

**THE PHYSICAL PLANNING AND LAND USE ACT**

**THE PHYSICAL AND LAND USE PLANNING (ELECTRONIC DEVELOPMENT CONTROL AND ENFORCEMENT SYSTEM) REGULATIONS, 2020**

**PART I: PRELIMINARY**

<p>Application</p> <p>LN 156 of 2019</p>	<p><b>1.</b> (1) These Regulations shall apply to the Development Control and Enforcement activities under Part IV and V respectively and as set out in the Third Schedule of the Act.</p> <p>(2) Without prejudice to the generality of sub-Regulation 1(1) –</p> <p>(i) In the case of an application for development permission for projects of inter-county and or strategic national importance projects as set out in the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019; and</p> <p>(ii) the Cabinet Secretary may through a notice in the gazette, make regulations as set out in Part VII of the Act.</p>
<p>Interpretation</p>	<p><b>2.</b> In these Regulations, unless the context otherwise requires–</p> <p>"<b>Act</b>" means the Physical and Land Use Planning Act, 2019;</p> <p>"<b>authorized officer</b>" means an officer with a user account mandated to receive, record, advise, verify, notarise, transmit or file documents received for an application;</p> <p>"<b>authorised user</b>" means a person who has created an online electronic account for access or submission of information for purposes of physical and land use planning;</p> <p>"<b>consultant</b>" means a licensed/registered and practicing professional or consulting firm mandated to submit applications on behalf of the registered owner of the land;</p> <p>"<b>Development Technical Validation Committee</b>" means committee constituted for quality assurance of the processed applications before approval;</p> <p>"<b>development control</b>" has the meaning assigned to it under section 2 of the Physical and Land Use Planning Act, 2019;;</p> <p>"<b>development conditions</b>" has the meaning of conditions imposed by a planning authority on grant of a development permission under section 61(2)(a) of the Physical and Land Use Planning Act, 2019</p> <p>"<b>development control instruments</b>" means prescribed standard operating documents including forms and spreadsheets utilised in handling applications for development permission;</p>

**“conformance conditions”** means conditions for applications that require further professional input such as structural, civil, electrical, mechanical and ICT engineering designs before commencement of development;

**“development fees”** means a fee levied under section 63 of the Physical and Land Use Planning Act, 2019 for development of infrastructure in relation to the property in question for general use by the residents of the area where the property in question is located;

**“development permission”** means permission granted by the planning authority to an applicant to develop land under section 57 of the Physical and Land Use Planning Act, 2019;

**“electronic”** has the meaning assigned to it under section 2 of the Kenya Information and Communications Act Cap 401A;

**“electronic signature”** has the meaning assigned to it by the Kenya Information and Communications Act Cap 401A;

**“enforcement notice”** means a notice served by a planning authority under section 72 of the Physical and Land Use Planning Act, 2019 on the owner, occupier or developer of the land requiring that owner, occupier or developer to comply with provisions of that section;

**“fee waiver”** has the meaning assigned to it under section 159 of the Public Finance and Management Act 2012;

**“licenced professional”** means a Physical Planner, Architect, Engineer, Landscape Architect or Urban Designer;

**“on-line registration form”** means form used for user account opening and registration;

**“performance conditions”** means conditions discharged during implementation through interim, partial and incremental certification;

**“planning authorities”** has the meaning assigned to it under section 2 of the Physical and Land Use Planning Act, 2019;

**“preliminary application”** means an application seeking detailed information and guidance to enable submission of a detailed application;

**“prescribed agenda”** means a schedule of applications for development permission that have been processed for tabling in Development Technical Validation Committee;

**“relevant authorities”** has the meaning assigned to it under section 60 of the Physical and Land Use Planning Act, 2019

**“relevant Professional Registration Board”** has the meaning assigned to Physical Planners Registration Act, Architects and Quantity Surveyors Act and Engineers Registration Act;

	<p><b>“registered owner”</b> means the registered owner of land or property for which development permission is sought;</p> <p><b>“register of development permission”</b> has the meaning assigned to it under section 62(2) of the Physical and Land Use Planning Act, 2019;</p> <p><b>“shared services agreement”</b> has the meaning assigned to it under section 118 of the County Government Act;</p> <p><b>“shared services tariffs”</b> has the meaning assigned to it under section 120 of the County Government Act;</p> <p><b>“sub- consultant”</b> means an authorized user who may be sub-contracted to undertake specific conformance or performance tasks;</p> <p><b>“system”</b> means the physical and land use module of the National Land Information System;</p> <p><b>“performance timeline”</b> has the meaning assigned to it under sections 64 and 65 of the Act;</p> <p><b>“use”</b> means any use of land for which development permission has been obtained under the Physical and Land Use Planning Act , 2019;</p> <p><b>“zoning ordinance”</b> means a regulation that defines land in a specific geographic location can be developed and used.</p>
<p><b>PART II: THE DEVELOPMENT CONTROL AND ENFORCEMENT SYSTEM</b></p>	
System Establishment	<p><b>3.</b> There shall be established an electronic development control and enforcement system being a module within the National Land Information System for the purpose of handling applications for development permission.</p>
Database and Operation Tools	<p><b>4.</b> (1) The Director-General shall maintain in the system, an electronic database for the –</p> <ul style="list-style-type: none"> <li>(i) approved physical and land use plans in accordance to provisions of the First and Second Schedules of the Act;</li> <li>(ii) development control instruments including handbooks, codes, zoning ordinances, policy statements, guidelines, circulars and manuals; and</li> <li>(iii) registers of documents submitted by applicants for development permission as provided in Schedule 1.</li> </ul> <p>(2) The database shall be displayed and retrieved in such a manner that enables–</p> <ul style="list-style-type: none"> <li>(i) an authorized user, being a registered owner of a property shall retrieve information necessary to describe the permissible development which is the subject of the proposed application;</li> </ul>

	<ul style="list-style-type: none"> <li>(ii) a licenced professional authorised to submit an application for development permission, who shall link such property to their user account; and</li> <li>(iii) a member of the public or authorized agent of an institution desirous to access data for research purposes.</li> </ul>
<p>Requirements for handling applications for development permission</p>	<p><b>5.</b> (1) For purposes of submission of development proposals listed under section 1 of the Third Schedule of the Act, the Director-General shall–</p> <ul style="list-style-type: none"> <li>(i) establish online links with relevant authorities for ease of information cross-referencing;</li> <li>(ii) enable module integration for property searches, cadastre outlay and property survey attributes for retrieval of such information for submission of development applications; and</li> <li>(iii) process development applications within the prescribed projects of national importance in accordance with section 69 of the Act.</li> </ul> <p>(2) There shall be a County Government system operators who shall be –</p> <ul style="list-style-type: none"> <li>(i) the County Director of Physical and Land Use Planning in accordance with section 20(h) the Act;</li> <li>(ii) such authorised planning officers in designated planning units in accordance with section 20(g) of the Act;</li> <li>(iii) such authorised technical officers in the relevant authorities or agencies in accordance to section 60(1) of the Act; and</li> <li>(iv) such authorised finance officers in designated finance units in accordance with section 120 of the County Government Act and section 157, 159 and 171 of the Public Finance Management Act.</li> </ul>
<p>Signing Up for User Account</p>	<p><b>6.</b> (1) There shall be a user account created in the system for every authorised user by –</p> <ul style="list-style-type: none"> <li>(i) signing up and completing a prescribed on-line registration form eDCES001;</li> <li>(ii) selecting access level for the purpose of transacting activities listed in sub-regulation 5(2); and</li> <li>(iii) providing the following information: <ul style="list-style-type: none"> <li>(a) Name;</li> <li>(b) Identity Number/Incorporation/Registration Number; Passport Number</li> <li>(c) Telephone Number;</li> <li>(d) Alternative Telephone Number;</li> <li>(e) E-mail address;</li> <li>(f) Postal Address;</li> <li>(g) Next of kin details;</li> <li>(h) Passport size photo as profile picture in case of natural persons; and</li> </ul> </li> </ul>

	<p>(i) Physical Address.</p> <p>(2) The Authorised user shall receive credentials for use in logging into their user account.</p>
User obligations	<p><b>7.</b> A person being an authorized user shall in addition to the terms and conditions set out in the Third Schedule of these Regulations –</p> <p>(i) submit such applications for development permission as may be authorized under these Regulations;</p> <p>(ii) be responsible for the security of his or her details for purposes of any application under these Regulations;</p> <p>(iii) ensure integrity of the information submitted;</p> <p>(iv) not distribute, sell or combine any information accessed through the system;</p> <p>(v) not copy, exchange, disclose or use the land related information accessed from the system for any other purpose other than for purposes of the transactions under these Regulations; and</p> <p>(vi) not to use the system for any unauthorized purposes.</p>
Public Access	<p><b>8.</b> A person may access the system if that person has—</p> <p>(i) established a user account; and</p> <p>(ii) submitted the requisite information in the designated fields.</p>
Access by Professionals	<p><b>9.</b> (1) Subject to regulation 8, a professional submitting application for development permission on behalf of registered owner of a property shall provide further information including –</p> <p>(i) professional qualifications in accordance to section 59 of the Act;</p> <p>(ii) certificate of good standing and practising license from the relevant Professional Registration Board;</p>

<p>Suspension of a user's access to the system</p>	<p><b>10.</b> (1) The Director-General or County Director may immediately suspend a user's access when it comes to his/her notice that the user –</p> <ul style="list-style-type: none"><li>(a) has contravened the obligations or the terms and conditions of access;</li><li>(b) is suspected to have committed any fraud, identity theft or system misuse;</li><li>(c) allows an unauthorised/unqualified person to <u>access the system</u>;</li><li>(d) in the case of professionals, is not in good standing;</li><li>(e) <u>is dead</u>;</li><li>(f) <u>is declared insolvent</u>;</li><li>(g) <u>is declared of unsound mind</u>.</li></ul> <p>(2) The Director-General or County Director shall on making the decision under Paragraph (1) (a), (b), (c) and (d) immediately inform the user of that decision and shall specify in the notification -</p> <ul style="list-style-type: none"><li>(a) the grounds of suspension;</li><li>(b) the facts which, in the opinion of the Chief Land Registrar, justify each ground of suspension and intention to terminate; and</li><li>(c) the period within which the user shall be required to respond to the notification.</li></ul> <p>(3) Subject to Paragraph (2), the Director-General or County Director shall serve notification by—</p> <ul style="list-style-type: none"><li>(a) an electronic transmission to any electronic address specified in the user agreement as the user's through SMS Notification, email notification or any other form of electronic transmission;</li><li>(b) post, to any postal address specified in the user agreement as the user's address of service.</li></ul> <p>(4) A user may respond to a suspension notice in writing or in electronic form stating the reasons why the suspension of access should be withdrawn and the response served upon the Director-General or County Director before the expiry of the period specified in Paragraph (2) (c).</p> <p>(5) The Director-General or County Director shall upon receipt of a response under Paragraph (4) if satisfied that it is no longer appropriate to suspend the user's access withdraw the suspension and send a notification to that effect to the user within 7 days.</p>
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Termination of a user's access to the system	<p><b>11.</b></p> <p>(1) Subject to Regulation 10 (1), the Director-General or County Director shall immediately terminate the user's access to the system upon confirming that the user is dead, is declared insolvent or is of unsound mind.</p> <p>(2) The Director-General or County Director shall terminate the user's access if –</p> <ol style="list-style-type: none"> <li>a. not satisfied with the user's response given under Regulation 10 (4)</li> <li>b. the user does not respond within the specified period in Regulation 10 (2) (c)</li> </ol> <p>(3) The Director-General or County Director shall communicate the decision under Paragraph (2) to the user within 7 days.</p> <p>(4) The user may file an appeal to the Electronic Appeals Committee, through the Cabinet Secretary, within 14 days of the decision to terminate the user's access.</p>
Appeals against the decision to terminate a user's access to the system	<p><b>12.</b> (1) The Cabinet Secretary in consultation with the National Land Commission shall appoint an Electronic Appeals Standing Committee to hear appeals against the termination of user's account.</p> <p>(2) The membership of the Electronic Appeals Standing Committee shall comprise of:</p> <ol style="list-style-type: none"> <li>(a) Three representatives from the Ministry;</li> <li>(b) One representative from National Land Commission;</li> <li>(c) One representative from Council of Governors;</li> <li>(d) Four representatives from the private sector provided that one of them shall be an Information Technology Specialist well versed with system forensic audit and cybercrime.</li> </ol> <p>(3) The Electronic Appeals Standing Committee shall nominate from among the members of the Committee one member from the Ministry and one member from the Commission who shall serve as the secretariat.</p> <p>(4) The Electronic Appeals Standing Committee shall hear and determine any matter referred to it within 30 days and notify the user of its decision within 7 days.</p> <p>(5) A user aggrieved by the decision of the Electronic Appeals Standing Committee may appeal to the court within 30 days from the date of such decision.</p>
<b>PART III: PREPARATION AND SUBMISSION OF DEVELOPMENTS APPLICATIONS</b>	
Preparation of application	<p><b>13.</b> (1) For purposes of establishing the permitted use and zoning ordinance requirements of a property, the authorised user shall –</p> <ol style="list-style-type: none"> <li>(i) log in and enter the required information;</li> <li>(ii) attach the relevant documents as may be required to search for the relevant approved plan; and</li> <li>(iii) retrieve planning particulars of the property.</li> </ol> <p>(2) For purposes of establishing if the proposed development falls in the category of national strategic importance or inter-county in accordance to</p>

	<p>section 69 of the Act, the authorised user shall make reference to the Physical And Land Use Planning (Classification Of Strategic National or Inter-County Projects) Regulations, 2019;</p> <p>(3) For applications whose policy interpretations may not be clear or constitute comprehensive development, the authorised user may –</p> <ul style="list-style-type: none"> <li>(i) prepare preliminary application for concept evaluation and recommendations;</li> <li>(ii) submit electronically the said application under the submission guidelines in these Regulations, or</li> <li>(iii) physically consult the authorised officer of the planning authority</li> </ul> <p>(4) The recommendations obtained under sub-Regulation 14(3) shall constitute the full submission of the application.</p>
<p>Submission of application</p>	<p><b>14.</b> (1) Application for development permission shall be made in the prescribed form, depending on the type of application.</p> <p>(2) An application for development permission shall be transmitted to such electronic address in accordance to these Regulations;</p> <p>(3) All applications for development permission shall be accompanied by supporting documents including –</p> <ul style="list-style-type: none"> <li>(i) Title Deed, Certificate of Lease or any legal ownership documents and a current search;</li> <li>(ii) Written consent in accordance to section 58(4) of the Act;</li> <li>(iii) Geo-referenced Cadastral map, sectional plans or other filed plans;</li> <li>(iv) Scheme plans/building plans in accordance to submission guidelines, approved standards and specifications.</li> <li>(v) Public Notification (where applicable) in accordance to section 58(7)(8);</li> <li>(vi) Planning Brief (where applicable)</li> </ul> <p>(4) The written consent, public notification notice and planning brief shall be submitted PDF format and shall –</p> <ul style="list-style-type: none"> <li>(i) not be password protected;</li> <li>(ii) be A4 paper size;</li> <li>(iii) have line spacing 1.5;</li> <li>(iv) not contain hyperlinks;</li> </ul> <p>(5) The uploaded files of a single application shall –</p>



	<ul style="list-style-type: none"> <li>(i) be limited to 25 Mb per file;</li> <li>(ii) have images of with resolution not less than <b>XXXX</b> pixels</li> </ul> <p>(6) The e-mailing of document to the planning authority shall not constitute submission of a development application;</p> <p>(7) Where due to a reasonable cause that may include a system prolonged down time, resulting in an authorized person inability to submit an application electronically, the consultant or sub-consultant may submit a hard copy application to the planning authority and give reasons;</p> <p>(8) For purposes of computation of time, the deadline for electronic submission of documents including the planning authority communicating decisions on development applications lodged electronically shall be 23:59:59 hours Kenyan time;</p> <p>(9) A signature may be –</p> <ul style="list-style-type: none"> <li>(i) a manual signature on a document that is scanned for electronic submission;</li> <li>(ii) an electronic signature.</li> </ul> <p>(10) The consultant or sub-consultant shall be under a duty to inform the registered owner of the submission and progress made in processing the application</p>
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**PART III: RECEIVING AND PROCESSING OF DEVELOPMENT APPLICATION**

<p>Receiving and Invoicing Development Application Fees</p>	<p><b>15.</b> (1) The system shall generate an automated confirmation of receipt of the application bearing the date and time of submission and hyperlink of the documents attached;</p> <p>(2) The application shall be received and downloaded by the authorised planning officer and subject to prescribed fees in accordance to the regulations issued from time to time by–</p> <ul style="list-style-type: none"> <li>(i) the Cabinet Secretary for proposed projects that fall in the classification of strategic national importance or inter-county;</li> <li>(ii) the County Executive Committee Member for proposed developments that fall outside those specified in paragraph (i)</li> </ul> <p>(2) Electronic payments due to National Government shall be made in the form that the Cabinet Secretary may prescribe from time to time;</p> <p>(3) Electronic payments due to County Government shall be made in the form the County Executive Committee Member may prescribe from time to time; and</p> <p>(4) An application shall not be considered duly completed until the invoiced amount is paid in full.</p>
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<p>Registration of Development Application</p>	<p><b>16.</b> (1) Upon confirmation by the authorised finance officer for payment of application fees or waiver authority, the authorised planning officer shall –</p> <ul style="list-style-type: none"> <li>(i) prepare an electronic submission certificate in form ePLUPA 002 in the First Schedule with a tracking number issued by the system; and</li> <li>(ii) record the application in the development applications Register in line with section 62 of the Act;</li> </ul>
<p>Circulation and Reviewing of application</p>	<p><b>17.</b> (1) Subject to the provisions of Section 60 of the Act, the authorised planning officer shall transmit an electronic copy of the application to the authorised technical officer of the relevant authorities and agencies to review and comment.</p> <p>(2)The fully circulated application shall be received by the –</p> <ul style="list-style-type: none"> <li>(i) Director-General for the prescribed projects of national importance for onward approval by the Cabinet Secretary;</li> <li>(ii) County Director of Physical and Land Use Planning who shall– <ul style="list-style-type: none"> <li>a. enter as an item in the prescribed agenda;</li> <li>b. table the agenda in the Development Technical Validation Committee; and</li> <li>c. forward the resolution of the Development Technical Committee to the County Executive Committee Member for approval</li> </ul> </li> </ul>
<p>Development Technical Validation Committee</p>	<p><b>18.</b> (1) The County Executive Committee Member shall –</p> <ul style="list-style-type: none"> <li>(i) establish the Development Technical Validation Committee to validate comments and recommendations received from the relevant authorities and agencies;</li> <li>(ii) appoint members of the committee who shall include – <ul style="list-style-type: none"> <li>a. Chief Officer in charge of Physical and Land Use Planning or a designated representative who shall be the chairperson;</li> <li>b. City or municipal director of physical and land use planning or designated representative;</li> <li>c. County, city or municipal architect or a designated representative;</li> <li>d. County land surveyor or a designated representative;</li> <li>e. County city or municipal Engineer or a designated representative;</li> <li>f. County, city or municipal director of land administration or a designated representative;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>g. County director of public health or a designated representative;</li> <li>h. County, city or municipal director of environment or a designated representative;</li> <li>i. County Director of Physical and Land Use Planning who shall be the secretary</li> </ul> <p>(2) Members of the Development Technical Validation Committee shall –</p> <ul style="list-style-type: none"> <li>(i) hold scheduled meetings set out on an annual basis;</li> <li>(ii) deliberate the agenda items set in sub-Regulation 15(2)(ii) and validate each item;</li> <li>(iii) make comments based on their professional competence;</li> </ul> <p>(3) The Development Technical Validation Committee shall with reasons recommend to the county executive committee member whether to grant, reject or differ a development application</p>
Decision Making and Communication	<p><b>19.</b> (1) The Cabinet Secretary shall approve or decline applications for prescribed projects of strategic national importance in accordance with Section 69(4) of the Act;</p> <p>(2) The county Executive Committee Member shall –</p> <ul style="list-style-type: none"> <li>(i) receive the resolutions of the Development Technical Validation Committee and for each item in agenda shall grant, refuse to grant or differ stating reasons for the decision;</li> <li>(ii) Authorise the County Director of Physical and Land Use Planning to communicate of the decisions in accordance to section 20(i) of the Act</li> </ul> <p>(3) County Director of Physical and Land Use Planning shall –</p> <ul style="list-style-type: none"> <li>(i) transmit the decision to such electronic address provided by the consultant supported by email or short message service to the property owner; and</li> <li>(ii) re-circulate deferred applications to the relevant authorities for further review and reporting in the subsequent validation meeting</li> </ul>
Preparation of Conformance Conditions Applications	<p><b>20.</b> (1) A consultant who receives approval decision with conformance conditions shall –</p> <ul style="list-style-type: none"> <li>(i) Appoint qualified and authorised user as sub-sub-consultant and share the conformance conditions to be fulfilled;</li> <li>(ii) Instruct the sub-consultant to prepare secondary applications for the purpose of –</li> </ul>

	<ul style="list-style-type: none"> <li>a. conforming to requirements provided in section 11(c)(d) and (e) of Third Schedule of the Act;</li> <li>b. the charging of development fees where applicable in accordance to section 63 of the Act; and</li> <li>c. securing necessary wayleave permits in accordance to section 12 of Third Schedule of the Act;</li> </ul>
Receiving and Processing of Conformance Conditions Applications	<p><b>21.</b> (1) Application received by the authorised planning officer who shall–</p> <ul style="list-style-type: none"> <li>(i) circulate to the authorised technical officers of the relevant authorities or agencies responsible for the matter under review; and</li> <li>(ii) forward the reviewed application to the County Director of Physical and land Use planning for issuance of development permit;</li> </ul>
Issuance of Development Permission	<p><b>22.</b> (1) The County Director of Physical and Land Use planning shall issue notification of development application decision–</p> <ul style="list-style-type: none"> <li>(i) granting permission with: <ul style="list-style-type: none"> <li>a. performance conditions;</li> <li>b. performance timelines in accordance with Sections 64 and 92 of the Act;</li> </ul> </li> <li>(ii) declining permissions giving reasons for the decision; or</li> <li>(iii) deferment seeking more information or clarification on specific matters</li> </ul>
<b>PART IV: PERFORMANCE CONDITIONS MONITORING AND INSPECTIONS</b>	
Notifications of Inspections	<p><b>23.</b> (1) The registered owner of a property or duly authorised agent shall –</p> <ul style="list-style-type: none"> <li>(i) send electronic form of notification to the authorised planning officer requesting for inspection during the – <ul style="list-style-type: none"> <li>a. commencement the of the project</li> <li>b. subsequent stages stated in the performance conditions</li> </ul> </li> </ul> <p>(2) The authorised planning officer shall –</p> <ul style="list-style-type: none"> <li>(ii) receive form of notification and within 24 hours from the hour of receipt issue electronic invoice subject to prescribed fees in accordance to the regulations issued from time to time;</li> <li>(iii) upon payment of the application fees circulate the notification within 24 hours to the authorised technical officer of the relevant authorities or agencies to carry out the inspection</li> </ul>

<p>Site Inspection Procedure</p>	<p><b>24.</b> (1) The authorised technical officer of the relevant authorities or agencies shall –</p> <ul style="list-style-type: none"> <li>(i) visit the project site within 24 hours of receiving the form of notification and conduct inspection in accordance to procedures prescribed in the relevant codes;</li> <li>(ii) prepare the inspection report in the prescribed inspection card and file an electronic copy and – <ul style="list-style-type: none"> <li>a. if satisfied with standards on the visited site issue interim certificate authorizing progress of development within 7 days from the date of inspection; or;</li> <li>b. if not satisfied, demand compliance to the set standards or conditions of approval before embarking on the development</li> </ul> </li> </ul> <p>(2) The registered owner of a property carrying out the development shall not proceed with the development unless issued with a copy of the inspection report and interim certificate authorising progress.</p>
<p>Final Inspection Issuance of Compliance/Occupation Permit</p>	<p><b>25.</b> (1) Upon completion of the development project the consultant or duly authorised agent shall on behalf of registered owner of a property–</p> <ul style="list-style-type: none"> <li>(i) send electronic form of notification to the authorised planning officer requesting for joint final inspection of all authorised technical officers of the relevant authorities and agencies;</li> <li>(ii) prepare the site of the completed development to standards stipulated in the performance conditions;</li> </ul> <p>(2) The authorised planning officer shall coordinate the final joint inspection exercise and consolidate all inspection reports and forward to the County Director of Physical and Land Use Planning;</p> <p>(4) the County Director of Physical and Land Use Planning shall receive the final joint inspection report and within 7 days from the date of receipt issue in prescribed forms <b>ePLUPA003</b> –</p> <ul style="list-style-type: none"> <li>(i) compliance certificate against development applications submitted by planning consultants; and</li> <li>(ii) occupation certificate for buildings</li> </ul>
<p><b>PART VI: ENFORCEMENT ACTION</b></p>	
<p>Identification of contravention/breach and preparation of enforcement notice</p>	<p><b>26.</b> (1) The Director of Planning and Land Use Planning shall, in liaison with relevant authorities and agencies, conduct routine surveillance visits for the purpose of –</p> <ul style="list-style-type: none"> <li>(i) monitoring on-going developments in the county;</li> <li>(ii) identify un-authorised developments or those in contravention to approval;</li> </ul>

	<p>(2) The Director of Planning and Land Use Planning shall prepare an enforcement notice for non-conforming developments in a prescribed Form <b>ePLUPA004</b> which shall –</p> <ul style="list-style-type: none"> <li>(i) specifying the contravention/breach committed; and</li> <li>(ii) Remedial measures to be undertaken within a specified time.</li> </ul>
<p>Service of Enforcement Notice and appeal</p>	<p><b>27.</b> (1) The registered owner of a property or agent carrying out the unauthorised development or in contravention to approval shall either –</p> <ul style="list-style-type: none"> <li>(i) be served with electronic copy of enforcement notice dispatched through short message service or email; or</li> <li>(ii) be served with an enforcement notice by post or physically delivered in the absence of an electronic address</li> <li>(iii) in the absence of a physical person, the notice shall be posted/mounted/pasted on a prominent spot within the property;</li> </ul> <p>(2) The enforcement notice shall take effect from the date of service within which to comply; or</p> <p>(3) Any person aggrieved with the decision of the County Director of Physical and Land Use Planning may appeal to the respective County Physical and Land Use Liaison Committee in accordance to section 72(3)(4) of the Act.</p>
<p>Judicial Process for non-compliance</p>	<p><b>28.</b> (1) Whereupon the registered owner of a property fails to comply to the decision of the county liaison committee, the County Director of Physical and Land Use Planning shall –</p> <ul style="list-style-type: none"> <li>(i) commence the judicial process for court summons;</li> <li>(ii) prosecute the case to a logical conclusion;</li> </ul> <p>(2) Without prejudice to the determination of the case, the County Director of Physical and Land Use Planning shall cause the demolition or restoration of the land to land to its original state in line with Section 57(3) of the Act.</p>

## **FIRST SCHEDULE**

### **Development Application Registers**

1. Name of the owner/Agent
2. Contacts of the Applicant(Address, Phone Number, e-mail address)
3. Name and Registration/Licence number of the Submitting Professional
4. Type of Application
5. Plot No
6. Acreage
7. Details of the proposed development
8. Coordinates (UTM)
9. Supporting Documents
10. Name of the receiving officer
11. Signature of the applicant
12. Signature of the receiving officer
13. Date of submission of the development application

**Application for Development Permission**

**(S. 58(1))**

(To be filled respect of each transaction and sent to or left at appropriate office of the County Government).

To the.....

*(Insert Name and address of the appropriate County Government Office)*

I/We hereby apply for permission to develop the land and/or building as described in this application and on the attached plans and drawings.

Date .....

Registration Number .....

Coordinates of Property/Plot(UTM).....

**Section A—General Information**

1. Owner's name and address .....
2. Applicant's name and address .....
3. If applicant is not the owner, state interest in the land e.g. leasee, prospective purchaser, etc. and whether the consent of the owner to this application has been obtained.
  - (a) L.R. or parcel No.....
  - (b) Road, District and Town .....
  - (c) Acreage.....
4. If an application has been previously been submitted state the registered number of the application .....



**Section B—Subdivision**

- 5. Describe briefly the proposed subdivision including the purposes for which land and/or buildings are to be used .....
- 6. State the purpose for which land and/or buildings are now used. If not now used, the purpose for which and the date on which they were last used .....
- 7. State whether the construction of a new or an alternative of an existing means of access to or from a road is involved .....
- 8. State method of:
  - (a) Water supply .....
  - (b) Sewerage disposal .....
  - (c) Surface water disposal .....
  - (d) Refuse disposal .....
- 9. Give details of any relevant easements affecting the proposed subdivision.....

**Section C—Extension of Lease or User or Change of User**

- 10. State whether subdivision is involved and if so whether permission has been applied for and if so give registered number of the application.....
- 11. Describe briefly the proposed development including the purpose for which land and/or buildings are to be used .....
- 12. State the purpose for which land and/or buildings are now used. If not now used, the purpose for which and date on which they were last used.....
- 13. State whether the construction of a new or alternative of an existing means of access to or from a road is involved .....
- 14. If the proposed development consists only of a change of user and does not involve building operations state the exact nature of such change .....
- 15. If the site abuts on road junction, give details and height of any proposed walls, fence, etc., fronting thereon .....
- 16. State method of:
  - (a) Water supply .....
  - (b) Sewerage disposal .....
  - (c) Surface water disposal .....
  - (d) Refuse disposal .....
- 17. Give details of any relevant easements affecting the proposals.....
- 18. State the:
  - (a) Area of land affected .....
  - (b) Area covered by buildings .....
  - (c) Percentage of site covered .....by existing buildings .....
- by proposed buildings .....

**Note.—Drawing and specifications must be prepared and signed by licenced professionals**

If filled by Agent:

Name .....

Address .....

Profession.....

EPLUPA 002

**Submission Certificate**

County Government of .....

Department/Section of Physical and Land Use Planning.....

On..... before .....(Name and Title of the Officer), personally received the application Ref No..... on Plot L.R No.....located along.....road in .....area,.....Sub-County for the proposed.....

hereby acknowledge receipt of the application with the attachments mentioned below:

- a) .....
- b) .....
- c) .....
- d) .....
- e) .....
- f) .....
- g) .....

Name of the Applicant.....

ID No of the Applicant .....

Registration No of Registered Professional .....

This certificate will be deemed to be an approval, where the applicant does not receive written response to this application within 60 Working Days as per the provisions of Section 58 (6) of this Act.

Name of the Receiving Officer.....

Signature ..... (Stamp)

**CC:**

CECM

The Applicant

# Certificate of Compliance

## THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

# Certificate of Compliance

**FORM EPLUPA003**

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 P.A.A. 2) date.

with respect to Registered Application No.

Issued by ..... (Name of Officer)

..... Signature  
*County Director of Physical Planning*

Department Seal



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.....

FOR: County Executive Committee Member

Official stamp

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

CC

Deputy County commissioner.....Sub County

OCPD..... Division

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

DRAFT

## 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;

**SECOND SCHEDULE**

Form eDCES 001  
 The Director-General  
 Physical and Land Use Planning  
 Ardhi House  
 Nairobi

<b>SERVICE ACCESS LEVEL (select one field)</b>							
Property Owner							
Consultant						Physical/Land Use Planner	
						Architect	
						Engineer	
						Landscape Architect	
						Urban Designer	
Others						Individual	
						Institution	
Name/Partnership/LLP:			ID no./Reg. No./P.105				
Tel. No.			e-Mail Address:				
Physical Address:			Postal Address: Postal Code: Town:				
Contact Person Name:			P.105/				
Tel No.			Email Address				
In case of Partnership/LLP, individual authorised users:							
S/NO.	NAME	ID NO.	P.105/	TEL NO.	EMAIL		
I have read and understood the terms and conditions of use. I AGREE TO BE BOUND BY SAID TERMS AND CONDITIONS							
<b>Name</b>		<b>Signature</b>		<b>Date</b>			



## **THIRD SCHEDULE**

### **TERMS AND CONDITIONS OF USE**

#### **1. Introduction**

- (i) The National Land Information System is an online system developed by the Government of Kenya through the Ministry of Lands and Physical Planning in collaboration with the National Land Commission. It is a system created for convenience in conducting land transactions.
- (ii) Upon registration to the system, a user is deemed to have accepted the terms and conditions and will equally be bound by the same. Once the user has completed the sign up process, a contract detailing the terms and conditions for use is entered into between the user and the system operators.
- (iii) The National Land Information System is a service-based platform upon which fees and charges may be preferred from time to time as stipulated in the relevant statutes.

#### **2. Access and Use**

- (i) Upon signing up; a username and a password will be created for the User's use in logging into the system.
- (ii) As an additional security measure, a One Time Password (OTP) in the form of a text message shall be sent to the user's Telephone Number to authenticate every log-in. The user of the system shall be required to keep the log in credentials, particularly the password, confidential to avoid unauthorized access to the system.
- (iii) A user shall access the system either in an individual capacity or through an authorized representative.
- (iv) The system shall allow electronic land transactions under the following Acts: Land Act; Land Registration Act; Physical and Land Use Planning Act; Survey Act; Community Land Act and County Government Act.

#### **3. Availability of service and support**

- (i) The Government of Kenya aim is to ensure accessibility to NLIS at all times, however there could be service interruption to allow for upgrading or maintenance of the system.
- (ii) The system shall be available around the clock for searching for the copy or image of any instrument, dealing, or document in the system or the lodgment of documents through the system.
- (iii) Processing of electronic documents shall be done during the business hours when the *back-end processes shall be available*.
- (iv) The system support and back-end processes shall be available during the business hours set out in Regulation 2 on the business days set out in Regulation 4 of the Land Registration (General) Regulations, 2017.
- (v) The Cabinet Secretary reserves the right to suspend the system in whole or in part in the circumstances where a significant breach of security has occurred or that a security system has failed that compromises or that could compromise the integrity or security of the system's databases or service until such security breach or failure has been rectified.
- (vi) The Ministry will endeavour to provide you with the services at all times or at any specific times or will be able to operate at all times error-free. Ministry makes no warranties in regard

to the availability of services but all reasonable efforts will be made to provide the best possible service to you. Notices regarding planned system outages will be made available on the Ministry's website.

#### **4. Obligations**

##### **a) User obligations**

The user shall;

- (i) carry out authorized transactions;
- (ii) complete such formalities as are required to become a registered user before accessing the system;
- (iii) meet the eligibility criteria at all times;
- (iv) be responsible for the security of his or her login credentials and for any access made using the login credentials;
- (v) use the information obtained for the intended purpose only.
- (vi) be responsible for the accuracy and completeness of all information provided or submitted by you when applying to join or when using the system
- (vii) Surrender/deactivate accounts for persons no longer in their employ
- (viii) Change his log in credentials from time to time

The User shall not;

- (i) impersonate another person or entity,
- (ii) distribute or sell any information accessed through the system;
- (iii) collect information about other users
- (iv) make available disruptive commercial messages or advertisements or communications which are prohibited by law
- (v) reverse engineer or otherwise attempt to extract any source code.
- (vi) use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the system
- (vii) copy, exchange, sell, disclose or use the land related information accessed from the system for any other purpose other than what is stated in the user agreement without prior written approval of the Cabinet Secretary.
- (viii) Without prejudice to (i) and (ii); the user shall not use the system or its products and services in any manner that violates/infringes the provisions of the Kenya Information and Communication Act, 1998, the Computer Misuse and Cybercrimes Act, 2018 or any other written law.

##### **b) Organizations**

In case of organizations (legal persons), the person in charge of the organization shall be responsible:

- (i) For selection and nomination of the users accessing the system on behalf of their organization;

- (ii) For ensuring compliance of the terms and conditions by the users as appointed in (i) above;
- (iii) For notification of revocation of access for any user in their organization at any time;
- (iv) For notification upon discontinuance of employment of any user appointed in paragraph (i).

**c) Ministry obligations to User (Our obligation to you)**

The Ministry shall;

- (i) Endeavour to maintain this system (NLIS) in good operational condition throughout the term of this agreement.
- (ii) Endeavour to inform the users in cases of scheduled and/or unscheduled system maintenance.
- (iii) Assist you to understand the operational requirements and any protocols adopted from time to time for use in the system.
- (iv) Comply with all statutory and regulatory requirements imposed on the Ministry regarding the implementation and functionality of the system.

**5. Security of the System**

- i. The User is responsible for maintenance of the confidentiality and control of all Security Measures associated with the use by the user (s). These Security Measures involve the use of digital signatures and digital certificates and are managed the Ministry.
- ii. You are responsible for the selection and nomination of those of your people who you intend to be Subscribers and, therefore, users of the Security Measures.
- iii. The Ministry reserves the right to reject with reasons thereof an application by any Applicant.
- iv. You must promptly notify the Cabinet Secretary in the Ministry if a Subscriber stops working for you.
- v. You are solely responsible for ensuring that the users comply with the User Obligations.
- vi. Any use of the NLIS by any person with access to the Security Measures used or made available to you or any of your people (whether authorised by you or not) constitutes sufficient authority for the Ministry to:
  - vii. act on any enquiries, provide such information, update its registers or to otherwise transact such dealings, with or under the instruction of that person; and
  - viii. charge fees for the use of the products and services associated with NLIS.
- ix. You shall promptly notify the Cabinet Secretary in the Ministry as soon as you become aware that any of the Security Measures used or available to you or any of your people are or have been compromised, or if you are aware of circumstances which give rise to a risk that those Security Measures have been compromised.
- x. You agree to help the Ministry with any investigation of any suspected or actual compromise of any of those Security Measures.
- xi. Any activity by a user in the system shall be catalogued and an audit trail of such activity created in the system.

- xii. You may request revocation of any of the Security Measures available to or being used by any of your people. Your people may also request revocation of their own Security Measures. The Ministry reserves the right at any time to revoke the Security Measures being used by you or any of your people in order to safeguard the integrity and security of NLIS databases

**Disclaimer**

Security is important to ensure NLIS functions effectively and efficiently. Although NLIS uses encryption security, there is no guarantee that personal or proprietary information and transactions on the NLIS portal or on the internet will be maintained confidential or secure. The Ministry will be held liable to the extent permissible in the relevant statute but will not be liable for acts of omission or commission out of its control.

**6. Data Privacy Statement**

1. The Ministry collects the applicant's personal information with the applicant's consent when the application is made for authorization to access the National Land Information System.
2. The Ministry does not on-board minors (any person under 18 years of age) except where an applicant additionally registers on their behalf as their parent and/guardian.
3. The information the Ministry collects and stores about the applicant includes but is not limited to the following: applicant's identity including name, photograph, address, location, phone number, identity document type and number, date of birth, email address, age, and gender.
4. The applicant consents to the Ministry making and retaining photocopies of personal information and all other documents provided in support of the application which will be kept for the term of the agreement for the purpose of enforcing the agreement.
5. The Ministry may make inquiries deemed necessary to verify the information provided in the application.
6. The information and documentation provided will be used to administer the authorization to access and use the system.
7. The Ministry may disclose your information to:
  - a. Law enforcement agencies, regulatory authorities, courts or other statutory authorities in response to a demand issued with the appropriate lawful mandate and where the form and scope of the demand is compliant with the law;
  - b. Publicly available and/or restricted government databases to verify applicant's identity information in order to comply with the regulatory requirements;
  - c. Any other person that the Ministry deems legitimately necessary to share the data with.
8. The Ministry shall not release any information to any individual or entity that is acting beyond its legal mandate
9. The Ministry has put in place technical and operational measures to ensure integrity and confidentiality of the applicant's data via controls around: information classification, access control, cryptography, physical and environmental security and monitoring and compliance.
10. Subject to legal and contractual exceptions, the applicant has rights under data protection laws in relation to their personal data. These are listed below:
  - a. Right to be informed that the Ministry is collecting personal data about the applicant
  - b. Right to access personal data that the Ministry holds about the applicant and request for information about how the Ministry will process it;
  - c. Right to request that the Ministry correct the personal data where it is inaccurate or incomplete;

- d. Right to request that the Ministry erase the personal data noting that the Ministry may continue to retain the information if obligated by the law or entitled to do so;
- e. Right to object and withdraw the consent to processing of personal data. The Ministry may continue to process it if it has a legitimate or legal reason to do so;
- f. Right to request restricted processing of the personal data noting that the Ministry may be entitled or legally obligated to continue processing the data and refuse the request;
- g. Right to request transfer of the applicant's personal data (in an electronic format).
- h. The Ministry may need to request specific information from the applicant to help it confirm the applicant's identity and also ensure their right to access their personal data (or to exercise any of the other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. The Ministry may also contact the applicant to ask for further information in relation to the applicant's request in order to speed up the response.

## **7. Copyright**

The Government of the Republic of Kenya is the owner of all rights in and to the National Land Information System. The complete content of the National Land Information System platform is protected by the Copyright Laws of the Republic of Kenya and reproduction or redistribution of that content without the permission of the Government of the Republic of Kenya is strictly prohibited.

## **8. General Terms**

- (i) The parties commit to a cooperative environment in the performance of the respective obligation to ensure any system difficulty and/or improvement is addressed.
- (ii) The Ministry reserves the right to change and adjust these terms and conditions without any further reasons as long as it is necessary due to legal adjustments or technical progress.
- (iii) The Ministry reserves the right to block the authorized user from the ability to upload content to National Land Information System if a violation of this agreement exists.
- (iv) These terms and conditions are to be read and construed according to the laws of the Republic of Kenya, and you agree to submit to the jurisdiction of this country.
- (v) These terms and conditions record the entire agreement. If any provision of these terms and conditions are held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute or regulation it is to be severed so that the validity and enforceability of the remaining provisions are not affected.

## **9. User feedback**

1. Feedback on user experience in the use of the system and specifically any complaints, complements and suggestions for improvement are highly encouraged.
2. The feedback in paragraph 1 can be channelled through the feedback portal in the system or through the address below:

**Cabinet Secretary**

Ardhi House

1<sup>st</sup> Ngong Avenue, off Ngong Road

Email: [info@ardhi.go.ke](mailto:info@ardhi.go.ke)

Tel: +254 202718050 / 204803886

P.O. Box 30450-00100

**NAIROBI**

Made on the.....2020

**FARIDA KARONEY,**  
*Cabinet Secretary for Lands and Physical Planning*

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