



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 makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS) REGULATIONS, 2020

PART I—PRELIMINARY

Citation. **1.** These Regulations may be cited as the Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2020.

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

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

"County Executive Committee Member" has the meaning assigned to it under section 2 of the Act;

"County Liaison Committee" means the County Physical and Land Use Planning Committee established under section 76 of the Act;

No. 19 of 2011. "court" means the Environment and Land Court established under section 4 of the Environment and Land Court Act, 2011;

"development control" has the meaning assigned to it under section 2 of the Act;

"Director-General " means the Director-General of Physical and Land Use Planning appointed under section 11 of the Act;

"electronic" has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

"Inter-County Physical and Land Use Plan" has the meaning assigned to it under section 2 of the Act;

"Inter-County Project" means a project carried out for the realization of development objectives for an 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 Plan and for connected purposes as envisioned under section 29 of the Act;

No. 6 of 2012.

“land acquisition” means any method used to secure rights or interests to land in line with the Land Act, 2012;

“land reservation” means putting aside land for one or more purpose in the public interest; and

“National Liaison Committee” means the National Physical and Land Use Planning Liaison Committee established under section 73 of the Act.

PART II—DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS

Preliminary conceptual application.

3. (1) Where two or more counties are seeking to undertake an inter-county development project, they shall submit a concept note and preliminary plans to the Cabinet Secretary for input.

(2) The Cabinet Secretary shall within fourteen days upon receipt of the concept note and preliminary plans under paragraph (1), issue an advisory or convene a meeting with the respective counties for further consultations.

Establishment of an Inter-County Physical Planning and Land Use Joint Committee.

4. (1) Where two or more counties by mutual agreement or out of compelling necessity intend to formulate an inter-county project proposal, the counties shall form an Inter-County Physical Planning and Land Use Joint Committee.

(2) The Director General shall in consultation with other members of the Joint Committee convene the first meeting.

Scope of Inter-County Project Proposal.

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

Notice of intention to prepare Inter-County Project proposal.

6. (1) When preparing the inter-county project proposal, the Joint Committee shall publish a notice in the *gazette* and in at least two newspapers of national circulation and electronic media informing the public of the intention to prepare an inter-county project proposal and request for submission of comments.

(2) The *gazette* notice shall require submission of comments sought under paragraph (1) within thirty days.

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

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

(5) The Joint Committee may on its own motion extend the period under paragraph (1) by a period not exceeding six months.

Public participation.

7. The Joint Committee shall consult, publish, consider national security and hold stakeholders' meetings during the preparation of the inter-county project proposal.

Notice of and objections to an Inter-County project proposal.

8. (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—

(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 paragraph (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.

Appeals.

9. (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.

(2) The National 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 Liaison Committee may within fourteen days of the decision appeal to the court.

Application for approval of Inter-County Project Proposal.

10. (1) The Joint Committee shall complete the inter-county project proposal and submit it to the respective County Executive Committee Member.

(2) The respective County Executive Committee Member shall separately submit the inter-county project proposal to the respective County Executive Committees for consideration and comments

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

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

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

(5) The approved inter-county project proposal shall be submitted to the Director-General for coordination and certification.

Coordination and Certification of approved inter-county project proposal.

11. Within thirty days of completion of an 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 the completed inter-county project proposal is available for perusal at the place and time specified in the notice.

Implementation of the approved Inter-County project proposal.

12. (1) The inter-county project proposal conceived under 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 joint meeting organized by the Joint Committee.

(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—ENFORCEMENT

Monitoring. **13.** The respective County Executive Committee Member of a county participating in 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.

Compliance. **14.** (1) At least three months before the end of a financial year, every county executive committee member in 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 for their purposes.

(2) The Cabinet Secretary on his own motion or on the basis of a status report submitted under paragraph (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.

(3) The Cabinet Secretary upon consultations with the Joint Committee may propose that—

- (a) where no Joint Committee was established, the Cabinet Secretary shall require the respective counties to constitute it; or
- (b) where the Joint Committee is unable to resolve the complaint, the dispute shall be referred to the National Physical and Land Use Consultative Forum for consideration and determination.

Made on the, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.