



LEGAL NOTICE NO.

THE PHYSICAL AND LAND USE PLANNING ACT, 2019
(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 (DEVELOPMENT CONTROL ENFORCEMENT) REGULATIONS, 2020

PART I—PRELIMINARY

Citation. **1.** These Regulations may be cited as the Physical and Land Use Planning (Development Control Enforcement) Regulations, 2020.

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

“building” has the meaning assigned to it in section 2 of the Act;

“Building Inspector” means a person with professional expertise in architecture, civil engineering, structural engineering, quantity surveying, mechanical engineering or electrical engineering charged with inspection of buildings or works;

“business day” means every day except Saturday, Sunday and public holidays;

“business hours” means the period from 8:00 o’clock in the morning to 1:00 o’clock in the afternoon and from 2:00 o’clock in the afternoon to 4:00 o’clock in the afternoon during a business day;

“County Director” Means the County Director of Physical and Land Use Planning appointed under section 18 of the Act;

“County Executive Committee Member” has the meaning assigned to it in section 2 of the Act;

“development” has the meaning assigned to it in section 2 of the Act;

“development permission” means approval granted by a planning authority for development, with or without conditions, after submission of a development application;

“Director-General” has the meaning assigned to it 2section 2 of the Act;

“enforcement” means action carried out by a planning authority with respect to any development that contravenes development permission or takes place without development permission or breaches the development specifications of the drawings and plans;

“electronic address” means an email address or any other prescribed form of electronic address suitable for address for service;

“enforcement notice” means a notice served by a planning authority on a developer under section 72 of the Act;

“liaison committee” means a committee established under sections 73 or 76 of the Act;

“non-compliant development” means development that is undertaken without development permission or that fails to meet the any of the conditions granted under the Act;

“planning authority” has the meaning assigned to it in section 2 of the Act;

“use” means the purpose or activities carried in, alongside or on land, buildings or structures without interfering with the physical characteristics of the land;

“subdivision” in relation to land, means the division of any land other than buildings held under single ownership, into two or more parts whether the subdivision is for conveyance, transfer or partition or for the purpose of sale, gift, lease or any other purpose; in relation to buildings, means the division of a unit as defined in the Sectional Properties Act

“technical committee” means a working team established under Physical and Land Use Planning (Applications for Development Permission) (Application and Approval) Regulations; and

“working day” means any day from Monday to Friday (both days inclusive) between 6.00 a.m. and 6.00 p.m. unless that day is declared to be a holiday under the Public Holidays Act.

PART II—ADMINISTRATION

Enforcement teams.

3. An Enforcement Team shall be composed of—

(a) County Director Physical and Land use Planning;

- (b) County or Municipal Physical Planners;
- (c) Building Inspectors; and
- (d) County Enforcement Officers.

Functions of members of enforcement teams.

4. (1) Building Inspectors shall—

- (a) inspect building and works for compliance;
- (b) issue a stay order to the developer in case of noncompliant buildings or works; and
- (c) report to the County Director any noncompliance of buildings or works.

(2) County Directors shall—

- (a) issue and enforce enforcement notices on behalf of the County Executive Committee Member
- (b) take action on the report from the county building inspector on non-compliant buildings and works
- (c) Refer the report to the technical committee for further investigation if need be
- (d) Determine compliance of other aspects of development other than buildings and works
- (e) issue enforcement compliance certificate

(3) County/Municipal planner—

- (a) Inspect other aspects of development other than buildings and works for compliance to development permission
- (b) Issue a stay order to the developer
- (c) Report to the County Director

(4) County enforcement officer—

- (a) Issue enforcement notice
- (b) Execute the enforcement upon expiry of the notice
- (c) Report to County Director on the status of implementation of the enforcement

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5. In case a matter reported from preliminary investigation

Technical Team

requires further investigation, the County Director shall within 14 days convene a meeting of the Technical Committee to—

- (a) assess the matter
- (b) prepare a report on the status of development and any corrective measures to be undertaken
- (c) submit the status report to the county executive committee member for action

PART III—LODGING AND VERIFICATION OF COMPLAINTS

Lodging of complaints.

6. (1) Lodging of complaints about non-compliant development may be made to the County Director by—

- (a) individual members of the public
- (b) neighbourhood associations
- (c) private or public institutions
- (d) any other stakeholders

(2) Such complaints shall be lodged by—

- (a) post
- (b) hand delivery
- (c) transcription of verbally lodged complaints
- (d) electronic address
- (e) website
- (f) social media
- (g) depositing in the suggestion box

(3) The complainant is at discretion of disclosing their identity.

(4) The County Director shall ensure protection of the identity of the complainant.

Verification of complaints.

7. The County Executive Committee member shall immediately undertake preliminary investigation to determine the validity of the complaint, issue a Stay Order in Form PLUPA 19. (**Stay Order**) in case of none compliance.

PART IV—ENFORCEMENT

Enforcement notice.

8. (1) Where a person fails to comply with conditions stipulated in a stay order issued, the County Executive Committee Member shall immediately upon expiry of the stay order issue an enforcement notice containing details as specified in section 72 (2) of the Act in prescribed Form PLUPA 21 (**Enforcement Notice**)

(2) Where the matter is referred for further investigation by the technical committee, the committee may advise the County Executive Committee Member to—

- (a) lift the stay order issued
- (b) cause the revocation of the development permission
- (c) cause the modification or alteration of the conditions imposed on development permission
- (d) cause the owner, occupier, agent or developer to discontinue the development with immediate effect
- (e) cause the owner, occupier, agent or developer to alter or demolish the building or works
- (f) cause the owner, occupier, agent or developer to restore the land to its original or near original condition as before, within 90 days.

(3) The County Director shall within seven days of approval by the County Executive Committee Member of the decision of the technical committee issue an enforcement notice or lifting of the stay order.

Mode of service of enforcement notice

9. (1) All enforcement notices that the County Director is required to issue may be served—

- (a) By post, to any postal address in or outside Kenya entered in the land register as an address for service or as provided in the application for development permission in Form PLUPA...(**Development Application Form**);
- (b) By electronic transmission to the electronic address entered in the land register or in the application for development permission as an address for service;
- (c) By hand delivery to the registered owner or the applicant through the national or county government administration officers within the area of jurisdiction; or
- (d) By notice in the Gazette and in one newspaper with

nationwide circulation where appropriate at least three months before the enforcement in case of demolition.

(2) For unregistered property or where application for development permission has not been made, the notice may be served to any address where the county director believes the owner, occupier, agent or the developer is likely to receive it or in a newspaper of nationwide circulation.

(3) In all cases, a copy of the notice should visibly be displayed on the property.

(4) The service of a notice under paragraph (1) shall be regarded as having taken place if—

(a) for service under paragraph 1(a), the notice is served within seven working days in case of address within Kenya and 14 working days in case of address outside Kenya after being posted;

(b) For service under paragraph 1(b), the notice is served within two working day after being transmitted

(c) for service under paragraph 1(c), the notice is served within the same day that it was posted

Feedback mechanism.

10. (1) the County Director may send reminders to the persons in breach during the life of the notice to notify them that the breach and the enforcement notice are still in force

(2) Where a person served with the notice complies with stipulated conditions, the County Director shall issue an enforcement compliance form in Form PLUPA 20 (**Enforcement Compliance Certificate**)

General principles of enforcement.

11. In administering the enforcement notice the County Director shall be guided by the following general principles—

(a) provisions of Article 47 of the Constitution on fair administrative action

(b) Achievement of the intended goals of enforcement

(c) the enforcement to be commensurate to the breach

(d) uniformity and equity in the application of the enforcement across the board

Execution of enforcement notice

12. Upon expiry of the enforcement notice and where the person on whom an enforcement has been served has not appealed to the liaison committee, the Enforcement Team shall within seven

days enter the premises or property and execute the conditions in the notice. Timelines for undertaking various corrective measures are stipulated in Schedule.....

Identification of Enforcement Team

13. Any person participating in executing an enforcement shall identify themselves by production of—

- (a) The original national identification cards;
- (b) Official or staff identification cards;
- (c) A letter of authorization from the County Director
- (d) A certified copy of enforcement notice issued

Execution of Enforcement Notice for demolition and alteration of buildings

14. (1) In instances where enforcement requires the Enforcement Team to demolish buildings or works, the enforcement shall be carried out between 6.00 am and 6.00pm.

(2) The enforcement officers taking part in enforcement may take an inventory of any possessions on the premise or property in Form PLUPA 22 (**Inventory of Items Found on Site During Enforcement**)

(3) The onus to secure such possessions will vest on the owner or occupiers of the premise.

Determination of Restoration costs

15. In determining the costs for restoration of land to its original state, upon enforcement in line with section 57 (4) of the Act, the County Director shall—

- (a) Be guided by the General principles of enforcement outlined in regulation above
- (b) Develop a costing roll for restoration based on—
 - (i) technology required
 - (ii) risk factors
 - (iii) man power
 - (iv) unit cost for restoration per square meter
 - (v) transportation cost of materials from the site

Appeals.

16. Any person who is aggrieved by the decision of the County Director may appeal against such decision in line with section 72 (3) (4) of the Act.

Register.

17. (1) The County Director shall keep a register in form PLUPA 23 (**Register of Enforcement Notices**) containing the information in respect of every enforcement notice issued.

(2) Every entry in the register shall be made within seven (7) days of the happening of the event in respect of which an entry is required to be made.

(3) The register of enforcement notices shall be kept at the office of the County Director in electronic or manual forms.

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SCHEDULE.....

Conditions and Timelines for Various Enforcement Issues

S/No.	Nature of Non-Compliant Development	Timeline for the Notice
1.	Commencing the development of a Commercial/Residential/Industrial/Institutional building without the approval of building plans	30 days
2.	Commencing the development of Commercial/Residential/ industrial/institutional building without submission of structural drawings to the county government for approval;	21 Days
3.	Commencing the development of Commercial/ Residential/ Industrial/Institutional building without erecting notice of the development on the site	5 Days
4.	Commencing the development of a perimeter wall without the approval of building plans by the county government;	30 Days
5.	Extending development of Commercial/ Residential/Industrial/ Institutional development beyond approved level without development permission/ commencement notice;	30 Days
6.	Development of Commercial/ Residential/Industrial/ Institutional buildings using outdated development permission;	30 Days

7.	Development of Commercial/ Residential/Industrial/ Institutional premises without adhering to standard building lines;	90 Days
8.	Occupying/ allowing the occupation of Commercial/ Residential/Industrial/ Institutional buildings without acquiring Certificate of Compliance and consequent Certificate of Occupation from the County Government;	14 Days
9.	Developing/occupying/ allowing the occupation of substandard Commercial/ Residential/Industrial/ Institutional buildings that pose danger to the occupants and general public;	90 Days
10.	Subdividing/Re-parcelling/Amalgamating land without development permission,	21 Days
11.	Changing the Use/Extending the Use of the land without development permission;	21 Days
12.	Allowing effluent from the building to flow in the open posing danger to the public;	7 Days
13.	Dumping waste on undesignated waste disposal site;	2 Days
14.	Excavating soil/murram/sand without development permission;	7 Days
15.	Digging channels across/ along the road without development permission;	7 Days
16.	Leaving dug channels across/along roads uncovered or not cordoned posing danger	Cordoning- 1 Day

	to the public	Covering Dug channels- 7 Days
17.	Encroaching on a public road of access/ railway reserves/ wayleaves and easements/public space;	Temporary- 7 Days Permanent- 30 Days
18.	Displaying advertisement without development permission;	21 Days
19.	Generating excessive noise causing nuisance to the public;	Immediate

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REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

STAY ORDER

[Physical and Land Use Planning Act Sec 72(1)]

Serial No.....

Date Issued.....

To (Owner, Developer, Agent, Occupier)

Name.....

Postal address.....

E mail Address.....

Physical address.....

Description of the Land Parcel No.....

Coordinates.....

General description of land (for un-surveyed land).....

County/City/Municipality/Town/Ward.....

Name of road/street

Enforcement Notice No.....

Enforcement Report

The under signed Enforcement Officer in the presence of the owner/Developer/Agent/

Occupier exercising their powers under section 72 of PLUPA, 2019 identified the following non-compliant development at..... hrs (time) ondate..... while inspecting the land /premises

Developer/Agent/Occupier

Type of Development.....

Your attention is therefore drawn to the following provisions and requirements of PLUPA, 2019

Information/document required*

- i. Approved Architectural drawings
- ii. Approved Structural drawings
- iii. Commencement Notice
- iv. Site notice
- v. Approved subdivision/Amalgamation/Re-parcellation/partitioning scheme plan
- vi. Consent to subdivide
- vii. Planning brief for subdivision/Change of User/Extension of User/Extension of Lease/Renewal of Lease prepared by a registered and practising Physical Planner
- viii. Application to National Land Commission for Renewal of Lease
- ix. PLUPA Form.....(Approval/deferment/rejection of development)
- x. PLUPA Form.....(Certificate of compliance)
- xi. Certificate of Occupation in case of Buildings

*Tick as appropriate

You are hereby required to immediately stay the development and submit the required information/documents to the County Director of Physical and Land Use Planning within seven working days from the date of this notice failure to which an Enforcement Notice shall be served on you in accordance to Section 72(1) of PLUPA 2019.

Signed

.....date.....

Owner/ Developer/Agent/Occupier

Signed

.....date.....

Enforcement Officer

Copy: County Executive Committee Member in charge of Physical and Land Use Planning

County Director of Physical and Land Use Planning

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REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

ENFORCEMENT COMPLIANCE CERTIFICATE

[Physical and Land Use Planning Act Sec 72(1)]

Ref No.....

To (Owner, Developer, Agent, Occupier,)

Name.....

Particulars of property.....

Postal address.....

Email address.....

Physical address.....

IT IS HEREBY confirmed that you have FULLY COMPLIED with conditions of Enforcement Notice No..... ofDay of, 20..... and are therefore allowed to continue with utilization of the property

Official use:

Name and Signature of Authorized Officer.....

Official stamp

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

CC

Deputy County Commissioner.....

Sub County.....

OCPD.....

Division.....

County Enforcement Officer.....

County.....

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REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

ENFORCEMENT NOTICE

[Physical and Land Use Planning Act Sec 72(1)]

Ref No.....

To (Owner, Developer, Agent, Occupier)

Name.....

Postal address.....

E mail Address.....

Physical Address.....

1. Take notice that you have undertaken the development of land described here under without the grant of development permission and/or the following conditions required on that behalf under Part IV of the Physical and Land use Planning Act.

2. Description of the Land Parcel

No.....

Coordinates.....

Correspondence file No. (If known).....

General description of land (for un-surveyed land).....

County/City/Municipality/Town/Ward.....

Name of road/street.....

3. Nature of Development

4. Development conditions contravened.....

(See Details overleaf)

5. By this notice you are required to*

- a. Immediately stop any further activities on the land
- b. Alter/modify the buildings or works as per attached diagram
- c. Demolish the buildings or works
- d. Surrender Form PLUPA.....Serial no/Ref. no.....(the approval of development permission) issued for variation of development permission conditions.
- e. Restore the land to its original or near condition as before within 90 days.
- f. Any other measure (describe).....

*Tick whichever is applicable

6. This notice shall take effect on the.....day of, 20.....

7. If you are aggrieved by this notice, you may appeal to the County Physical and Land Use Planning Liaison Committee within fourteen days of this notice in which case the operation of this notice shall be suspended pending the final determination or withdrawal of the appeal

8. Any person who uses or causes or permits to be used the land to which this notice relates or carries out or causes or permits to be carried out operations on the said land in contravention to this notice shall be guilty of an offence provided by section 72(5) of the Act

TAKE NOTICE that at the expiry from the date of this notice, failure to comply, the County Government may enter on the said land and execute the requirements as outlined

above and may recover as a civil debt in Environment and Land Court any related expenses incurred

Official use:

Name and signature of Authorised

Officer.....

Official stamp

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

CC

Deputy County commissioner.....Sub County

OCPD..... Division

Sub-County Enforcement Officer.....Sub-County

Details

1. Commencing the development of a Commercial/Residential/ Industrial/Institutional building without the approval of building plans by the county government;
2. Commencing the development of Commercial/Residential/ industrial/institutional building without submission of structural drawings to the county government for approval;
3. Commencing the development of Commercial/ Residential/ Industrial/Institutional building without erecting notice of the development on the site
4. Commencing the development of a perimeter wall without the approval of building plans by the county government;
5. Extending development of Commercial/ Residential/Industrial/ Institutional development up to level without development permission/ commencement notice;
6. Development of Commercial/ Residential/Industrial/ Institutional buildings using outdated development permission;
7. Development of Commercial/ Residential/Industrial/ Institutional premises without adhering to standard building lines;
8. Occupying/ allowing the occupation of Commercial/ Residential/Industrial/ Institutional buildings without acquiring Certificate of Compliance and consequent Certificate of Occupation from the County Government;
9. Developing/occupying/ allowing the occupation of substandard Commercial/ Residential/Industrial/ Institutional buildings that pose danger to the occupants and general public;
10. Subdividing/Re-parcelling/Amalgamating land without development permission,
11. Changing the Use/Extending the Use of the land without development permission;
12. Allowing effluent from the building to flow in the open posing danger to the public;
13. Dumping waste on undesignated waste disposal site;
14. Excavating soil/murram/sand without development permission;
15. Digging channels across/ along the road without development permission;
16. Leaving dug channels across/along roads uncovered/not cordoned posing danger to the public
17. Encroaching on a public road of access/ public space;
18. Displaying advertisement without development permission;
19. Generating excessive noise causing nuisance to the public;



REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

INVENTORY OF ITEMS FOUND ON SITE DURING ENFORCEMENT

[Physical and Land Use Planning Act Sec 72(1)]

Ref No.....

Date.....

Description of the Land Parcel no.....
.....

Coordinates.....

General description of land (for un-surveyed land)
.....
.....
.....
.....

County/City/Municipality/Town/Ward.....

Name of road/street.....

Enforcement notice No.....

S/NO.	ITEM DESCRIPTION	NO. OF ITEMS	STATUS	SIGNATURE-OWNER/AGENT	SIGNATURE-Enforcement Officer

WITNESS

I hereby confirm that the items described above were retrieved from the premises on this day..... of20..... in my presence.

Name.....Signature.....

(To be Completed by; Ward Administrator or Chief or Assistant Chief.)



REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

REGISTER OF ENFORCEMENT NOTICES

[Physical and Land Use Planning Act Sec 72(2)]

S/No	Enforcement Notice Number	Date of Notice	Particulars of Person Served	Land Ref. No./description of property	Physical Address	Stipulated Corrective Measure	Date & brief of action taken by the person served	Date of issuance of compliance form	Date & Decision of appeal to Liaison Committee	Date & Decision of Court

Made on the, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.