



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 (INSTITUTIONS)
REGULATIONS, 2020**

Citation. 1. These Regulations may be cited as the Physical and Land Use Planning (Institutions) Regulations, 2020.

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

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

"circular" means a notice issued in the *Gazette* by the Cabinet Secretary to draw the attention of county executive committee members, physical planners and the public to new legislation, standards and norms, their practical applications and to explain current law and practice;

"Commission" means the National Land Commission;

"county executive committee member" means the county executive committee member responsible for matters relating to physical and land use planning in the respective county;

"County Physical and Land Use Planning Consultative Forum" means the forum established under section 14 of the Act;

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

"guidelines" mean procedures and standards issued in the *Gazette* by the cabinet secretary to county executive committee members, physical planners and the public meant for uniform application across the country

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

"National Physical and Land Use Planning Liaison Committee" means committee established under section 73 of the Act;

“policy statements” mean statements issued in the *Gazette* by the cabinet secretary on different aspects of physical and land use planning meant for uniform application across the country.

Nominated members of the National Physical and Land Use Planning Consultative Forum.

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

- (a) be a registered member in good standing of the relevant professional body;
- (b) not be employed by the national or county government;
- (c) not be a member of Parliament or a county assembly;
- (d) satisfy the requirements of Chapter Six of the Constitution;
- (e) not be an undischarged bankrupt; and
- (f) shall be nominated in an open and transparent manner.

Nomination process.

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.

(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.

Notice.

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.

Submission of names of nominees.

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 4.

- Appointment of nominees. **7.** Upon receipt of names of nominees, the Cabinet Secretary shall appoint and gazette the names within thirty days for a term of three years renewable once.
- Quorum. **8.** The quorum for the conduct of business at a meeting shall be eleven members.
- Decision of the Forum. **9.** (1) All instruments made by, and decisions of, the Forum shall be signified in writing under the hand of the chairperson and secretary save as may be provided for in any other written law.
- (2) The decisions of the Forum shall be by concurrence of the members present but where concurrence is not achieved, decisions shall be by a majority of the members present through voting.
- Communication channel. **10.** The recommendations of the forum shall be communicated to relevant agencies by the chair person for action.
- Implementation of the resolutions of the Forum. **11.** Where relevant agencies have not acted on the recommendations of the forum, the chair person shall refer the matter to the National Physical Liaison Committee
- Falling vacant. **12.** Within fourteen days of a position falling vacant under section 6 (2) (k), (l), (m), (n) or (p), the Cabinet Secretary shall initiate the appointment of a new member as outlined in these regulations. Such member appointed shall serve the full term.
- Committees. **13.** (1) The forum shall establish committees in line with thematic areas.
- (2) The sittings of the committees shall precede the meetings of the main forum.
- (3) The forum may constitute ad hoc committee as at when need arises.
- Review of national policy on physical and land use planning. **14.** The Cabinet Secretary shall cause the review of the national policy on physical and land use planning upon receipt of a recommendation from the oversight institutions on physical and land use planning or when deemed fit or at the expiry of the implementation period.
- Approval and oversight role. **15.** The Cabinet Secretary shall cause for annual reports to be prepared by the Director General on implementation of the national physical and land use development plans
- Co-ordinating national and county levels of physical and **16.** The Cabinet Secretary shall cause the establishment of offices at the county level for purpose of coordinating physical and land use planning matters.

land use
planning.

Nomination Of
members.

17. Members nominated by their relevant institutions to the County Physical and Land Use Planning Consultative Forum established under the Act shall—

- (a) be registered with appropriate professional bodies;
- (b) not be employed by the national or county government;
- (c) be of good standing and uphold the national values and principles enunciated under Article 10 of the Constitution;
- (d) be nominated in accordance with the guiding principles of leadership and integrity under the constitution and all relevant laws in Kenya.

Nomination
process.

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

Nomination
duration.

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

Appointment of
members.

20. 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* to serve for a term of three years renewal once.

Quorum.

21. The quorum for the conduct of business at a meeting shall be eleven members.

Decisions of the
Forum.

22. The decisions of the Forum shall be by concurrence of the members present but where concurrence is not achieved, decisions shall be by a majority of the members present through voting.

Communication
channel.

23. The recommendations for the forum shall be communicated to relevant agencies by the chair person for action.

Implementation
of the
resolutions of
the Forum
position.

24. Where relevant agencies have not acted on the resolutions of the forum, the chair person shall refer the matter to the County Physical Liaison Committee.

Position falling
vacant.

25. Within fourteen days of a position falling vacant under section 14 (2) (j), (k), (l), (m) or (n), the County Executive Committee Member shall initiate the appointment of a new member as new member as per the procedure for nomination as outlined in these regulations. Such member appointed shall serve the full term.

Functions.

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

(2) In matters cutting across more than two counties, the respective affected counties shall identify and deliberate on the issues and refer their resolutions to the Joint Inter-County Physical and Land Use Planning Committee for planning.

(3) The Inter-County Physical and Land Use Development Plan shall be circulated to the 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 for the purposes of incorporating them to the plan.

Meetings.

27. The forum shall meet at least four times in a year on quarterly basis.

Committees.

28. (1) The forum shall establish standing committees in line with the thematic areas.

(2) The sittings of the standing committees shall precede the meetings of the main forum.

(3) The forum may constitute ad hoc committee as at when need arises.

Functions.

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

(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.

Responsibilities.

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

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

(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 resource center that will inform physical and land use planning.

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

Establishment of Inter-county Joint Physical and Land Use Planning Committees.

31. The agreement as per section 29 (1) shall be in writing and binding to the parties.

Convening the first meeting.

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

Quorum.

33. The quorum shall be the County Executive Committee Members in charge of physical and land use planning of respective counties and the Director General.

Decisions.

34. The decisions of the meetings shall be by consensus.

Record-keeping.

35. The secretary shall keep clear records of the resolutions of the meetings.

Venue.

36. The venue of the meetings shall be agreed by consensus.

Circulars

37. (1) The Cabinet Secretary may, in the *Gazette*, issue a circular informing county executive committee members, physical planners and the public new legislation, policies, norms and standards on physical and land use planning for purpose of information or compliance.

(2) The circular shall contain a brief statement of the purpose of the instrument it may be found.

(3) In addition to issuing a circular in the *Gazette*, the Cabinet Secretary shall simultaneously publish the content of the circular in two newspapers with a national circulation in English and Kiswahili languages.

(4) All circulars shall be posted on the Ministry's website in a format that allows printing of content free of cost and remain accessible until revoked in a *Gazette* notice by the cabinet secretary.

Policy statements.

38. (1) On his own initiative, or as directed by the Environment and Land Court or on request by the 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 public

interest issue in the *Gazette* a policy statement 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.

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

(3) Physical planners must take into account policy statements issued by the Cabinet Secretary in undertaking any activity relating to physical and land use planning.

(4) Policy statements are material considerations by planning authorities at national and county levels which must be taken into account in preparation, approval, implementation and revision of physical and land use plans, development control, enforcement including dispute resolution.

Guidelines.

39. (1) The Cabinet Secretary may issue in the *Gazette* and publish in two dailies with national circulation in English and Kiswahili information and advice on standards, norms and procedures including matters aimed at coordinating the national and county levels of physical and land use planning with the objective of ensuring uniform application across the country and give a measure of certainty and predictability to the planning system at the National and county levels.

(2) The cabinet secretary may by a *Gazette* notice revoke a notice issued under regulation 39 (a) and shall give reasons for such a revocation.

Made on the, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.