificially by an electric current either directly or indirectly or made of luminous material and includes a visible notice or representation caused by directing a beam into the air;

“Light Emitting Diodes (LED)” means an advertisement sign made of a solid-state device that emits light when current is passed through it;

“non-illuminated advertisement” means an advertisement that is not artificially illuminated;

“outdoor advertisement” means any word, letter, devise, model, sign, placard, board, notice or representation, whether illuminated or not that is displayed in a place and manner where the public can view it;

“sign board” means a board displaying the name or description of a business or institution or product for purposes of indicating direction or promotion of the business;

“sky signs” means any advertising structure that is displayed—

- (a) on or above the roof, parapet or eaves of a building or extends above the roof line of a building, and is conspicuously visible from any street or building below; and
- (b) containing only particulars, including any logo or symbol, of the name or owner of the building to which it is affixed;

“temporary notice” means a sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display aimed at directing the public to a meeting;

“wall branding” means the placing of a name, logo, slogan or design of a product or service on a wall of a building or structure for purposes of marketing; and

“wall wrap” means an advertisement placed on a building or any other terrestrial structure;

3. The object of these Regulations is to give effect to Part IV and to provide for the process of application and approval of development permission for advertisements.

Object of the Regulations.

PART II—PROCESSING OF ADVERTISEMENT APPLICATIONS

4. (1) The owner of a building or land may display the following illustrated advertisements without the prior consent of the planning authority—

Permitted advertisements.

- (a) notices or signs to be displayed on any premises for the purpose of advertising the fact that a person, partnership or company is carrying on a profession, business or trade at those premises provided that the letters are not greater than 0.3 m. (12 inches) in depth and contains not more than 10 words; but if there is more than one entrance to the premises on different road frontages, two advertisements of 0.3m.(12

inches) in depth of a square meter each may be displayed (on a separate frontage);

- (b) in the case of offices, a notice board displayed at the entrance of each floor to the premises not exceeding 0.3 sq. m. (3 sq. ft.) total for all occupiers;
- (c) any advertisement displayed within a building or on an enclosed land or building not visible from a street, notices in connection with medical, recreational, educational, religious, cultural hostel, guest house block of flats, provided that the advertisement is displayed at the premises and does not exceed 1.5 square meters in area; however, if there is more than one entrance to the premises on different road frontages, two advertisements of 1.2 square meters each may be displayed (each on a separate frontage)

(2) An advertisement for hawkers once a permit has been issued in terms of the relevant by-laws which is limited to two signs per hawker and the hawker must remove daily at close of business of such hawker.

(3) Poster-hoardings which are being used to screen building or construction sites while the work is being carried out on site for a maximum period of twenty-four months, must be displayed not more than one month before works commence, more than fifty square meters in surface area and more than four meters above the ground and should in addition be non-reflective such that they do not flash or cause glare to pedestrians, cyclists and motorists.

(4) The advertiser shall submit written notification to the planning authority of intention to display such an advertisement at least fourteen days before the display starts, and display an onsite notice measuring one hundred and twenty centimeters by seventy centimeters and a height of one hundred and seventy centimeters from the ground of the planning permission

(5) An onsite captive balloon advertisement may be displayed if it is—

- (a) not more than thirty meters above the ground;
- (b) not displayed for more than fifteen days in any calendar year;
- (c) not displayed in a conversation area, world heritage site, gazetted national monument.

(6) Temporary directional signs intended to direct pedestrians, motorists, and other passersby to an assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, medical or other similar non-profit organization.

(7) Temporary directional signs may be displayed no more than 48 hours before the event and no more than twenty-four hours afterward.

5. An advertisement shall not be displayed on public or private land without written consent of the owner of land.

Consent to display.

6. The following advertisements shall be exempted from payment of fee charges for approval— Exceptions.

- (a) a sign identifying the functions or property of a government department, public authority or county government but not a promotion sign displayed at the direction of any of these offices;
- (b) advertisements communicating matters of national importance including education and public health awareness;
- (c) national and county governments' projects construction site boards;
- (d) traffic sign and signage on a public road, railway, tramway, or in the airport or airstrips;
- (e) a sign at a hospital that gives direction to emergency facilities;
- (f) a sign inside a building and enclosed spaces which shall not be illuminated or displayed within one meter of any window or other external opening through which they can be seen from outside the building;
- (g) a directional signage which gives direction or guidance about a tourist attraction, historical sites, religious sites or events and other places of interest to road users;
- (h) a sign required by statute or regulation;

Provided it is strictly in accordance with the requirement:

- (i) a sign at a railway station, ports and airports or airstrips for the information of people using the facilities and for purposes of operational signs;
- (j) a sign on a showground, on a motor racing track or on a major sports and recreation facility;
- (k) an advertisement which is an integral part of a building fabric but does not include an advertisement fixed to, or painted on, a building; and
- (l) An advertisement of not more than zero-point-three square meters inside buildings and which is not visible from a street.

7. (1) An advertisement shall be sited in a manner that does not— Siting of advertisements.

- (a) obstruct a driver's, pedestrian's or cyclist's view, of the road;
- (b) obstruct a driver's, cyclist's or pedestrian's view—
 - (i) to a road hazard;
 - (ii) to an intersection;
 - (iii) to a traffic control devices and road signage
 - (iv) to an emergency vehicle access point;

- (c) distract a driver from or reduce the visibility and effectiveness of traffic control devices and road signage;
 - (d) obscure or hinder interpretation of an aid to navigation by water or air;
 - (e) hinder the operation of any device used for the purpose of security or surveillance;
 - (f) obscure information about the road alignment;
 - (g) interfere with stopping sight distance for the road's design speed or the effectiveness of a traffic control device
 - (h) distract a driver's attention away from the road environment for an extended length of time
 - (i) cause the driver's or cyclist's head to turn away from the road and the components of the traffic stream in order to view its display or message;
 - (j) creates headlight reflections in the driver's, cyclist's or pedestrian's line of sight; or
 - (k) create a physical obstruction or hazard such as—
 - (i) obstructing the movement of pedestrians or bicycle riders;
 - (ii) protruding below a bridge or other structure so it could be hit by trucks or other high bodied vehicles; or
 - (iii) protruding laterally into the transport corridor.
- (2) An advertisement shall not be located—
- (a) less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves;
 - (b) less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycle way facility or hazard within the road environment;
 - (c) in a manner that may be dangerous to any person who may use any road, railway, waterway, harbor, dock, jetty, or airfield;
 - (d) in a manner that is not out of scale, out of place or unduly dominant;
 - (e) on medians, traffic islands, pedestrians' crossings and where carriage ways diverge including footpaths and pedestrian walkways;
 - (f) within seventy meters of traffic control lights and not less than one hundred meters from the outer width of a roundabout;
 - (g) on an interchange and roundabout;

- (h) in a manner that causes obstruction of lighting or ventilation or reduce quality of air and ventilation;
- (i) in a manner that obstruct fire safety access points;
- (j) in a manner that obscures any other advertisement approved by the planning authority; and
- (k) in a manner that obscures or is incompatible with any feature which has natural, cultural, architectural, historical or heritage significance;

(3) All forms of advertisements on national trunk roads shall be erected in accordance to the provisions of the Kenya Roads Act, 2007.

8. (1) Billboards along classes S, A and B roads and within one kilometer radius of the boundary of a municipality, town or market center irrespective of the classification of the road, shall be erected at a minimum distance of two hundred and fifty meters from each other.

Siting of billboards.

(2) Billboards along urban trunk road corridors shall be erected at a minimum distance of hundred meters from each other.

(3) Billboards shall not be permitted in residential areas, rooftops or recreational areas.

9. (1) An advertisement sign that forms part of a communal electrical installation shall—

Safety of advertisement signs.

- (a) be subject to periodic inspection, testing and certification as determined by the relevant authority that deals with electrical installations;
- (b) be maintained in a clean, tidy and safe condition including painting it with colors permitted by the planning authority; and
- (c) not be illuminated or decorated by means of flickering, flashing or running lights except with written approval of the agencies established under Kenya Roads Act, 2007.

(2) All lighting associated with a billboard shall—

- (a) be shielded to ensure the external light sources are not directed to approaching pedestrians, cyclists and motorists; and
- (b) be designed in a manner to ensure that external light shall point downward and not upward and focused directly on the sign to prevent or minimize escape of light beyond the sign.

10. In considering an application, the County Executive Committee Member shall, in addition to provisions of an approved physical and land use development plan, any other relevant factor, comments from the relevant road agencies established under the Kenya Roads Act, 2007, relevant legislation, national or county specific policy, have due regard to the following—

Consideration of applications.

- (a) the compatibility of the proposed advertisement with the amenity of the immediate neighborhood;

- (b) any planning condition specified in a certificate of title, a physical and land use development plan, national standards and norms and requirements of any relevant national law;
- (c) the requirements of the National Building Code
- (d) whether the proposed advertisement will—
 - (i) have a negative visual impact on any development zoned or used for specified purposes under any physical and land use development plan;
 - (ii) cause danger to any development, motorists, cyclist or pedestrians or obstruct vehicular or pedestrian traffic;
 - (iii) in any way impair visibility of road traffic signs;
 - (iv) obscure any existing and approved erected advertisements;
 - (v) obscure any important natural, architectural, historical or heritage feature; or
 - (v) be unsightly, objectionable or have detrimental impact on the architectural design of any building on the subject parcel including any adjacent property.

11. (1) An application for a billboard, beam advertisement, sky-sign or wall wrap shall be made to the County Director on behalf of the County Executive Committee Member in Form PLUPA DC 16 as set out in the Schedule.

Applications for billboards, sky signs and wall wraps.

- (2) The application shall be accompanied by—
 - (a) a planning report prepared by a registered physical planner;
 - (b) the location plan of the site;
 - (c) architectural plans prepared by a registered architect, where applicable;
 - (d) structural designs with calculations prepared by a registered structural engineer and accompanied by a duly filled indemnity form, where applicable;
 - (e) geotechnical survey where applicable prepared by a registered geologist or its equivalent to ascertain the structural integrity of the foundation and in the case of wall wraps and sky-signs the integrity of the building, where applicable;
 - (f) payment of stipulated fees;
 - (g) a copy of certificate of lease or certificate of title or any other ownership document, where applicable;
 - (h) recommendation to site a billboard on a road reserve from the relevant road authority or agency;
 - (i) for a beam advertisement, the applicant shall submit an environmental and social assessment license; and

- (j) any other supportive document as may be required by the County Director.

12. (1) An application for a directional sign, signage or wall branding shall be made to the County Director on behalf of the County Executive Committee Member in Form PLUPA DC 16 as set out in the Schedule.

Application for directional signs and signage, wall branding.

- (2) The application shall be accompanied by—

- (a) the location plan;
- (b) a sample of the advertisement;
- (c) a photograph of the building if it is being advertised on the building; and
- (d) the relevant fee.

13. (1) All forms of advertisements other than the advertisements specified in the Act and these Regulations including posters, banners and teardrops shall be made to the County Director on behalf of County Executive Committee in Form PLUPA 16 as set out in the Schedule.

Other applications.

- (2) The applications shall be accompanied by—

- (a) the design of the advertisement; and
- (b) the relevant fees.

- (3) All applications received shall be entered in a register.

(4) Where the information requested by the County Director in order to process a signage application is not provided within a two-month period from the date of the application, the application shall be regarded withdrawn.

14. (1) Upon receipt of an application for advertisement the County Director shall undertake pre-vetting exercise to ensure that the application meets thresholds set out in Form PLUPA DC-16 in the Schedule, any other policies and approved Physical and Land Use Plans.

Circulation for advertisement.

(2) The County Director shall issue submission certificate in Form PLUPA/DC/5 set out in the Schedule to the applicant acknowledging receipt of the application and where the application is unsatisfactory, the County Director on behalf of the County Executive Committee Member shall raise issues and require the applicant to address them. .

(3) An application for billboards, sky signs and wall wraps shall be circulated, where applicable, by the County Director to the Kenya Rural Roads Authority, Kenya National Highways Authority, Kenya Urban Roads Authority, National Museums of Kenya, Kenya Airports Authority, Kenya Civil Aviation Authority, Communication Authority of Kenya and any other relevant agencies.

(4) The relevant agencies referred to in paragraph (3) shall give their comments within fourteen working days in accordance with section 60 (2) of the Act.

15. (1) Upon receipt of comments in accordance with regulation 14 (4), the County Director shall consider the application and issue approval in Form PLUPA DC-17 as set out in the Schedule and may impose such conditions thereon as may be necessary in the circumstances.

Approvals, refusals and rejections.

(2) An approval granted under paragraph (1) shall lapse where an approved advertising sign is not erected within three months from the date of approval or within a time specified in the approval.

(3) An approval granted under paragraph (1) shall be for the period specified in the approval:

Provided that the approval shall cease to be in force after five years from the date the approval is granted.

16. (1) The County Director on behalf of the County Executive Committee Member may, at any time, withdraw an approval granted or amend any condition or impose a further condition in respect of such approval, if in the opinion of the County Executive Committee Member an advertising sign—

Cancellations and amendments.

- (a) has become detrimental to the environment or the amenity of the neighborhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
- (b) constitutes or becomes a danger to the public or the safety of pedestrians;
- (c) obstructs existing signs, natural features, architectural features or visual lines of civic or historical interest;
- (d) if the advertisement obscures pedestrian infrastructure;
- (e) contravenes Article 66 (1) of the Constitution; or
- (f) any other reason the approving authority may consider compelling.

(2) A person aggrieved by the decision of the County Executive Committee Member may appeal to the respective liaison committee.

PART III—GENERAL PROVISIONS

17. (1) For functional advertisement such as political campaigns, social or cultural functions, religious functions, entertainment, business promotions among others that have been approved, the applicant shall within fourteen days of ending of the function be required to remove and clean all material to the satisfaction of the approving authority.

Restoration to original state.

(2) The applicant shall sign a commitment in Form PLUPA DC 18 set out in the Schedule

(3) Failure to comply with these regulations is an offence under section 67 of the Act.

18. (1) Any person aggrieved by a decision by the county executive committee member for failure to allow a permitted advertisement may within fourteen days of receiving the decision lodge

Appeals.

an appeal in the county physical and land use planning liaison committee.

(2) Notwithstanding subregulation (1), an applicant has no right of appeal if the county executive committee member informs the applicant that the planning authority treated the application as withdrawn because it is similar, in all relevant respects to one on the same site which has been refused by the county physical and land use planning liaison committee on appeal within the preceding one year.

19. An advertisement which is an integral part of a building fabric, but does not include an advertisement fixed to, or painted on, a building is not to be regarded as incorporated in its fabric.

Advertisement that is integral to a building.

20. (1) Election advertisements with a maximum surface area of six square meters may be placed on undeveloped land, streets and sidewalks, except on classes S, A, B and C road reserves.

Election advertisements.

(2) The candidate shall ensure that election signs are removed within fourteen days of the date elections are held.

21. The following conditions shall apply to all advertisements—

Standard conditions.

- (a) any advertisement displayed and any site used for display of advertisement, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the planning authority;
- (b) any structure or hoarding erected or used principally for the purpose of displaying advertisements, shall be maintained in a safe condition;
- (c) no advertisement is to be displayed without permission of the owner of the site; and
- (d) introduction of illumination is a material change and requires permission.

PLUPA-DC-16

r (8, 9, 10)

APPLICATION FOR OUTDOOR ADVERTISEMENTS

Applicant detail

Name of the applicant

Postal Address

Physical Address

Telephone Number.....

Email.....

I/We

submit herewith an advertisement in a manner prescribed by the Building Code and PLUPA and any other written law

Type of advertisement/activity.....

Inside/Adjacent to LR. No.....

Name/ Area.....

Estate.....

Name of the Road/Nearest road.....

Coordinates.....

Advertisement Sizes (m).....

Advertisement Sides.....

Others.....

If a renewal previous license/ approval number.....

Sign Owner.....

Date.....

Director County Roads

County Director of Environment

NEMA

County Director of Trade

County Director of Energy

PLUPA DC-17

r (12. 1)

APPROVAL OF ADVERTISEMENT

Reference is made to your application Ref. No..... dated on the above-mentioned subject matter and your subsequent payment of Kshs.....in fees.

Authority is hereby granted to carry out the undermentioned advertisement on the reference plot/Road subject to you having received consent from the current owner/approval from the relevant authority, subject to the following conditions

However, you are required to ensure safety for the people and properties around the advertisement. You are required to indemnify the County Government of..... (having duly completed the indemnity form) against any claims that may arise from your negligence or acts of omission during the above works.

This letter granting permission to undertake the advertisement does not authorize alterations or additions to the structure and the plans.

This letter does not grant authority to change of use of the premises or interfere with any tenancy agreement between or among parties to the premises.

The county takes this opportunity to advise you that any deviation from the provision of this authority shall be an offence under this Act

Name.....

Designation.....

Signature.....

Date.....

COUNTY EXECUTIVE COMMITTEE MEMBER

PLUPA -DC-18

r. 14(2)

REMOVAL AND CLEANING OF ADVERTISEMENT MATERIAL AFTER EXPIRY
APPLICATION FOR FUNCTIONAL ADVERTISEMENTS

(1). Applicants Details

Name of the applicant.....

Postal Address

Physical Address

Telephone Number.....

Email.....

(2). In reference to your approval of advertisement issued under PLUPA DC- 17 on the
.....day of20.....

I/We..... commit
to remove and clean advertisement material used during.....
by the Day of20.....to the satisfaction of the approval authority
as per the set conditions

Sign (Applicant).....

Date.....

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

EXPLANATORY MEMORANDUM TO:

**THE PHYSICAL AND LAND USE PLANNING (PLANNING FEES)
REGULATIONS, 2021**

PART I

- Name of the Statutory Instrument** : The Physical and Land Use Planning (Planning Fees) Regulations, 2021
- Name of the Parent Act** : The Physical and Land Use Planning Act, No. 13 of 2019
- Enacted pursuant to** : Section 90 of the Physical and Land Use Planning Act, 2019
- Name of the Ministry/ Department** : Ministry of Lands and Physical Planning
- Gazetted on** : 26th November 2021
- Tabled on** :

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide for fees charged under the Physical and Land Use Planning Act, 2019.

2. Legislative Context

The development of the Physical and Land Use Planning (Planning Fees) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

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- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
 - a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

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- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
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 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
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13. Contact

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State Department for Physical Planning
Ministry of Lands and Physical Planning,
Ardhi House, 1st Ngong Avenue,
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NAIROBI

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SPECIAL ISSUE

1719

Kenya Gazette Supplement No. 216

26th November, 2021

(Legislative Supplement No. 97)

LEGAL NOTICE NO. 243

THE PHYSICAL AND LAND USE PLANNING ACT


(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (PLANNING FEES)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation.
- 2—Interpretation.
- 3—Object of the Regulations.
- 4—Determination of planning fees.
- 5—Planning fees of the National Government.
- 6—Planning fees of County Governments.
- 7—Waivers and variations.

 THE NATIONAL ASSEMBLY PAPERS LAID		
DATE: 02 DEC 2021 <table border="1" style="display: inline-table;"><tr><td style="text-align: center;">DAY.</td></tr></table>		DAY.
DAY.		
TABLED BY:		
CLERK-AT THE-TABLE:		

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (PLANNING FEES) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Planning Fees) Regulations, 2021

Citation.

2. In these Regulations, unless the content otherwise requires—

Interpretation.

“advisory plan” means a plan indicating the permitted subdivision, use and density of development;

“easement” has the meaning assigned to it in the Land Act, 2012;

“ordinary scheme” means development that—

- (a) does not exert demands on the existing infrastructure;
- (b) does not comprise of more than ten units; and
- (c) has one permitted use;

“part development plan” means a plan for the immediate implementation of a specific process including land alienation purposes;

“planning fees” means an amount payable for planning services;

“Planning Services” means services offered by a planning authority; and

“use” means any use of land for which development permission has been obtained.

3. The object of these Regulations is to provide for guidelines determining planning fees for services and processes under the Act.

Object of the Regulations.

4. (1) In determining planning fees chargeable for planning services, the planning authority shall be guided by the—

Determination of planning fees.

(a) principles of public finance set out in Article 201 of the Constitution;

(b) Articles 209 and 210 of the Constitution;

(c) Chapter Four of the Constitution; and

(d) the Access to Information Act, 2016.

(2) Planning fees shall be charged based on—

(a) the type of planning service being rendered;

(b) the actual cost of providing the planning service;

- (c) a subsidized provision of public goods and services;
- (d) the location, use and size of development;
- (e) the planning and land use zoning frameworks;
- (f) the unit cost;
- (g) the cost of the version, mode and making of copies of documents;
- (h) the cost of the sessions and pages of minutes of the session;
- (i) the cost of the certification of documents;
- (j) the type of installation, where the development is a communication mast;
- (k) whether the development or works are new, modifications or renovations;
- (l) in the case of enforcement, time for undertaking works, the technology required, risk factors, manpower, cost of transportation of materials from the site and unit cost for restoration per square meter; and
- (m) any other parameter that may be necessary in the circumstances.

5. (1) The national planning authority may impose planning fees for—

Planning fees of the National Government.

- (a) copies of national physical and land use plans and policies required by any person;
- (b) making applications for the preparation of the development plans for strategic national projects;
- (c) the sale of shape files for planning data;
- (d) copies of inter-county physical and land use plans and policies required by any person;
- (e) the scrutiny and sale of copies of the proceedings of the National Physical and Land Use Planning Consultative Forum;
- (f) the scrutiny and sale of copies of the proceedings of an Inter-County Joint Physical and Land Use Planning Committee;
- (g) the filing of making applications for appeal to the National Physical and Land Use Liaison Committee;
- (h) the scrutiny and sale of copies of minutes of the proceedings of the National Physical and Land Use Liaison Committee;
- (i) the vetting of applications for change of user or extension of user;
- (j) the inspection of sites;

- (k) the issuance of certificates of compliance; and
- (l) any other planning service offered in the performance of national government planning functions that Cabinet Secretary may designate by notice in the *Gazette*.

(2) A planning authority performing national government planning functions may impose the relevant planning fees set out in table 1 of the Schedule.

6. A planning authority performing county government planning functions shall charge planning fees for—

Planning fees of
County
Governments.

- (a) the sale of inter-county physical and land use plan and policies;
- (b) the sale of shape files for planning data;
- (c) the sale of copies of county physical and land use plans and policies;
- (d) the scrutiny and sale of proceedings of an Inter-County Joint Physical and Land Use Planning Committee;
- (e) the scrutiny and sale of proceedings of a County Physical and Land Use Planning Consultative Forum;
- (f) filing and making application for appeal to the County Physical and Land Use Liaison Committee;
- (g) the scrutiny and sale of the minutes of the proceedings of the County Physical and Land Use Liaison Committee;
- (h) the inspection of sites;
- (i) the vetting and approval of development applications;
- (j) the issuance of certificates of compliance;
- (k) the costs of enforcement; and
- (l) any other planning service offered in the performance of a county government planning functions, that the relevant County Executive Committee Member, in consultation with the respective County Director of Physical and Land Use planning, may deem necessary.

(2) A county planning authority may impose the relevant planning fees set out in table 2 of the Schedule.

7. (1) Subject to paragraph (2), a waiver or variation of planning fees shall be granted in accordance with the Public Finance Management Act, 2012 and section 63.

Waivers and
variations.

(2) The following may be exempted from payment of fees under these Regulations—

- (a) the surrender of land for public use;
- (b) the improvement of infrastructure for public use;
- (c) works by or on behalf of national security organs; or
- (d) where a land owner voluntarily permits imposition of

easements on the land owner's land under any written law.

SCHEDULE

TABLE 1

(r. 5(2))

PLANNING FEES FOR PLANNING SERVICES OFFERED BY THE NATIONAL GOVERNMENT

S/No.	Item Description	Unit of Measure/charge	Paper copy	Electronic copy	Certification of Copies
	Sale of Copies of National Physical and Land Use Plans and Policies				
1.	National Physical and Land Use Plan (Full version)	Per copy	2500	No charge	500 per copy
2.	National Physical and Land Use Plan (Popular version)	Per copy	No charge	No charge	500 per copy
3.	National Land Use Policy (Full version)	Per copy	1000	No charge	500 per copy
4.	National Land Use Policy (popular version)	Per copy	No charge	No charge	500 per copy
5.	Inter County Physical and Land use plans	Per copy	1000	No charge	500 per copy
6.	Inter County Physical and Land use plans (popular version)	Per copy	No charge	No charge	500 per copy
7.	Sale of shape files	Per theme	-	500 per layer	Not applicable
8.	Sale of prints of graphical plans per copy	Size	Colour	Black & White	Blue Print
		A ₀	3000	1000	1500
		A ₁	2500	1200	1200
		A ₂	2000	1000	1000
		A ₃	1000	500	500
	A ₄	500	200	200	
9.	Certification of downloaded prints of plans	Per copy	500	Not applicable	-
10.	Proceedings of National Physical and Land Use Consultative Forum	Per copy	50 per page	No charge	500
11.	Proceedings of Inter-County Joint Physical and Land Use Planning Committee	Per copy	50 per page	No charge	500
S/No.	Item Description	Unit of Measure	Charges (KSh.)		
	Processing of Development Applications				
12.	Application for Development Permission for National	Per application	5000		

S/No.	Item Description	Unit of Measure	Charges (KSh.)
	Strategic projects		
13.	Site inspection fee	Per visit within the locality	Cities-3,000 Municipalities-1,000 Towns, markets and other areas - 500 Special Economic Zone- 5000 Territorial Sea and Exclusive Economic Zone- 10,000
14.	Certificate of compliance	Per copy	Cities-2,000 Municipalities-1,000 Towns, markets and other areas -500 Special Economic Zone- 3000 Territorial Sea and Exclusive Economic Zone- 5,000
15.	Vetting of applications for change of user or extension of user	Per application	3,000
16.	Vetting of sub-division	Per plot	500
	Appeal fees and Checking fees for National Physical and Land Use Planning Liaison Committee		
17.	Appeal to National Physical and Land Use Planning Liaison Committee	Per application	2000
18.	Amendment of appeal to National Physical and Land Use Planning Liaison Committee	Per application	1000
19.	Obtaining extracts of Register of appeals to the National Physical and Land Use Planning Liaison Committee	Per copy	1,000
20.	Obtaining copies of minutes of the National Physical and Land Use Planning Liaison Committee	Per page	50
21.	Certification of copies of minutes of National Physical and Land Use Planning Liaison Committee	Per set of minutes	500

TABLE 2

(r. 6(2))

PLANNING FEES FOR PLANNING SERVICES OFFERED BY A COUNTY GOVERNMENT

S/No.	Item Description	Unit of Measure/ Charge	Paper Copy	Electronic Copy	Certification of Copies
Sale of Copies of Physical and Land use plans/ Policy					
1.	Inter-County Physical and Land use plans (Full version)	Per copy	1000	No charge	500
2.	Inter-County Physical and Land use plans (popular version)	Per copy	No charge	No charge	500
3.	County Physical and Land use plans (full version)	Per copy	2000	No charge	500
4.	Sale of shape file	Per theme	-	500 per layer	Not applicable
5.	Sale of prints of graphical plans per copy	Size	Colour	Black & White	Blue Print
		A ₀	3000	1500	1500
		A ₁	2500	1200	1200
		A ₂	2000	1000	1000
		A ₃	1000	500	500
	A ₄	500	200	200	
6.	Certification of downloaded prints of plans	Per copy	500	Not applicable	-

S/No.	Item Description	Unit of Measure	Sub-Units	Charges (KSh.)
Acquiring Forms and Certificates for Development Permission				
7.	Application for Development Permission (Form PLUPA/DC/1.....)	Per Form	-	1000
8.	Submission Certificate (Form PLUPA.....)	Per application		1000
9.	Certificate of compliance	Per application		Cities-2,000 Municipalities-1,500 Towns, markets and other areas -1000
10.	Certificate of occupation	Per application		Cities-3,000 Municipalities-2,000

				Towns and other areas -1000
Processing Development Applications				
11.	Site inspection fee	Per visit		Cities-4,000 Municipalities-3,000 Towns, markets and other areas -2000
12.	Processing fee for subdivisions	No. of Plots	1-10	500
			11-20	400
			21-50	300
			51 and above	200
13.	Processing fee for building plans	Floor area(sq. M)		100 per square metre
14.	Processing fee for perimeter wall	Type of material	Stone	100 per linear meter
			Electric	
			Wooded	50 per linear meter
			Chain link	
			Iron sheets	
			Barbed wire/razor wire	
15.	Processing fee for change of user /extension of user	User		5000
16.	Processing fee for communication masts e.g Base Transmission Stations, radio and television frequency transmission sites	Per Mast		25000
17.	Processing fee for advertisement	Siting and design of advertisement	On road reserve	As per the Roads Act No.2 of 2007
			Within private property	20,000 per annum
			Within public land under County Government	20,000 –one off for installation 20,000–per annum standing fee
			Hanging signs	3000 per square metre
			On buildings	3000 per square metre
		Type /Size in square meters	Bill boards /Wall wraps	
			First 3 square metres	15,000
			Additional square metre	4,000 per square metre
	Multi directional signs			

			First 3 square metres	5500
			Additional square metre	2000 per square metre
			LED Screen	
			First 3 square metres	13000 monthly
			Additional square metre	1500 monthly per square metre
18.	Processing fee for fibre optic cables	Length		100 per metre
Appeal fees and Checking fees for Physical and Land Use Liaison Committee				
19.	Appeals to County Physical and Land Use Planning Liaison Committee	Per application	-	2,000
20.	Obtaining extracts of register for appeals to County Physical and Land Use Planning Liaison Committee	Per copy	-	500
21.	Obtaining copies of minutes of the County Physical and Land Use Planning Liaison Committee	Per page	-	50
22.	Amendment of appeal to County Physical and Land Use Planning Liaison Committee	Per application	-	1,000
23.	Certification of copies of minutes of County Physical and Land Use Planning Liaison Committee	Per set of minutes	-	500

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 244

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

1—Citation

2—Interpretation

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (THE INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

PART I

- Name of the Statutory Instrument** : The Physical and Land Use Planning (The Inter-County Physical and Land Use Development Plan) Regulations, 2021
- Name of the Parent Act** : The Physical and Land Use Planning Act, No. 13 of 2019
- Enacted pursuant to** : Section 90 of the Physical and Land Use Planning Act, 2019
- Name of the Ministry/ Department** : Ministry of Lands and Physical Planning
- Gazetted on** : 26th November 2021
- Tabled on** :

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide a framework for establishment of Inter-County Joint Physical and Land Use Planning Committees, scope and process of preparation and approval of Inter-County Physical and Land Use Development Plans under the Physical and Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26/11/2021	BY: [Signature]
TABLED	
CLERK-AT THE-TABLE:	Kalana

2. Legislative Context

The development of the Physical and Land Use Planning (The Inter-County Physical and Land Use Development Plan) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations

under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
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Tel: (+254)722691843

Email: augustine.masinde@ardhi.go.ke.

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Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 244

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)



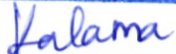
THE PHYSICAL AND LAND USE PLANNING (INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

1—Citation

2—Interpretation

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	
DAY:	
TABLED BY:	
CLERK-AT THE-TABLE:	

- 3—Application
- 4—Object of the Regulations
- 5—Period with which actions, notices, publications, etc. are to be executed
- 6—National security
- 7—Role of Director-General
- 8—Quorum
- 9—Delimitation of the Planning Area
- 10—Notice of intention to plan
- 11—Public participation
- 12—Notice of Completion
- 13—Circulation of draft plan for comments
- 14—Review of comments
- 15—Appeals
- 16—Certification by the Director-General
- 17—Status report

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (INTER-COUNTY PHYSICAL AND LAND DEVELOPMENT PLAN) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Inter-County Physical and Land Use Development Plan) Regulations, 2021. Citation.
2. In these Regulations, unless the content otherwise requires— Interpretation.

“Commission” means the National Land Commission established under Article 67 of the Constitution;

“Committee” means an Inter-County Joint Physical and Land Use Planning Committee established under section 29 of the Act; and

“Liaison Committee” means the National Physical and Land Use Planning Liaison Committee.
3. These Regulations shall apply to all inter-county physical and land use development plans. Application.
4. The object of these Regulations is to provide for procedures, standards, guidelines and prescribed Forms for preparation of Inter-County Physical and Land Use Development Plans for inter-county projects under sections 33 and 69 (2) of the Act. Object of the Regulations.
5. Actions, notices, publications and any other matters provided for under the Act and these Regulations shall be executed within the specified period, unless such period is extended in accordance with the Act and these Regulations. Period with which actions, notices, publications, etc. are to be executed.
6. (1) Where an inter-county physical and land use development plan touches on, relates to, borders, involves or in any way affects a national security installationsafeguarded areas or any aspect of national security, the Cabinet Secretary shall seek the input of the National Security Council during the making of the plan. National security.

(2) The National Security Council shall comment on any plan submitted to it within a period of sixty days from the date of receiving the plan from the Cabinet Secretary.

(3) Any inter-county physical and land use development plan that touches on, relates to, borders, involves or in any way affects an area under a strategic national installation and project, as stipulated in section 13 (g) and the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019, shall be prepared in consultation with the respective institution.

(4) For the purposes of these Regulations, security organs shall be exempt from any form of publication required under these

Regulations where the said plans touch on, relate to, border, involve or in any way affect the said security organs.

7. (1) The Director-General shall—

Role of Director-General.

- (a) convene the first meeting in consultation with the other members of the Committee as provided in section 29 (6);
- (b) co-ordinate meetings and provide secretariat services to the Committee as provided in section 29 (7);
- (c) offer expertise on matters of physical and land use planning;
- (d) co-ordinate the preparation of inter-county physical and land use development plan;
- (e) undertake capacity building and technical support for county planning authority; and
- (f) vote on any matter, subject to the rules agreed upon by the Joint Committee.

(2) The secretariat services referred to in section 29 (7) and subregulation (1) (b) shall include the following—

- (a) keeping records of the meetings of the Committee;
- (b) consulting with the Chairperson on the order of business and agenda;
- (c) ensuring that the notice of the meeting and that copies of the agenda are prepared;
- (d) circulating to all members any material to be discussed at the upcoming meetings;
- (e) reading the minutes of the previous meeting, and if they are approved, obtaining the Chairperson's signature on them;
- (f) reporting on action or matters arising from the previous minutes and reading any important correspondence that has been received;
- (g) taking notes of the meeting, recording the key points and making sure that decisions and proposals are recorded, and the name of the person or group responsible for carrying out any decisions;
- (h) ensuring that the Chairperson is supplied with all the necessary information for items on the agenda, and reminding the Chairperson if an item has been overlooked;
- (i) preparing a draft of the minutes and consulting the Chairperson for approval;
- (j) sending a reminder notice of each decision requiring action to the relevant person;
- (k) promptly sending all correspondence as decided by the Joint Committee; and
- (l) any other role that may be assigned by the Committee.

8. The quorum for the meetings of the Inter-County Joint Physical and Land Use Planning Committee shall be all the County Executive Committee Members responsible for physical and land use planning of respective counties and the Director-General. Quorum.
9. (1) In defining the scope and the geographic area of the plan, the Committee shall delimit a planning area guided by the physiographic characteristics, administrative boundaries, electoral units, agro-ecological zones and planning projections. Delimitation of the Planning Area.
- (2) The Committee may on its own initiative or by a proposal submitted to it outsource physical and land use planning consultancy and other services in accordance with the relevant public procurement laws for the time being in force.
- (3) Outsourced physical and land use planning consultancy and other services shall be submitted to the Committee through the Director-General for scrutiny and authentication and shall remain the joint property of the counties.
10. (1) The Committee shall publish a notice of intention to prepare an inter-county physical and land use plan in Form PLUPA IC-1 of the First Schedule. Notice of intention to plan.
- (2) Notwithstanding any form of publication for the intention to prepare an inter-county physical and land use development plan, sensitization fora shall be conducted for members of the public to create awareness where the circumstances so permit.
11. (1) In the preparation of the inter-county physical and land use development plan, the Committee shall convene a meeting or a series of meetings in which stakeholders and other parties affected by the planning process will be allowed to participate and give their views and suggestions. Public participation.
- (2) The purpose of the meeting convened under subregulation (1) shall be to—
- (a) sensitize the public and develop consensus on the objectives of the plan;
 - (b) create awareness; and
 - (c) identify issues, problems and challenges with a view to developing proposals to address, mitigate or otherwise resolve the issues.
- (3) In order to facilitate the effective participation of stakeholders, the Committee shall identify key stakeholders and their interests and assess potential impacts of the plan on the stakeholders.
12. The Committee shall publish a notice of completion to prepare an inter-county physical and land use plan in Form PLUPA IC-2 as set out in the First Schedule herein. Notice of Completion.
13. (1) The draft inter-county physical and land use development plan shall be circulated to ministries, departments, public agencies, Circulation of draft plan for comments

statutory bodies, academic institutions, research institutions, and the private sector for comments.

(2) Comments on the draft plan from circulation and publication shall be submitted to the Director-General in paper and electronic form within sixty days of circulation and publication.

14. In dealing with comments and other representations from the public with regard to the draft inter-county physical and land use development plan, the Committee may—

Review of comments.

- (a) wholly incorporate the comments or representations into the plan;
- (b) partially incorporate the comments or representations into the plan; or
- (c) altogether decline to incorporate comments or representations with reasons.

15. (1) Notwithstanding the provisions of section 32 (4) of the Act, the Committee may agree on an alternative dispute resolution method for any disagreement arising within the Committee or between a third party in relation to any action, omission or other matter relating to the plan before the matter is escalated to the Liaison Committee.

Appeals.

(2) The appeal to the Liaison Committee shall be made in Form PLUPA IC-3 as set out in the First Schedule, setting out the grounds and the reliefs sought.

(3) The Liaison Committee shall consider the appeal and communicate its decision to the dissatisfied party in writing, through the same channel which the application for appeal was received and copied to the Committee and the Commission.

(4) Any person dissatisfied with the decision of the Liaison Committee may, within fourteen days of the decision, appeal to the Environment and Land Court.

16. The Director-General shall issue a certificate in Form PLUPA IC-4 as set out in the First Schedule, confirming that the relevant county assemblies have approved the inter-county physical and land use development plan.

Certification by the Director-General.

17. (1) Every county executive committee member of a County covered by an Inter-County physical and land use development plan shall submit a report on the implementation of the Inter-County Physical and Land Use Development Plan to the Commission and the Cabinet Secretary at least three months before the end of every financial year

Status report.

(2) The report shall contain the details set out in the Second Schedule.

PLUPA IC-1

R10(1)

FIRST SCHEDULE
REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE AN INTER- COUNTY PHYSICAL AND
LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 31(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the Inter-County Physical and Land Use Planning Joint Committee from the Counties of

^{1*} intends to prepare the above Plan with effect from the day of20.....

The Inter-County Physical and Land Use Planning Joint Committee constitutes the following members from the corresponding counties:

Name	ID No	County
.....
.....
.....

The reason for establishing the Inter-County Physical and Land Use Planning Joint Committee is.....

Comments on the proposed plan may be directed to the Inter-County Physical and Land Use Planning Joint Committee's address at

^{2*} not later thanday of.....20.....^{3*}

Dated the, 20.....

Chairperson, Inter-County Joint Committee.

Notes—
^{1*}state the names of the counties involved in the inter-county development plan.
^{2*} provide address as appropriate.
^{3*} provide timeline.

PLUPA IC-2

R.12

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF INTER - COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section 32(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Inter-County Physical and Land Use Development Plan was on theday of.....20.....completed.

The Plan relates to land situated within.....

A copy of the plan as prepared has been deposited for public inspection free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to^{2*} and such representations or comments the grounds upon which they are made not later than the day of.....20^{3*}

Dated this day of 20.....

Chairperson, Inter-County Joint Committee.

Notes—

^{1*} provide details of the Joint Committee's address and if electronic, give name and link to website.

^{2*} provide details of the Joint Committee's address and if electronic, give name and link to website.

^{3*} provide a 14-day window.

PLUPA IC-3

R15(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST A DECISION OF AN INTER-COUNTY PHYSICAL AND LAND USE PLANNING JOINT COMMITTEE

(To be filled in triplicate)

Title of Development Plan

To: The Secretary

National Physical and Land Use Planning Liaison Committee

Pursuant to the provisions of section 32(4) of the Physical and Land Use Planning Act, 2019, I/We^{1*}, of P.O. Box appeal against the decision made by the Inter-County Physical and Land Use Planning Joint Committee of the counties of^{2*}, regarding the above Plan.

My/our grounds for appeal are as follows:

- (a)
(b)
(c)^{3*}

The reliefs I/we seek are:

- (a)
(b)
(c)^{4*}

Dated thisday of 20

Signature.....^{5*}

Notes-

- 1*Insert name of complainant/appellant.
2*Delete as necessary.
3*Please attach additional written text if space is insufficient.
4*Please attach additional written text if space is insufficient.
5* Insert name and signature of Authorised signatory of complainant/appellant.

PLUPA IC-4

R.16

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

CERTIFICATE OF APPROVAL OF AN INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN BY COUNTY ASSEMBLIES

Title of the Plan.....

Pursuant to the provisions of section 33(1) of the Physical and Land Use Planning Act, 2019, this is to CERTIFY that the County Assemblies of.....^{1*} have issued the approval in respect of the Plan enclosed herewith known as.....^{2*}

Dated this.....day of.....20.....

Issued By.....^{3*}

Director-General

Department Seal^{4*}

Notes—

^{1*}Names of Counties

^{2*}Insert title of Plan

^{3*}Name of the Director-General

^{4*}Seal of the Director-General

R.17(2)

SECOND SCHEDULE

The content of the implementation report on an Inter-County physical and land use development shall include:

1. Strategic projects
2. Coordination framework
3. Financing strategy
4. Communication strategy
5. Community participation framework
6. Capacity building
7. Implementation framework
8. Monitoring and Evaluation mechanisms

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 245

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING
(DEVELOPMENT CONTROL FOR INTER-COUNTY
PROJECTS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Citation
- 2— Interpretation
- 3— Objects of the Regulations

PART II— DEVELOPMENT CONTROL FOR INTER-COUNTY
PROJECTS

- 4— Preliminary conceptual application
- 5— Establishment of an Inter-County Physical Planning and Land Use Joint Committee
- 6— Scope of Inter-County Project Proposal
- 7— Notice of intention to prepare Inter-County Project proposal
- 8— Public participation

EXPLANATORY MEMORANDUM TO:

**THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL
FOR INTER-COUNTY PROJECTS) REGULATIONS, 2021**


PART I

- Name of the Statutory Instrument** : The Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2021
- Name of the Parent Act** : The Physical and Land Use Planning Act, No. 13 of 2019
- Enacted pursuant to** : Section 90 of the Physical and Land Use Planning Act, 2019
- Name of the Ministry/ Department** : Ministry of Lands and Physical Planning
- Gazetted on** : 26th November 2021
- Tabled on** :

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide procedure for processing development applications for Inter-County projects under section 69(2) as read with 33 of the Physical Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	DAY:
TABLED BY:	<i>com</i>
CLERK-AT THE-TABLE:	<i>Kalama</i>

2. Legislative Context

The development of the Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations

under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
- a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
- a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.

- c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.
 - d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.

11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.

11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.

12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.

12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
State Department for Physical Planning
Ministry of Lands and Physical Planning
Ardhi House, 1st Ngong Avenue,
P. O. Box 45025-00100,
NAIROBI

Tel: (+254)722691843

Email: augustine.masinde@ardhi.go.ke.

R.17(2)

SECOND SCHEDULE

The content of the implementation report on an Inter-County physical and land use development shall include:

1. Strategic projects
2. Coordination framework
3. Financing strategy
4. Communication strategy
5. Community participation framework
6. Capacity building
7. Implementation framework
8. Monitoring and Evaluation mechanisms

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 245

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING
(DEVELOPMENT CONTROL FOR INTER-COUNTY
PROJECTS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS


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- 1—Citation
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- 4— Preliminary conceptual application
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- 6— Scope of Inter-County Project Proposal
- 7— Notice of intention to prepare Inter-County Project proposal
- 8— Public participation

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CLERK-AT THE-TABLE:	

- 9— Notice of and objections to an Inter-County project proposal
- 10— Appeals
- 11— Application for approval of Inter-County Project Proposal
- 12— Coordination and Certification of approved inter-county project proposal
- 13— Implementation of the approved Inter-County project proposal

PART III— ENFORCEMENT

- 14— Monitoring
- 15— Compliance

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2021. Citation.

2. In these Regulations, unless the content otherwise requires— Interpretation.

“Inter-County Project” means a project carried out for the realization of development objectives for a geographical area covering two or more counties or parts thereof;

“Joint Committee” means the Inter-County Joint Physical and Land Use Planning Committee established for the purpose of formulation of an Inter-County Physical and Land Use Development Plan and for connected purposes under section 29; and

“reservation of land” means setting aside land for one or more purpose in the public interest.

3. The object of these Regulations is to provide for the procedures, standards, guidelines and prescribed forms for processing development control applications for inter-county projects under sections 33 and 69 (2). Object of the Regulations.

PART II—DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS

4. (1) Where public land is required for an inter-county project, the relevant ministry, department, state corporations and county governments shall apply to the Commission for reservation of such land. Reservation of land for Inter-County Projects.

(2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of an inter-county physical land use development plan

(3) The Commission shall register any public land reserved for a strategic national project under these regulations in accordance with the Land Registration Act, 2012, and publish in the *Gazette* a list of any reserved land.

(4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

(5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Liaison Committee.

5. (1) Where two or more counties are seeking to undertake an inter-county development project, they shall submit a project proposal and preliminary plans both in paper and electronic form to the Cabinet Secretary for consideration.

Preliminary conceptual application.

(2) The Cabinet Secretary shall within thirty days after receipt of the project proposal and preliminary plans under subregulation (1), issue an advisory or convene a meeting with the respective counties for further consultations.

6. An inter-county project proposal shall define the scope of the project and geographical area to which the project relates.

Scope of Inter-County Project Proposal.

7 (1) The Joint Committee shall publish a notice in the *gazette* and in at least two newspapers of national circulation in English and Kiswahili and electronic media informing the public of the intention to prepare an inter-county project proposal and request for submission of comments within thirty days.

Notice of intention to prepare Inter-County Project proposal.

(2) The Joint Committee shall within thirty days upon receipt of comments sought under subregulation (1) consider the comments and may incorporate them in the inter-county project proposal.

(3) The Joint Committee shall prepare and complete the inter-county project proposal within ninety days from the time notice of intention to prepare the inter-county project proposal is published.

(4) The Joint Committee may on its own motion extend the period under subregulation (1) by a period not exceeding thirty days.

8. The Joint Committee shall consult, consider the input of the National Security Council, publish and hold stakeholders' meetings during the preparation of the inter-county project proposal.

Public participation.

9. (1) Within thirty days of completion of the inter-county project proposal, the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances informing the public that—

Notice of completion of an Inter-County project proposal.

- (a) the complete inter-county project proposal is available at the place and time specified in the notice for inspection; and
- (b) any interested person may within fourteen days comment on the content of the project proposal.

(2) The Joint Committee shall within twenty-one days of the expiry of the notice period consider the submitted comments and may incorporate the comments in the inter-county project proposal.

(3) Within seven days of making the decision under subregulation (2), the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation and in such other manner as may be expedient in the circumstances informing the public that—

- (a) a decision on the comments received under this regulation has been made; and
- (b) the reviewed draft inter-county project proposal is available for perusal at the place and time specified in the notice.

10. (1) A person dissatisfied with the decision of the Joint Committee may appeal to the National Physical and Land Use Planning Liaison Committee within fourteen days. Appeals.

(2) The National Physical and Land Use Planning Liaison committee shall hear and determine the application within sixty days of receipt of the application.

(3) A person dissatisfied with the decision of the National Physical and Land Use Planning Liaison Committee may within fourteen days of the decision appeal to the Environment and Land Court.

11. (1) The Joint Committee shall submit the inter-county project proposal to the respective County Executive Committee Member. within twenty-one days of completion of the proposal. Application for approval of Inter-County Project Proposal.

(2) The respective County Executive Committee Member shall within fourteen days of receipt of the inter-county project proposal separately submit the inter-county project proposal to the respective County Executive Committees for consideration and onward submission to the respective county assemblies for approval.

(3) The respective Governors participating in an inter-county project shall separately submit the inter-county project proposal to respective County Assemblies for approval.

(4) The Inter-County Project Proposal shall be submitted in the following format—

- (a) each document shall be paginated;
- (b) documents sent in electronic form shall be in PDF format;
- (c) all plans shall be geo-referenced; and
- (d) digital plans shall be embedded with a digital certification by the author.

12. (1) Upon presentation of the completed inter-county project proposal to the respective county assemblies, each county assembly may— Approval by county assemblies.

- (a) approve it in whole;
- (b) approve it with amendments; or
- (c) reject it in whole.

(2) Where a county assembly approves the proposal in whole, it shall notify the County Executive Committee Member in writing of the approval and the County Executive Committee member shall notify the Director-General of the approval in writing.

(3) Where a county assembly approves a proposal with amendments—

- (a) the county assembly shall notify the County Executive Committee Member in writing of the approval, specifying the amendments required to be made to the proposal;
- (b) the County Executive Committee member shall notify the Director-General of the county assembly's approval in writing, and specify the areas that the county assembly has recommended the proposal should be amended; and
- (c) within fourteen days after receiving the notification under paragraph (b), the Director-General shall submit the recommendations of the county assembly to the Joint Committee for consideration.

(4) Where a county assembly rejects a proposal in whole—

- (a) the county assembly shall notify the County Executive Committee Member in writing, specifying the reasons for the rejection in the notification;
- (b) the County Executive Committee Member shall forward the county assembly's notification under paragraph (a) to the Director-General;
- (c) within thirty days after receiving the county assembly's notification under paragraph (b), the Director-General shall convene a meeting for the Joint Committee to consider the reasons for the county assembly's rejection of the proposal, rectify the proposal and resubmit the revised proposal to the county assembly within a period of sixty days.

(5) The county assembly shall notify in writing the County Executive Committee Member of the decision made under subregulations (2), (3) and (4) within sixty days after the decisions have been made.

13. Within thirty days after the approval of an Inter-County Project Proposal, the Director-General shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances the approval of the inter-county project proposal specifying in the notice the place and time the proposal shall be available to the public for inspection.

Notice of
Approval of the
Inter-County
Project Proposal.

14. (1) The inter-county project proposal contemplated in section 29 (1) of the Act shall be implemented subject to the governors of the relevant counties convening to consider and adopt the inter-county project proposal at a meeting organized by the Joint Committee.

Implementation of
the approved
Inter-County
project proposal.

(2) The approved inter-county project proposal shall be deposited with the respective County Director of Physical and Land Use Planning who shall submit certified copies of the inter-county proposal to the Director-General and the Commission.

PART III—COMPLIANCE

15. The respective County Executive Committee Member of a county participating in the implementation of an Inter-County Project shall ensure that the development permission conditions set out in the approved Inter-County Project Proposal are enforced within the respective County's jurisdiction in line with the approved Inter-County Physical and Land Use Development Plan. Monitoring.

16. (1) Every county executive committee member in respect of a county covered by an Inter-County Project shall submit a report on the implementation of the projects to the Commission and the Cabinet Secretary at least three months before the end of a financial year. Compliance.

(2) The Cabinet Secretary on his own motion or on the basis of a status report submitted under subregulation (1) may convene a consultative meeting of the Joint Committee if it comes to the notice of the Cabinet Secretary that—

- (a) two or more counties have commenced an inter-county development project without an approved inter-county project proposal;
- (b) the approved inter-county development project does not comply with the conditions of its approval; or
- (c) the approved inter-county development project is incompatible with the approved National Physical and Land Use Plan.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 246

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL FOR STRATEGIC NATIONAL PROJECTS)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Objects
- 4—Reservation of public land for strategic national projects
- 5—Plans may specify land to be acquired for strategic national projects

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR STRATEGIC NATIONAL PROJECTS) REGULATIONS, 2021

PART I

Name of the Statutory Instrument : The Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2021


Name of the Parent Act : The Physical and Land Use Planning Act, No. 13 of 2019

Enacted pursuant to : Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical Planning

Gazetted on : 26th November 2021

Tabled on

26 th November 2021	
 THE NATIONAL ASSEMBLY PAPERS LAID	
PART II	
DATE: 02 DEC 2021	DAY:
TABLED BY: LOM	
SIGNED BY:	
THE TABLE:	

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide procedure for processing development applications for Strategic National Projects under section 69(4) of the Physical Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
- a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.

- d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.

11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.

11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.

12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.

12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

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Ministry of Lands and Physical Planning
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NAIROBI

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Email: augustine.masinde@ardhi.go.ke

PART III—COMPLIANCE

15. The respective County Executive Committee Member of a county participating in the implementation of an Inter-County Project shall ensure that the development permission conditions set out in the approved Inter-County Project Proposal are enforced within the respective County's jurisdiction in line with the approved Inter-County Physical and Land Use Development Plan. Monitoring.

16. (1) Every county executive committee member in respect of a county covered by an Inter-County Project shall submit a report on the implementation of the projects to the Commission and the Cabinet Secretary at least three months before the end of a financial year. Compliance.

(2) The Cabinet Secretary on his own motion or on the basis of a status report submitted under subregulation (1) may convene a consultative meeting of the Joint Committee if it comes to the notice of the Cabinet Secretary that—

- (a) two or more counties have commenced an inter-county development project without an approved inter-county project proposal;
- (b) the approved inter-county development project does not comply with the conditions of its approval; or
- (c) the approved inter-county development project is incompatible with the approved National Physical and Land Use Plan.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 246

THE PHYSICAL AND LAND USE PLANNING ACT

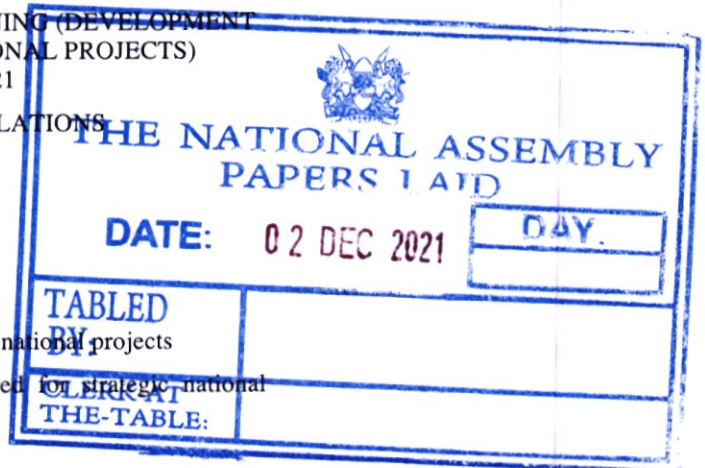
(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL FOR STRATEGIC NATIONAL PROJECTS)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Objects
- 4—Reservation of public land for strategic national projects
- 5—Plans may specify land to be acquired for strategic national projects



- 6—Preliminary conceptual application
- 7—Application for development permission
- 8—Determination of applications for development permission
- 9—Appeals
- 10—Exemptions
- 11—Certificate of compliance
- 12—Certificate of occupancy
- 13—Monitoring
- 14—Enforcement notices
- 15—Appeals
- 16—Public participation

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR STRATEGIC NATIONAL PROJECTS) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2021. Citation.

2. In these Regulations, unless the content otherwise requires— Interpretation.

“Certificate of Compliance” is a certificate issued by the Director-General with the approval of the Cabinet Secretary confirming a development’s adherence to approved development permission conditions and approved plans;

“Certificate of Occupancy” means a certificate issued by the State Department responsible for public works confirming a building’s compliance with applicable building codes and other laws, and indicating it to be in conditions suitable for occupancy;

“Commission” means National Land Commission established under Article 67 of the Constitution;

“Court” means the Environment and Land Court established under section 4 of the Environment and Land Court Act, 2011;

“developer” means a ministry, department, agency or state corporation, county government; or private entity;

“electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

“Forum” means the National Physical and Land Use Forum established under section 6 of the Act;

“National Liaison Committee” means the National Physical and Land Use Planning Liaison Committee established under section 73 of the Act;

“strategic installation” means any installation that is—

- (a) classified as a strategic installation under the Act;
- (b) declared to be a strategic installation by the Cabinet Secretary under these Regulations; or
- (c) developed in a strategic national project; and

“strategic national project” means a project identified as a strategic national project by the national or a county government under the Act, the Intergovernmental Relations Act, 2012, and any other relevant written law.

3. The object of these Regulations is to provide procedures for the processing of development applications for strategic national projects under section 69 (4). Object of the Regulations.

4. (1) Where public land is required for a strategic national project, the relevant ministry, department, state corporation or county governments shall apply to the Commission for reservation of the land.

Reservation of land for strategic national or inter-county projects.

(2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of a national physical land use development plan or county physical land use development plan.

(3) The Commission shall register all public land reserved for a strategic national project under this regulation in accordance with the Land Registration Act, 2012, and publish in the *Gazette* a list of the reserved land.

(4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

(5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Liaison Committee within fourteen days.

5. In addition to the matters specified in the First and Second Schedules to the Act, the National Physical and Land Use Development Plan, an Inter-County Physical and Land Use Development Plan, a County Physical and Land Use Development Plan, a Local Physical and Land Use Development Plan and a Special Area Physical and Land Use Development Plan may indicate land that may be acquired for a strategic national project.

Plans may specify land to be acquired for strategic national projects.

6. (1) Where a public institution intends to undertake a strategic national project, the institution shall submit a concept paper and preliminary plans to the Cabinet Secretary for consideration and input.

Preliminary conceptual application.

(2) The Cabinet Secretary shall within thirty days upon receipt of the application, issue an advisory or refer it to the National Physical and Land Use Planning Consultative Forum for further consultations.

3. The Forum may consider and adopt the concept paper within thirty days.

7. (1) Where an advisory has been issued under regulation 6, the applicant may submit a detailed application in electronic form to the Cabinet Secretary.

Application for development permission.

(2) Within seven days of submission in electronic form, the applicant shall submit hard copies of the application and relevant documents to the Cabinet Secretary in Form PLUPA DC-13 as set out in the First Schedule.

(3) The application shall be submitted in the following format—

- (a) each document shall be paginated;
- (b) all plans shall be Geo-referenced; and
- (c) any digital plans shall—

- (i) have an electronic signature of the author of the plans;
- (ii) be in PDF format;
- (iii) not be password protected;
- (iv) be capable of being reproduced in A4 paper size while retaining sufficient accuracy and detail for the purposes of these Regulations;
- (v) be limited to 25 Mb per file except geo-database or shapefile and
- (vi) have images with a resolution of not less than 1200 printer dots per inch.

(4) Upon receipt of the application and within fourteen days, the Cabinet Secretary shall cause the Director-General to circulate the application to the following authorities for comments—

- (a) the County Executive Committee Member responsible for Physical and Land Use Planning in the respective County;
- (b) the Chief Architect responsible for National Public Works;
- (c) the Chief Engineer responsible for National Public Works;
- (d) the Chairman of the National Land Commission;
- (e) the Director-General of the National Environment Management Authority;
- (f) the Director-General of Medical Services;
- (g) the Director-General of the relevant roads' authority established under the Kenya Roads Board Act;
- (h) the Managing Director of the Kenya Railways Corporation;
- (i) the Director-General of the Kenya Civil Aviation Authority;
- (j) the Managing Director of the Kenya Airports Authority;
- (k) the National Director of Surveys;
- (l) the National Director of Land Administration;
- (m) the chairperson of the Community Land Management Committee in the relevant county; and
- (n) any other relevant authority.

(5) The authorities shall submit their comments to the Director-General within thirty days of receipt of the application in regulation 4.

(6) The Director-General shall publish in the *Gazette* and in at least two newspapers of national circulation and electronic media a notice informing the public of the intention to undertake a strategic national project and comments thereon within thirty days of the date of the notice.

(7) In consultation with the respective County Executive Committee Member, the Director-General shall convene public hearings to consider the strategic national project and receive comments within thirty days of publishing a notice in the *Gazette* under paragraph (6)

(8) The Director-General shall convene a technical committee to consider the input received under paragraph (6) and submit comments which shall include persons who are—

- (a) knowledgeable about the strategic operational nature of Strategic National Project;
- (b) understand the economic value and importance of National Strategic National Project; and
- (c) in possession of an appropriate qualification and relevant experience in the field of expertise.

(9) Upon receipt of comments from the technical committee under paragraph (8), the Director-General shall prepare a technical advisory report and submit to the Cabinet Secretary within thirty days.

8. (1) Upon receipt of the technical advisory report from the Director-General under regulation 7 (9), the Cabinet Secretary shall with reasons consider and—

- (a) approve the application;
- (b) defer the application; or
- (c) reject the application.

Determination of applications for development permission.

(2) The applicant shall be notified in form PLUPA DC-17 the decision within seven days.

(3) Within seven days of making the decision to approve or reject the application under regulation 8 (1) the Cabinet Secretary shall publish a notice of approval or rejection in the *Gazette* and in at least two newspapers of national circulation informing the public of the decision and specify the reasons thereof.

(4) The Cabinet Secretary shall notify in writing the relevant institutions and agencies including the respective County Executive Committee Member of the approval or rejection.

9. Any party aggrieved with the decision by the Cabinet Secretary for development permission under these regulations may appeal within fourteen days to National Liaison Committee in writing.

Appeals.

10. These Regulations shall not apply to developments specified under section 70 of the Act

Exemptions.

11. The Director-General, with the approval of the Cabinet Secretary, shall issue a certificate of compliance in Form PLUPA/DC/18 to the developer where—

Certificate of compliance.

- (a) an approved development has been completed; and
- (b) the development has adhered to the approval conditions and the approved Physical and Land Use Development plans.

12. The State Department responsible for public works may, subject to issuance of certificate of compliance under regulation 11, issue a certificate of occupancy to the developer confirming that a building is suitable for occupation.

Certificate of occupancy.

13. (1) A developer that receives development permission for a strategic national project shall, at least three months before the end of the financial year, prepare and submit a status report on its implementation in line with the approved development plan to the Cabinet Secretary and the Commission.

Monitoring.

(2) Where development permission relates to development of a strategic national project within the jurisdiction of any County, a copy of the status report shall be deposited with the respective County Executive Committee Member by the Commission

14. (1) The Cabinet Secretary shall serve a developer of a strategic national project with an enforcement notice where—

Enforcement notices.

- (a) a developer commences development of a strategic national project after the commencement of this Act without the required development permission having been obtained; or
- (b) any condition of a development permission granted under this Act has not been complied with.

(2) A copy of the enforcement notice shall be given to the relevant County Executive Committee member.

(3) An enforcement notice shall—

- (a) specify the development that is alleged to have been carried out without development permission;
- (b) specify the conditions of the development permission that are alleged to have been contravened;
- (c) specify the measures the developer shall undertake, the date on which the notice shall take effect, the period within which the measures shall be complied; and
- (d) require compliance by the developer within thirty days from the date the enforcement notice takes effect.

15. (1) Any developer aggrieved by the issuance of an enforcement notice under these Regulations may appeal to the National Liaison Committee within fourteen days of being served with the notice.

Appeals.

(2) The National Liaison committee shall hear and determine the appeal within thirty days of the appeal being filed.

(3) Any developer aggrieved with the determination of the National Liaison Committee may appeal within thirty days to the Environment and Land Court.

(4) Where a developer has been served with an enforcement notice and fails to comply with the notice the Director-General may, through the Cabinet Secretary refer the matter to the Forum for consideration and further direction.

16. (1) The developer undertaking the strategic national project shall consult, publish, consider national security and hold stakeholders' meetings before and during the development of the project.

Public participation.

(2) Development permission shall not be granted under these Regulations without taking into consideration the comments of relevant authorities, agencies including the respective County Executive Committee Member.

(3) The Director-General shall keep and maintain a depository of all plans and projects approved under these Regulations.

(4) The information contained in the depository above shall be accessed in accordance with the provisions of the Access to Information Act, 2016.

REPUBLIC OF KENYA



APPLICATION FOR DEVELOPMENT PERMISSION OF A STRATEGIC NATIONAL PROJECT

To the Cabinet Secretary

1.0 Name of Applicant.....

1.1 Contacts

(a) Physical Address.....

(b) Telephone.....

(c) E-mail.....

(d) Permanent Postal Address.....

2.0 Location of Project

(a) County(s).....

(b) Sub County(s).....

(c) Ward(s).....

(d) Road.....

3.0 Status of Land

(a) Land Tenure (Public/Private/Community)

(b) Acreage (Hectares).....

4.0 Nature of the project.....

5.0 (1.) Indicate type of development permission sought

.....
.....
.....
.....

(2) Indicate the national sectoral policy framework the project will operate under.....

.....
.....

(3) Indicate the national sectoral legislation the project will operate under.....

.....
.....

(Attach a planning brief, a cadastral plan, architectural designs, civil drawings, structural drawings, Environmental Impact Assessment, Environmental and Social Impact Assessment and Strategic Environmental Assessment reports and any other relevant documents)

REPUBLIC OF KENYA



NOTIFICATION OF APPROVAL/REFUSAL/DEFERMENT OF DEVELOPMENT PERMISSION FORM

Section.....

Registered Number of Application.....

To:

Your application number as above, submitted on

for permission to

on L.R. /Parcel No.

situated in.....
(County/Sub County/Ward)

along/off.....Road has been.....
(approved/rejected/deferred) on (date)

for the following reasons/subject to the following conditions:

- (a)
- (b)
- (c)
- (d)
- (e)

Date Signed

Cabinet Secretary, Ministry of Lands and Physical Planning

Cc: Director-General, Physical and Land Use Planning

County Executive Committee Member - Responsible for Physical and Land Use Planning for respective County Government

National Land Commission

Director of Surveys

Director, Land Administration

Chief Land Registrar

FORM PLUPA/DC/18 (r.11)

THE PHYSICAL AND LAND USE PLANNING ACT (No. 13 of 2019)

Registered Number of Application

CERTIFICATE OF COMPLIANCE

Certificate No.

Name and Address of Applicant

Type of Development (Industrial, Commercial, etc.)

On L.R./Parcel No. with coordinates.....situated in

Road locality (City, Municipality, Township, etc.)

Received from (County Government) by

Ref. No. of

This is to certify that the application above is in compliance with:

(a) Approved Development Plan No.

(b) Approved Subdivision Plan/Advisory Plan No.

(c) Special conditions specified in the Notification of Approval Form PLUPA.....
datedday of20.....with respect to Registered Application No.....

Issued by

(Name of Officer)

.....

Sign

Director-General

For: Cabinet Secretary

Ministry's Seal

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 247

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL AROUND STRATEGIC INSTALLATIONS)

REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

1—Citation

2—Interpretation

EXPLANATORY MEMORANDUM TO:

**THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL
AROUND STRATEGIC INSTALLATIONS) REGULATIONS, 2021**

PART I

Name of the Statutory Instrument : The Physical and Land Use Planning (Development Control Around Strategic Installations) Regulations, 2021

Name of the Parent Act : The Physical and Land Use Planning Act, No. 13 of 2019

Enacted pursuant to : Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical Planning

Gazetted on : 26th November 2021

Tabled on :

PART II


1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide procedure for processing development applications around strategic installations under Part IV- Development Control of the Physical Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Development Control Around Strategic Installations) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021 DAY.	
TABLED BY:	LOM
CLERK-AT	Katama

- under the latter statute require revision to align them with the new legislative dispensation.
- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
 - 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
 - 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
- a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.

- d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
State Department for Physical Planning
Ministry of Lands and Physical Planning,
Ardhi House, 1st Ngong Avenue,
P. O. Box 45025-00100,
NAIROBI

Tel: (+254)722691843
Email: augustine.masinde@ardhi.go.ke.

FORM PLUPA/DC/18 (r.11)

THE PHYSICAL AND LAND USE PLANNING ACT (No. 13 of 2019)

Registered Number of Application

CERTIFICATE OF COMPLIANCE

Certificate No.

Name and Address of Applicant

Type of Development (Industrial, Commercial, etc.)

On L.R./Parcel No. with coordinates.....situated in

Road locality (City, Municipality, Township, etc.)

Received from (County Government) by

Ref. No. of

This is to certify that the application above is in compliance with:

- (a) Approved Development Plan No.
- (b) Approved Subdivision Plan/Advisory Plan No.
- (c) Special conditions specified in the Notification of Approval Form PLUPA..... datedday of20..... with respect to Registered Application No.....

Issued by

(Name of Officer)

.....

Sign

Director-General

For: Cabinet Secretary

Ministry's Seal

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 247

THE PHYSICAL AND LAND USE PLANNING ACT

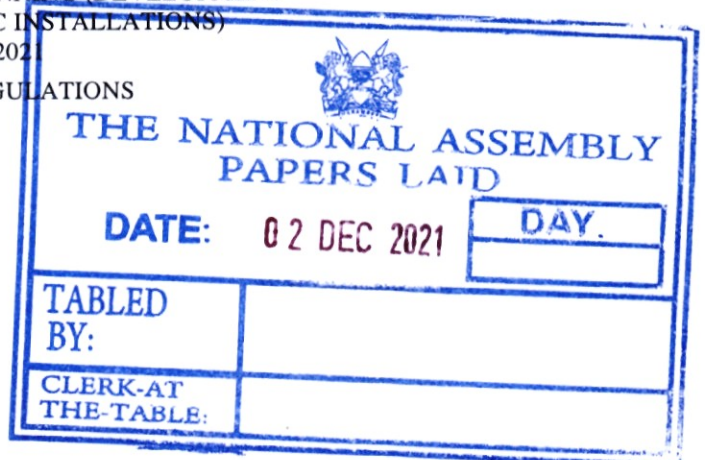
(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL AROUND STRATEGIC INSTALLATIONS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation



- 3—Object of the Regulations
- 4—Declaration of strategic installations
- 5—Preliminary applications
- 6—Application for development permission
- 7—Determination of application permission
- 8—Appeals
- 9—Monitoring
- 10—Register

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL AROUND STRATEGIC INSTALLATIONS) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control Around Strategic Installations) Regulations, 2021. Citation.

2. In these Regulations, unless the content otherwise requires— Interpretation.

“advisory” means an opinion as to whether a concept note or preliminary plan is compatible with permitted development around a strategic installation;

“area around strategic installations” means an area of land or land use that abuts a strategic installation;

“Commission” means National Land Commission established under Article 67 of the Constitution;

“electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

“Forum” means the National Physical and Land Use Planning Consultative Forum established under section 6 of the Act;

“geo-reference” has the meaning assigned to it in section 2 of the Land Act, 2012;

“Strategic installation” means an installation that is—

- (a) classified as such under the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019;
- (b) declared to be a strategic installation by the Cabinet Secretary after a risk assessment report prepared under these Regulations; or
- (c) developed within or around a strategic national or inter-county project.

3. The object of these Regulations is to give effect to Part IV of the Act and to provide for the procedures of processing development applications around strategic installations. Object of the Regulations.

4. (1) The Cabinet Secretary may, on his or her own motion or on application by a State organ, and after consideration of a risk assessment report, declare an installation that has not been classified as a strategic installation under the Act to be a strategic installation. Declaration of strategic installations.

(2) The Forum shall, in accordance with sections 7 (d) and 8 (3) of the Act consider an application for a declaration under subregulation (1) after undertaking a risk assessment.

(3) The Forum shall, when undertaking the risk assessment under sub regulation (2) consider the following matters—

- (a) the safety and security of the installation;
- (b) the effect that the loss, damage, disruption or immobilisation of the installation may have on general administration or provision of essential services;
- (c) whether the proposed project may disadvantage Kenya;
- (d) how the proposed project impacts the delivery of essential service;
- (e) impacts on biodiversity;
- (f) impacts on international conventions and treaties;
- (g) impact on inter-boundary resource use and management;
- (h) land tenure;
- (i) funding;
- (j) socio-cultural; and
- (k) legal and institutional framework.

(4) The Cabinet Secretary shall, on the recommendation of the Forum, declare an installation to be a strategic installation by notice in the *Gazette* within fourteen days of receipt of the risk assessment report.

(5) Within fourteen days after the publication of the notice under subregulation (4), the Cabinet Secretary shall request the relevant county government to declare the area adjoining the strategic installation to be a special planning area in accordance with section 52.

5. (1) A person shall submit an application for development in the area adjoining a strategic installation in paper or electronic formats to the County Executive Committee Member for policy guidance and advice and the application shall include a concept paper.

Preliminary applications.

(2) The County Executive Committee Member shall, within fourteen days after receiving the application under paragraph (1), issue a written advisory or refer it to the Director-General for verification of compatibility with the development plan of the strategic installation.

(3) The County Executive Committee Member shall transmit a copy of the application to the head of the relevant ministry, department or agency responsible for the strategic installation.

(4) Where an applicant has not received an advisory under paragraph (2) within fourteen days after submitting the application to the County Executive Member, the applicant shall submit the application for development permission in accordance with Part IV of the Act.

6. (1) Where the County Executive Committee Member issues an advisory under regulation 5 (2), the applicant may submit the detailed application to the County Executive Committee Member for consideration and pay the prescribed fees.

Application for development permission.

(2) The application under subregulation (1) shall be submitted in the following format—

- (a) each document contained in the application shall be paginated;
- (b) each document sent in electronic form shall—
 - (i) be in PDF format;
 - (ii) not be password protected
 - (iii) not have hyperlinks
 - (iv) be capable of being reproduced in A4 size paper without losing accuracy;
 - (v) be limited to 25 Mb per file except for a geo-database or shapefile document; and
 - (vi) have images of with a resolution of at least 1,200 printer dots per square inch; and
- (c) each plan contained in the application shall be geo-referenced.

(3) Each digital plan contained in the application shall embed an electronic signature or a manual signature on a document that is scanned for electronic submission by the author.

(4) Where due to a reasonable cause that may include a system prolonged down time, resulting in the applicant's inability to submit an application electronically, the applicant may submit a paper copy of the application to the County Executive Committee Member and give reasons for the inability within fourteen days from the date of application.

(5) Upon receipt of the application, the County Executive Committee Member shall invite comments from relevant authorities and agencies including the Director-General.

(6) The comments sought under subregulation (5) shall be submitted to the County Executive Committee Member within fourteen days after the request by the County Executive Committee Member.

(7) After receiving a copy of the application under regulation 4 (3), the Director-General shall request comments from the head of the ministry, department or agency responsible for the strategic installation and the committee constituted under section 8 (3) to consider and give comments on the application.

(8) The Director-General shall submit comments on the request under subregulation (5), which shall take into consideration the comments of the relevant ministry, department or agency responsible

for the strategic installation and the forum within the period specified in paragraph (6) to the County Executive Committee Member.

(9) When considering an application for development permission, a County Executive Committee Member shall also take into consideration the comments sought under subregulation (6) before granting development permission.

(10) A person shall not undertake any development in the area around a strategic installation without development permission from the relevant County Executive Committee Member.

(11) Where a service provider receives a request for connection to a development around a strategic installation, the service provider shall confirm that development permission has been granted before making the connection.

7. (1) After receiving the comments requested under regulation 6 (5), the County Executive Committee Member shall with reason consider the application for development permission under regulation 6 (1) and—

- (a) approve the application with or without conditions;
- (b) reject the application; or
- (c) defer an application.

(2) The County Executive Committee Member shall, within fourteen days of receiving comments under regulation 6 (6), notify the applicant of the decision made on the development application in writing specifying the reasons for the decision.

(3) The County Executive Committee Member shall transmit a copy of the decision under subregulation (2) to the Director-General and the head of the ministry, department or agency responsible for the strategic installation.

8. Any person aggrieved by a decision of the County Executive Committee Member with respect to an application for development permission under these Regulations may appeal in writing to the County Physical and Land Use Planning Liaison Committee within fourteen days after the decision.

9. (1) The County Executive Committee Member shall monitor the implementation of approved developments in areas adjacent to strategic installations to ensure that they comply with the conditions of development permissions and prepare status reports thereon.

(2) The County Executive Committee Member shall transmit copies of the status reports prepared under subregulation (1) to the Director-General.

(3) The Director-General may, on his or her own motion, or on request from the head of the ministry, department or agency responsible for the strategic installation, or on the basis of the status report transmitted under subregulation (2), convene a meeting with the respective County Executive Committee Member, a representative from the ministry, department or agency and the developer if—

Determination of application for development permission.

Appeals.

Monitoring.

- (a) a developer commences development without development permission; or
- (b) the development does not comply with the conditions of the development permission.

(4) Where a developer commences development in an area adjacent to a strategic installation without development permission or does not comply with the conditions of the development permission, the County Executive Committee Member may, by notice in writing—

- (a) direct that the developer shall cease all operations until the developer has complied with the provisions of these Regulations;
- (b) specify the measures the developer shall be required to take in order to comply with the conditions of the development permission with a period to be specified by the County Executive Committee Member;
- (c) specify the measures the developer shall take to regularise the development and the period within which the regularisation shall take place; or
- (d) require the demolition or alteration of the development or works or the discontinuance of any use of the subject land or the carrying out of any other activities within a period to be specified by the County Executive Committee Member.

(5) The determination of the County Executive Committee Member made under subregulation (4) shall be transmitted to the Director-General and the head of the ministry, department or agency responsible for the strategic installation.

10. The County Executive Committee Member shall maintain a register of all development applications received and development permissions granted under these Regulations. Register.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

EXPLANATORY MEMORANDUM TO:

THE PHYSICAL AND LAND USE PLANNING (LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

PART I

Name of the Statutory Instrument : The Physical and Land Use Planning (Local Physical and Land Use Development Plan) Regulations, 2021)

Name of the Parent Act : The Physical and Land Use Planning Act, No. 13 of 2019

Enacted pursuant to : Section 90 of the Physical and Land Use Planning Act, 2019

Name of the Ministry/ Department : Ministry of Lands and Physical

Gazetted on

Tabled on

Planning	
26 th November 2021	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	DAY:
PART II BY:	LOM
CLERK-AT THE-TABLE:	Kalamba

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide a framework for content, preparation, public participation, approval and amendment of Local Physical and Land Use Development Plans under the Physical and Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Local Physical and Land Use Development Plan) Regulations, 2021) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations

under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
- a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
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- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
- a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
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- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition,

the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

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11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.

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12. Monitoring and Review

12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.

12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.

12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
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SPECIAL ISSUE

1761

Kenya Gazette Supplement No. 217

26th November, 2021

(Legislative Supplement No. 98)

LEGAL NOTICE NO. 248

THE PHYSICAL AND LAND USE PLANNING ACT


(No. 13 of 2019)

**THE PHYSICAL AND LAND USE PLANNING (LOCAL PHYSICAL
AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021**

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Application
- 4—Timelines
- 5—National security
- 6—Boundaries
- 7—Preparation of a Local Physical and Land Use Development Plan
- 8—Notice of intention to prepare plan
- 9—Notice of completion of draft
- 10—Public participation
- 11—Appeals
- 12—Approval of the plan
- 13—County assembly approval
- 14—Publication
- 15—Amendment or revision of the plan

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	
DAY: <input type="text"/>	
TABLED BY:	<input type="text"/>
CLERK-AT THE-TABLE:	<input type="text"/>

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Local Physical and Land Use Development Plan) Regulations, 2021.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“city” has the meaning as assigned to it under section 8 of the Urban Areas and Cities Act, 2011;

“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 rural area, trading or market centre; and

“register” means a register of local physical and land use development plans.

3. The object of these Regulations is to provide a framework for the preparation and approval of local physical and land use development plans pursuant to sections 45, 46, 47, 4, 49, 50 and 51 of the Act.

Object of the Regulations.

4. These Regulations shall apply to the preparation and approval of local physical and land use development plans.

Application of the Regulations.

5. (1) Whenever a plan touches on, relates to, borders, involves or in any way affects a safeguarding area or any aspect of national security, the County Physical and Land Use Planning Consultative Forum shall notify the National Security Council of the proposal to prepare the plan.

National security.

(2) The National Security Council shall give its comments on the proposed plan within thirty days of receiving a notification under sub regulation (1).

(3) Where necessary, a plan touching on, relating to, bordering, involving or in any way affecting a national security. organ shall be subjected to any conditions that may imposed on it by the National Security Council.

(4) For the purposes of these Regulations, security organs responsible for the preparation of local physical and land use development plans shall be exempt from any form of publication required under these Regulations where the plans touch on, relate to, border, involve or in any way affect the said security organs.

6. (1) In defining the scope and the geographic area of a plan, the County Executive Committee Member shall delineate clearly defined boundaries as shall be provided for by the Director of Survey.

Delineation of plan area.

(2) Each development relating to plans prepared under these Regulations shall be—

- (a) restricted to designated urban centres; and
- (b) have clearly-defined boundaries.

7. (1) The preparation of a plan may be initiated by a County Executive Committee Member —

Preparation of a local physical and land use development plan.

- (a) on his or her own motion;
- (b) on the request of a member of the county assembly on behalf of person who is a resident of the county;
- (c) on the recommendation of a residents' association; or
- (d) upon the request of the national government.

(2) The County Executive Committee Member may outsource the preparation of a plan and other related services to a suitably qualified physical and land use planning consultant in accordance with the relevant written laws relating to public procurement.

(3) A plan prepared through outsourcing by a physical and land use planning consultant under subregulation (2) shall be submitted to the County Director of Physical and Land Use Planning for scrutiny and who shall submit it to the County Executive Committee Member for approval.

8. The County Executive Committee Member shall publish a notice of intention to prepare a plan in the *Gazette*, in at least two newspapers with national circulation and through electronic media in Form PLUPA L-1 as set out in the First Schedule.

Notice of intention to prepare plan.

9. (1) Within thirty days of the preparation of a draft plan, the County Executive Committee Member 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 inspections and that any person interested may comment on the contents of the plan within sixty days.

Notice of completion of draft.

(2) The notice published under subregulation (1) shall be in Form PLUPA L-2 as set out in the First Schedule.

10. (1) On completion and publication of a plan, the County Director shall circulate the plan to relevant agencies in the county and to the Director-General for comments.

Circulation.

(2) The relevant agencies shall submit to the County Director their comments on the plan within sixty days of the plan being circulated under sub regulation (1).

(3) The Director-General shall—

- (a) submit comments to the County Director on the plan within sixty days of the plan being circulated under sub regulation (1); and

- (b) assign a plan reference number to the plan.

11. (1) In facilitating public participation regarding the plan, the County Executive Committee Member may use various methods including—

Public participation.

- (a) direct contact using interview guides and questionnaires;
- (b) public notices in newspapers;
- (c) mass media including radio, television;
- (d) information communication platforms;
- (e) newsletter
- (f) public hearings and group discussions, town hall meetings, public fora;
- (g) conferences, seminars or workshops; and
- (h) placement of documents at a common place, available to the members of the public including noticeboards.

(2) In dealing with comments and other representations regarding draft plans from the public, the County Executive Committee Member may—

- (a) incorporate the comments or representations into the plan;
- (b) or dismiss the comments or representations and provide reasons therefor.

12. (1) A person aggrieved by a decision of the County Executive Committee Member concerning the local physical and land use development plan may, within sixty days of being notified of the decision, appeal to the County Physical and Land use Liaison Committee in writing against the decision in Form PLUPA L-3 as set out in the First Schedule.

Appeals.

(2) Representations made by the County Executive Committee Member in response to an appeal lodged before the County Physical and Land use Liaison Committee shall be in writing.

(3) The Liaison Committee shall consider the appeal within thirty days and may set aside, confirm or vary the decision appealed against and make such order as it deems necessary or expedient to give effect to its decision and communicate the decision to the appellant within fourteen days.

(4) In exercising its power to set aside, confirm or vary the decision appealed against, the County Physical and Land use Liaison Committee shall do so in accordance with the rules of natural justice and fair administrative action.

(5) A person dissatisfied with the decision of the County Physical and Land use Liaison Committee may lodge an appeal to the Environmental and Land Court within a period of thirty days from the date of the making of the decision by the Liaison Committee.

13. (1) Where all applications for review have been heard and determined, the County Executive Committee Member shall submit the draft local physical and land use development plan to the County Physical and Land Use Planning Consultative Forum for comments within fourteen days, and any changes shall be incorporated into the plan.

Approval of the plan.

(2) After submission of the plan by the County Executive Committee Member to the Consultative Forum for comments, the input of the Forum shall be in Form PLUPA L-4 as set out in the First Schedule.

14. (1) Pursuant to the provisions of sections 49 (3) and 41 (3) of the Act, the county assembly shall, on submission of the local physical and land use development plan by the Governor, consider the plan within thirty sitting days and thereby approve it with or without any modification.

County assembly approval.

(2) upon approval by the County Assembly, the County Director shall issue an approved plan number to the plan and enter the number in the register.

15. The register which shall be maintained by the County Director shall contain-

Contents of the Register.

- (a) date of initiation of plan preparation;
- (b) departmental reference number;
- (c) scale;
- (d) title;
- (e) sub-county;
- (f) date of completion;
- (g) date of circulation;
- (h) date of approval; and
- (i) approved plan number.

16. The notice required under section 50 of the Act regarding the approval of the local physical and land use development plan and on the inspection of the approved plan shall be in in Form PLUPA L-5 as set out in the First Schedule.

Publication.

17. (1) The amendment or revision of the plan pursuant to Section 51 of the Act may be initiated by the County Executive Committee Member—

Amendment or revision of the plan.

- (a) on his or her own motion;
- (b) on recommendation by the county or national government;
- (c) by request of a person ordinarily resident in that county; or
- (d) on recommendation of a residents' association in the county.

(2) The County Executive Committee Member shall notify the County assembly of the proposed amendment or revision of the plan in Form PLUPA L-6 as set out in the First Schedule.

(3) Upon approval of the amendment or revision of the plan by the county assembly, the County Executive Committee Member shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media the proposed amendments in form PLUPA L-2 as set out in the First Schedule inviting any interested party to make comments thereon.

(4) The provisions of regulations 11, 12 and 13 with the necessary modifications, shall apply to the amendment or revision of a Plan regarding the receiving of and decisions on public comments thereon.

(5) The County Executive Committee Member shall submit the amended Plan to the Governor, who shall place it before the County Assembly for approval.

(6) On the approval of the amended Plan by the County Assembly, the County Executive Committee Member shall publish the approval of the amended Plan in Form PLUPA L-7 as set out in the First Schedule, inviting comments and representations from the public.

(7) The provisions of regulation 17 shall apply to an amended local physical and land use development plan

(8) The amended local physical and land use development plan shall be published in Form PLUPA L-8 as set out in the First Schedule.

18. All reports, notices, plans prepared under these Regulations shall be submitted to the National Land Commission and the Director-General within fourteen days after publication.

Reports, etc. to be submitted to the Commission and the Director-General.

FIRST SCHEDULE

FORM PLUPA L-1

(r.9)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE A LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section (47) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the County Government of.....intends to commence preparation of the above Plan on the.....day of.....20.....

The purpose of the Plan is:

.....

The objectives of the Plan are.....

.....

.....

Comments on the proposed plan may be directed to.....

.....

¹* not later than²*

Dated this day of20.....

County Executive Committee Member

Notes—

¹* provide details of the receiving entity.

²* provide a twenty one day window.

FORM PLUPA L-2

(r.10)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section 49(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Plan was on the..... day of20.....completed.

A copy of the plan as prepared has been deposited for public inspection free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may within sixty days send the same to.....^{2*} and such representations or comments shall state the grounds upon which they are made.

Dated this day of20.....

County Executive Committee Member

Notes—

^{1*}provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

^{2*} provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

FORM PLUPA L-3

(r.13)(1)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST DECISION REGARDING LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

(To be filled in triplicate)

Title of Development Plan

To: The Secretary, County Physical and Land Use Planning Liaison Committee

..... County

I/We^{1*}..... of P.O. Box appeal against the decision made by..... County Executive Committee Member regarding the above Plan.

My/our grounds for appeal are as follows:

- (a)
(b)
(c) 2*

The reliefs which I/We seek are:

- (a)
(b)
(c) 3*

Dated this day of 20.....

Signature of Applicant

Notes—

1*Delete as necessary.

2*Please attach additional written text if space is insufficient.

3*Please attach additional written text if space is insufficient.

FORM PLUPA L-4

(r.14)(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF REVIEW OF LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN BY COUNTY PHYSICAL AND LAND USE CONSULTATIVE FORUM

Title of Development Plan Pursuant to the provisions of section 49(3) of the Physical and Land Use Planning Act, 2019, the County Physical and Land Use Planning Consultative Forum of..... County of Post Office Box No.....in the Republic of Kenya has reviewed the above Plan on thisday of20.....and approves/ does not approve with the following comments^{1*}:

- (1) (2)

Dated the, 20.....

Chairperson

Secretary

Notes— ^{1*} strike through where necessary.

FORM PLUPA L-5

(r.17)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Approved Development Plan No.

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that on the day of 20.....the County Assembly of County approved the above Plan.

A certified copy of the plan as approved has been deposited at.....^{1*}

Dated this day of.....20.....

Signed

County Executive Committee Member

Notes—

^{1*} Provide physical address and if electronic, name of website and link.

FORM PLUPA L-6

(r.18)(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTIFICATION OF AMENDMENT/REVISION OF LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan
Approved Development Plan No.
To: The Clerk County Assembly of
I/We^{1*}, of P.O. Box
propose modification to the Plan referenced above.

My/our reasons for the proposed amendments are as follows:

- (a)
(b)
(c)^{2*}

I/We certify that:

- (a) I/We have complied with the relevant provisions of the County Governments Act, 2012;
(b) The proposed amendments are in conformity with the National, relevant Inter-County and County Physical and Land Use Development Plans.

Dated this day of 20

Signature

County Executive Committee Member

Notes—

^{1*}Delete as necessary.

^{2*}Please attach additional written text if space is insufficient.

FORM PLUPA L-7

(r.18)(6)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF AMENDMENT/REVISION OF A LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN BY THE COUNTY ASSEMBLY

Title of Development Plan
Approved Development Plan No

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the County Assembly of^{1*}
has on theday of20..... approved
modification to the above Plan.

Dated this day of20

County Executive Committee Member

Notes—
^{1*} state name and address of entity that has approved modification.

FORM PLUPA L-8

(r.18)(6)

REPUBLIC OF KENYA



PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF MODIFICATION/ AMENDMENT OF A LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Approved Development Plan No

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act, 2019,

NOTICE is hereby given that on the..... day of20..... the above plan has been amended.

The plan shall be available at.....^{2*} for inspection free of charge.

Dated this day of20

County Executive Committee Member

Notes—

^{1*} strike through where necessary.

^{2*} state physical address and opening hours. If online, state website and give link.

SECOND SCHEDULE

PART I

The outline structure of the County Physical and Land Use Development Plan Report

PART I

- 1 Cover Page
2. Introduction
- 3 Constitutional, legal and policy planning context

PART II

4. Physiography and climate
- 5 Population and demography
- 6 Housing
- 7 Agriculture
8. Commerce
- 9 Industry
- 10 Education
- 11 Public purpose
- 12 Recreation, Conservation, preservation and open spaces
- 13 Public infrastructure and utilities
- 14 Transportation
- 15 Blue Economy

PART III

- 16 Synthesis and emerging issues

PART IV

- 17 Plan proposals
- 18 Action Plans
- 19 Implementation schedule- Timelines, Resource and Institutional requirements

Reference

Appendix

Annex

PART II

Preparation of the Maps

1. Notwithstanding the provisions of First Schedule Part IV (9), the actual scale to be used in the map shall depend on the level of detail and circumstances.
2. The Maps prepared shall adopt a scale of a multiple of 500.
3. Maps prepared shall be authenticated and approved by the authority responsible for Survey.
4. Base Map” means a geo-referenced and geometrically accurate graphical representation of land which includes topographical maps, administrative boundary maps, sea charts, aeronautical charts and other thematic and special purpose maps obtained from the relevant authorities.
5. All the maps and plan reports shall adopt standard paper size series A4-A0.
6. Fine details on the plan report shall be contained in an appropriate professional handbook and practicing notes.

THIRD SCHEDULE

SHORT-TERM PLANS

Short-term plans are of the following types—

- (a) Neighborhood Plans-Prepared for comprehensive planning of areas selected for intensive development, which is to commence within a specified period.
- (b) Sectoral Plans- Prepared for detailed treatment of a particular planning aspect, for example, housing, transportation (Roads, railway, airports and water ways), communication infrastructure including Fiber optic, water supply, sewerage, solid waste disposal, pipelines (Oil/Gas) conservation and preservation areas including wildlife migratory corridors and dispersal areas etc., The Plans should be prepared to guide the implementing agencies.
- (c) Property Site Master Plan, indicating permitted use, density, access, plot coverage, plot ratio and building heights. This shall include 3D models.
- (d) Part Development Plans /advisory plans, indicating precise sites for immediate implementation of specific projects including land alienation for public use. The Plan will be prepared by the planning authority in consultation with National Land Commission as per the provisions of the Land Act, 2012.

The form and content of short-term plans differ with plan types and in most cases will reflect details and proposals of a long-term plan, where it exists. However, the most important considerations in their preparation shall be—

- (i) An assessment of immediate land requirement to accommodate specific population needs as they arise for a period of 3 to 5 years;
- (ii) Detailed allocation of the land requirements to various land uses taking into account compatibility of adjoining land uses and conforming with a long-term plan proposal for the area; and
- (iii) Identification of authorities to service and/or develop the various land use allocations.

Except for part development plans, other short-term plans may be prepared by commissioned registered physical planners. In order to ensure that plans prepared by registered physical planners conform to long-term plans prepared by the Planning Authority, all such plans must have a seal of approval of the Planning Authority before their implementation.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

EXPLANATORY MEMORANDUM TO:

**THE PHYSICAL AND LAND USE PLANNING (SPECIAL PLANNING AREA)
REGULATIONS, 2021**

PART I

Name of the Statutory Instrument : The Physical and Land Use Planning
(Special Planning Area)
Regulations, 2021


Name of the Parent Act : The Physical and Land Use Planning
Act, No. 13 of 2019

Enacted pursuant to : Section 90 of the Physical and Land
Use Planning Act, 2019

Name of the Ministry/Department : Ministry of Lands and Physical
Planning

Gazetted on : 26th November 2021

Tabled on :

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2021	
DAY.	
TABLED BY:	LOM
CLERK-AT	Kalam

PART II

1. Purpose of the Statutory Instrument

The purpose of the Regulations is to provide a framework for declaration of Special Planning Area, content of a Special Planning Area and procedures for preparation, public participation, approval and revision of a Special Area Plan under the Physical and Land Use Planning Act, 2019 by providing elaborate guidelines and procedures for matters governed therein.

2. Legislative Context

The development of the Physical and Land Use Planning (Special Planning Area) Regulations, 2021 stems from enactment of the parent Act, which was necessitated by Constitutional regime change.

- 2.1. The promulgation of the Physical and Land Use Planning Act, 2019 repealed the Physical Planning Act, 1996. Necessarily, all regulations under the latter statute require revision to align them with the new legislative dispensation.

- 2.2. Section 90 of the Act gives the Cabinet Secretary, Ministry of Lands and Physical Planning, the power to make regulations to give effect to the Act and revise them from time to time if need arises.
- 2.3. It is incumbent that the practice and procedures affecting physical and land use planning be cognizant of devolved governance, hence development of new Regulations to that effect.
- 2.4. The Constitution of Kenya, 2010 established two levels of government with distinct planning functions. The Regulations shall guide the dispensation of these functions.

3. Policy Background

- 3.1. The changes in the statutory and policy frameworks stemming from the Constitution of Kenya fundamentally caused a paradigm shift in land policy principles, land tenure classification, institutional structures for administration and management of land and separation of the physical planning functions between the national and county governments.
- 3.2. The objective of the Regulations is to give full operationalisation of the parent Act by providing certification criteria and guidelines aimed at rationalizing and harmonizing the minimum standards of physical and land use planning throughout Kenya.
- 3.3. Implementation of the Regulations is also necessitated by the numerous changes that have taken place in the field of physical and land use planning with a fundamental impact on the manner and substance of the practice of physical and land use planning in the country.
- 3.4. The Regulations anticipate application of ICT in processing of development applications through an integrated information management system, where services could be accessed from a one-stop-shop. The implementation of this instrument is set to improve planning performance and efficiency. This is in tandem with the National Digital Economy Blueprint towards realization of Vision 2030 as implemented via the Big Four Agenda.

4. Consolidation

- 4.1 These Regulations repeal the Physical Planning Act (Regulations) 1996, therefore there is no need for consolidation.

5. Consultation Outcome

- 5.1. The formulation of the Regulations was spear-headed by the State Department for Physical Planning. Participants in the formulation process were drawn from the general public, professional associations involved with physical and land use planning, Government (both national and county), academia and stakeholders from the private sector.
- 5.2. The consultation sought views on proposals for reform of the physical and land use planning system within the framework of the parent Act, constitutional reforms in the sector, modernization and current practice. The aim was to streamline and modernise the physical and land use planning process, improve outcomes and sustainability, reform developer contributions and ensure fair administrative action approaches that are predictable, timely and effective.
- 5.3. The following outlines the steps taken in consultation for the development of the Regulations.
 - a) The Ministry of Lands and Physical Planning established a Multi-Agency Technical Committee (hereafter referred to as “the Committee”) for the formulation of Regulations under the Act.
 - b) The Ministry developed a concept paper for the formulation of Regulations under the Act, which together with the response from the Office of the Attorney General, provided guidance for the process.
 - c) The Principal Secretary requested the Attorney General to release two legislative drafters to participate in a retreat to prepare layman’s draft regulations under section 90 of the Act.
 - d) The Committee converged at the Morendat Training and Conference Centre to formulate the Regulations between 2nd December 2019 and 23rd December 2019.

6. Drafting by the Attorney General

- 6.1 The Regulations were thereafter sent for drafting to the State Law Office on 13th February, 2020 via letter reference number PPD/5/42/II/ (60).

7. Notification for public information and comments

- 7.1 The Cabinet Secretary published the draft Regulations via Daily Nation Newspaper Notice dated 4th December, 2020 inviting comments from the public within a deadline of fourteen (14) days.
- 7.2 The Regulations were also published on the Ministry's website <https://lands.go.ke/physical-planning/>.
- 7.3 The comments from interested persons were required to be sent by email via ps.physicalplanning@gmail.com and postage via P.O. Box 45025-00100, Nairobi. Thereafter, the Ministry collated the comments received and produced the draft Regulations.

8. Public participation

- 8.1 Owing to the COVID-19 Pandemic and Government's directive to minimize physical contact, virtual stakeholder meetings via Webex were conducted between 23rd February, 2021 and 1st March, 2021.
- 8.2 During virtual sessions, the Ministry made a presentation to the participants, itemizing each set of Regulations and indicating any new practices introduced by the Regulations. The Participants were able to ask questions directly via video-link as well as post questions and comments through the chat feature. Video recordings are available for reference.

9. Responses

- 9.1 The following is a summary of the responses from stakeholders on the Draft Regulations and a summary of the views expressed at the engagements:
 - a) Make guidelines on the content and procedure of preparation of an Inter-County Plan.
 - b) Make guidelines on contracting out of the plan preparation works to private consultants to include guidelines on the team composition and fees.
 - c) Make guidelines on a seamless process for approval with timelines and which provides for joint sessions between the participating counties to ensure they are in concurrence and that the process moves faster.

- d) The guidelines should recognize the city/municipal boards or town committees as planning authorities and give them clear roles in the preparation of the Integrated Development Plan.
 - e) Prepare guidelines on the approval process and adoption of these plans.
 - f) Make guidelines on e-permitting by integrating with the land information management system where a registered expert can then access some basic documentation such as title search, survey plans among others.
- 9.2 Comments by stakeholders were incorporated and the draft regulations submitted to the Attorney General for consideration and finalization vide a letter Ref. MOLPP/ADM/CSO/1/761 dated 28th April, 2021.
- 9.3 The Office of the Attorney General submitted finalized regulations to the Cabinet Secretary vide letter Ref. AG/LDD/188/2/17 dated 28th July, 2021.
- 9.4 The Kenya Law Reform Commission gave independent advice to the adequacy of the Regulatory Impact Assessment on the Physical and Land Use Planning Regulations, 2021.
- 9.5 Between 1st and 5th November, 2021, a pre-publication meeting was held between the Ministry and the National Assembly Committee on Delegated Legislation during which Members made comments.
- 9.6 The Ministry incorporated the comments and submitted revised regulations to the Office of the Attorney General for finalization.
- 9.7 The Office of the Attorney General finalized drafting the regulations and submitted to the Cabinet Secretary for publication.

10. Guidance

- 10.1. Guidance on the implementation of these Regulations shall be given through the Physical and Land Use Planning Handbook. In addition, the Ministry intends to issue practicing notes to professional associations, the Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and various media platforms.

11. Impact

- 11.1. The impact of these Regulations may be felt directly during implementation by both national and county governments.
- 11.2. It is expected that implementation of these Regulations will ensure a continued improvement in the speed and quality of decisions on applications for developments. This is likely to have a beneficial impact due to certainty of procedures, realization of expectations and the ease of doing business.
- 11.3. There is no adverse impact on the public sector. Performance will be assessed by reviewing data which the planning authorities will provide.

12. Monitoring and Review

- 12.1. The impact of the Regulations will be kept under review to ensure that the objects set out in section 3 of the parent Act are met. Regular communication with the Counties, stakeholders and other users will capture issues around implementation, ongoing compliance and administrative costs.
- 12.2. The Ministry of Lands and Physical Planning will publish data on the performance of the planning authorities to review and evaluate their operations from time to time, with a view to amending the instrument in future, if necessary.
- 12.3. The Cabinet Secretary, Ministry of Lands and Physical Planning is responsible for reviewing the Regulations. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of conducting business related to physical and land use planning.

13. Contact

Mr. Augustine K. Masinde, EBS
State Department for Physical Planning
Ministry of Lands and Physical Planning'
Ardhi House, 1st Ngong Avenue,
P. O. Box 45025-00100,
NAIROBI

Tel: (+254)722691843
Email: augustine.masinde@ardhi.go.ke.

LEGAL NOTICE NO. 249

THE PHYSICAL AND LAND USE PLANNING ACT

(No 13 of 2019)

**THE PHYSICAL AND LAND USE PLANNING (SPECIAL
PLANNING AREA) REGULATIONS, 2021**

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
 - 2—Object of the Regulations
 - 3—Timelines
 - 4—National security
 - 5—Delimitation of planning areas
 - 6—Declaration of special planning area
 - 7—Review of comments
 - 8—Public participation
 - 9—Appeals
 - 10—County assembly approval
 - 11—Publication
 - 12—Reports, etc. to be submitted to the National Land Commission
- Schedule – Forms

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (SPECIAL PLANNING AREA) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Special Planning Area) Regulations, 2021. Citation.
2. The object of these Regulations is to provide a framework for the declaration of special planning areas and preparation and approval of special planning area plans pursuant to sections 52 and 53 of the Act. Object of the Regulations.
3. Any action, notice, publication and any other matter provided for in the Act and these Regulations in relation to the preparation of a special physical and land use development plan shall be executed within the period specified in the Act or Regulations, subject to any extension under the Act or Regulations. Timelines.
4. (1) Whenever a special physical and land use development plan touches on, relates to, borders, involves or in any way affects a safeguarding area or any aspect of national security, the National Physical and Land Use Planning Consultative Forum shall consult the National Security Council during the preparation of the plan National security.

(2) The National Security Council shall give its comments in writing on the plan submitted under subregulation (1) within thirty days from the date of the request for comments from the County Executive Committee Member and shall specify the reasons for any recommendations it makes in respect of the plan.

(3) Where necessary, any plan touching on, relating to, bordering, involving or in any way affecting a national security organ shall be subjected to any conditions that may be imposed on it by the National Security Council.

(4) For the purposes of these Regulations, national security organs shall be exempt from the publication of special physical and land use development plans as may be required under these Regulations where the plans touch on, relate to, border, involve or in any way affect the national security organs.
5. In defining the scope and geographic area of a special physical and land use development plan, the County Executive Committee Member shall delimit a planning area as may be guided by the physiographic characteristics, administrative boundaries, electoral units, agro-ecological zones and planning projections. Delimitation of planning areas.
6. (1) The County Executive Committee member shall publish a notice in the *Gazette* in Form PLUPA S-1 as set out in the Schedule informing the public of the— Declaration of special planning area.

- (a) declaration of a special planning area;
- (b) proposed development for which the declaration has been made; and
- (c) commencement of the plan preparation.

(2) A person affected by the declaration of a special planning area may make representations to the County Executive Committee Member in writing, stating reasons and the reliefs sought.

(3) In addition to the notice under subregulation (1), the County Executive Committee Member shall conduct sensitization forums in respect of the declaration at which public views thereof shall be considered.

(4) The County Executive Committee Member may use any method to engage various stakeholders and members of the public in respect of a declaration under this regulation, including—

- (a) direct contact using interview guides and questionnaires;
- (b) public notices in newspapers;
- (c) mass media including radio and television;
- (d) information communication platforms;
- (e) newsletter;
- (f) public hearings and group discussions;
- (g) conferences, seminars or workshops, town hall meetings, public fora; and
- (h) placement of documents at a common place that is available to the the public including noticeboards.

(5) In considering the comments and other representations from the public regarding a declaration under this regulation, the County Executive Committee Member may—

- (a) incorporate the comments or representations into the plan; or
- (b) dismiss the comments or representations:

Provided that if the County Executive Committee Member dismisses the comments or representations, he or she shall specify the reasons for doing so in writing.

7. In considering the comments and representations under regulation 7 (4), the County Executive Committee Member shall—

- (a) where planning permission had been granted more than six months before the declaration of the special planning area, allow the permitted developments to continue notwithstanding the declaration;
- (b) where the special planning area is declared for the purposes of national security, the developments thereon shall cease immediately upon publication of the declaration; and

Review of
comments.

- (c) give such other directions as may be appropriate in the circumstances.

8. (1) Before the completion of the preparation of the special area physical and land use development plan, the County Executive Committee Member shall hold stakeholder meetings and ensure effective participation of key stakeholders and assess their interests and potential impacts.

Public participation.

(2) After completion of the preparation of the draft special area plan, the county executive committee member shall publish a notice in the *Gazette* and two newspapers of national circulation in form PLUPA S-2 as set out in the Schedule, inviting public comments.

(3) In dealing with comments and other representations regarding the draft special area physical and land use development plan from the public, the County Executive Committee Member may—

- (a) incorporate the comments or representations into the plan; or
(b) dismiss the comments or representations:

Provided that if the County Executive Committee Member dismisses the comments or representations, he or she shall specify the reasons for doing so in writing.

9. (1) A person aggrieved by a decision of the County Executive Committee Member may appeal to the County Physical and Land Use Planning Liaison Committee within sixty days from the date of the decision in Form PLUPA S-3 as set out in the Schedule stating the grounds of appeal and the reliefs sought.

Appeals.

(2) When considering an appeal, the County Physical and Land Use Planning Liaison Committee may set aside, confirm or vary the decision appealed against.

(3) The decision of the County Physical and Land Use Planning Liaison Committee shall be made in accordance with the rules of natural justice and fair administrative action.

(4) A person dissatisfied with the decision of the County Physical and Land Use Planning Liaison Committee may lodge an appeal to the Environmental and Land Court within thirty days from the date of the decision of the Liaison Committee.

10. (1) Where all applications for the review of a Special Area Physical and Land Use Development Plan have been heard and determined, the County Executive Committee Member shall submit the plan to the County Physical and Land Use Planning Consultative Forum for comments within fourteen days in Form PLUPA S-4 as set out in the Schedule.

County assembly approval.

(2) Pursuant to the provisions of sections 41 (3) and 49 (3) of the Act, the county assembly shall, on submission of the local physical and land use development plan by the Governor consider the same within thirty sitting days and thereby approve with or without any modification.

11. Upon approval by the county assembly, the County Executive Committee Member shall cause the notice of final approval in Form PLUPA-S-5 as set out in the Schedule to be published in the *Gazette* and two newspapers of national circulation.

Publication.

12. Reports, notices, plans prepared under these Regulations shall be submitted to the National Land Commission and the Director General within fourteen days after publication.

Reports, etc. to be submitted to the National Land Commission.

SCHEDULE

Forms

FORM PLUPA-S1

(r.8(1))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF DECLARATION OF A SPECIAL PLANNING AREA

In exercise of powers conferred by section 52 of the Physical and Land Use Planning Act, 2019, the county government of^{1*} declares the following area^{2*} as a Special Planning Area.

The purpose of the declaration is:

.....^{3*}

The objectives of the declaration are:

.....^{4*}

The preparation of the Special Area Plan has commenced. Any development within the declared area is hereby suspended until the day of^{5*} 20.....

Any development for which development permission had been sought from the relevant planning authority more than six months before this notice shall be allowed to be carried out but in strict compliance with the terms of such approval.

Members of the public are hereby invited to make representations/ comments on the proposed Plan. Details on the subject area are available

at.....^{6*}

Dated.....day of20.....

County Executive Committee Member

Notes—

^{1*} Insert name of county.

^{2*} Define the extent of the area.

^{3*} Please attach additional written text if space is insufficient.

^{4*} Please attach additional written text if space is insufficient.

^{5*} Provide a maximum of a two-year window

^{6*} State physical address and opening hours, postal and telephone address, website and give link.

FORM PLUPA-S2

(r. 10(2))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF SPECIAL AREA PLAN

Title of Development Plan.....

Pursuant to the provisions of section 52(6) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Plan was on the.....day of.....20.....completed.

A copy of the plan as prepared has been deposited for public inspection free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to^{2*} by theday of20.....^{3*} and such representation or objection shall state the grounds upon which they are made.

Dated theday of 20.....

County Executive Committee Member

Notes—

^{1*}provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

^{2*} provide details of the physical address of the receiving entity.

^{3*}Specify actual date (60 days) for receiving comments.

FORM PLUPA-S 3

(r.11(1))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST DECLARATION OF A SPECIAL PLANNING AREA

(To be filled in triplicate)

Title of Development Plan

To: The Secretary, County Physical and Land Use Planning Liaison Committee
..... County

I/We^{1*}, of P.O. Box.....
..... appeal against the decision made by.....
..... County Executive Committee Member regarding the
above Plan.

My/our grounds for appeal are as follows:

- (a)
- (b)
- (c)^{2*}

The reliefs which I/We seek are:

- (a)
- (b)
- (c)^{3*}

Dated this day of 20.....

Signature of Applicant

Notes—

¹*Delete as necessary.

²*Please attach additional written text if space is insufficient.

³*Please attach additional written text if space is insufficient.