



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 PLANNING (CHANGE AND EXTENSION OF USE, EXTENSION AND RENEWAL OF LEASES, SUBDIVISION, BUILDING, EASEMENTS AND WAYLEAVES) REGULATIONS, 2020

PART I—PRELIMINARY

Citation.

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

Interpretation.

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

"advertisement" has the meaning assigned to it under section 2 of the Act but shall not include any advertisement displayed inside a building;

"advertiser" means a person granted permission to display an advertisement;

"amalgamation" or "combination" means the process by which two or more adjacent parcels of land are dissolved and reconstituted into a one contiguous parcel;

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

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

"building" has the meaning assigned to it under section 3 of the Act;

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

"business area" or "commercial area" means any area or zone wherein the building will be permitted of business and commercial premises and such other building as the planning authority may approve and includes land used as open space or other public place;

"change of use" means any alteration in the use, purpose or level of activity within any land or building that involves a material change that results in a use that is completely different from the previous use and which will require development permission or any development that is out of character as under these Regulations, a zoning plan or an approved development plan, or under the lease conditions;

"coverage" when applied to a building, means the portion of the horizontal area of the site of the building permitted to be built on under the provisions of these Regulations at each floor level;

"directional sign" means a sign meant to direct pedestrian and vehicular traffic to an event;

"domestic building" means a building used, constructed or adapted to be used in whole or in part for human habitation or any combination thereof or any other building not being a public building or a building of the warehouse class; "double dwelling" means a building or a maximum of two storeys designed to contain exclusively two self-contained dwellings together with such out-buildings as are ordinarily used therewith;

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

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

"easement" has the meaning assigned to it under section 2 of the Land Act, 2012;

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

"extension of use" means additional use other than that registered on the land while maintaining the dominance of the existing registered user or the land. The extended user should be compatible with the existing user including the character of the neighbourhood;

"extension of lease" means the process by which the lessee, before expiry of the lease, seeks an additional unexpired term to that lease;

"habitable room" means a room designed or used for human habitation and includes any living room, office, workroom or any room designed or adapted or used for the purpose of sleeping, eating or cooking of food therein, or as a place for the habitual employment of any person;

"industrial building" is a building used for carrying on such trades or processes as in the opinion of the Director of Physical Planning, require the building to be cited within the industrial zone in accordance with the provisions of any development plan or zone plan or structure plan;

"industrial area or zone" means any area or zone restricted for use for industrial purposes and includes land or buildings to be reserved for or used for public purposes; "internal open space" means a space which is surrounded or is liable to become surrounded with buildings or erections of any description either wholly or to such extent that the free passage of air into and throughout such space is or may be insufficiently provided for;

"latrine" or "latrine accommodation" means a receptacle for human excreta of both solid or liquid character, together with the structure containing and including such receptacle and the fittings and apparatus connected therewith and includes a water closet, pail closet and pit closet;

"building code " means the National Building Code code developed for enforcement u0nder section 42(2)(aa) of the National Construction Authority Act

"occupier" means any person in actual lawful occupation of land or premises;

"owner" in the case of freehold land means the person owning such land, and in the case of any land held under a lease for a period of not less than ten years, or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely, or for periods which together with the first period thereof amount in all to not less than ten years, and includes any agent who receives rent or profits from any such persons and also any superintendent, overseer or manager or any such owner of the freehold or lessee in respect of the holding on which he resides as such superintendent, overseer or manager;

"pail closet" means latrine accommodation and includes a movable receptacle for the reception of human excreta;

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

"petroleum filling station" means a building or part of a building used or designed for use for that purpose and includes provision for the servicing of vehicles;

"pit closet" means latrine accommodation when the receptacle for reception and retention of human excreta is formed by a pit or tank beneath the structure, and includes aqua privy;

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

"planning authority" has the meaning assigned to it under section 2 of the Act;

"plot" or "sub-plot" means any portion of land which is the subject of a separate registered conveyance, or sub-lease or any portion of a plot the position and boundaries of which are delineated on a plan or plan of subdivision prepared by the respective planning authority;

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

"public building" means a building used or constructed or adapted to be used ordinarily or occasionally as a place of public worship or as a hospital, college, school (not being a dwelling house so used), theatre

(including a private theatre), an institution for persons admitted by ticket or otherwise or used or adapted to be used for any other public office, public assembly or public purpose;

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

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

“renewal of Lease” means the process by which the lessee after the expiry of a lease seeks reallocation of the property and a new lease;

“residential area” or “residential zone” means any area or zone restricted for use exclusively for residential purposes and includes land reserved for open spaces, sports grounds or land reserved for public purposes;

“residential building” means a building (other than a dwelling house, double dwelling, terrace house, special block of flats, block of flats or apartment house) designed and used for residential purposes, a residential club, boarding house, lodging house or hostel;

“road” means any street, highway or sanitary lane or any land reserved for a street, highway or sanitary lane and includes any bridge, footway, public area park, square, court, alley or passage whether a thoroughfare or not;

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

“sub-division” has the meaning assigned to it under section 2 of the Land Registration Act, 2012 and includes subdivision of buildings into units under the Sectional Properties Act, 1987

“store” means a building which is used or intended or designed to be used for the storage of any kind of materials including foodstuffs;

“temporary sign” means a sign that is not designed or intended for permanent display;

“tenement” or “apartment house” means a building not necessarily of two or more storeys, wholly or partially containing rooms or suites of

rooms having a common entrance or common entrances and occupies or intended to be occupied as dwellings;

“terrace house” means a building designed to contain more than two self-contained dwellings arranged in a row or otherwise attached to one another and with such out-buildings as are ordinarily used;

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

“zoning guidelines” means the approved map or maps,statement or matrix prepared and adopted by the planning authority which indicates the use and/or density zones for the whole or parts of an urban or rural area.

PART II—CHANGE AND EXTENSION OF USE

Application.

3. (1) A person who seeks to put land into a use other than that which it is registered shall apply for—

- (a) a Change of Use; or
- (b) an Extension of Use.

(2) The Change of Use is required when—

- (a) the proposed project includes a significant change of the registered use of the land and constituting of a change of more than twenty per cent of the registered use of the land based on the plot coverage and plinth area; and
- (b) the existing registered use of land is not in accordance to the approved plan or the zoning regulations.

(3) Extension of Use is required when the proposed development includes a change of registered land use not exceeding twenty per cent in instances where a developer intends to comply with any revised physical and land-use plans and land-use zoning regulations.

Planning considerations and standards.

4. In addition to Section 5 of the Third Schedule of the Act, and the National Building Code , the following may also be considered with respect to an application under regulation 3—

- (a) the intended use shall be in accordance with the desirable urban form and character of the area;
- (b) where the land is required for the establishment of wayleaves and easements, a Part Development Plan shall be prepared showing the siting of the wayleave or easement; and
- (c) the applicant shall provide an approved Traffic Management Plan where applicable.

PART III—EXTENSION OF LEASE AND RENEWAL OF LEASE

Standards or considerations.

5. In addition to paragraph 6 of the Third Schedule to the Act and Land (Extension and Renewal of Leases) Rules 2017, Section 5(3), the following shall also be considered—

- (a) if the land was not developed, the land should revert back to the lessor;
- (b) whether the applicant has satisfied the previous development conditions on the lease;
- (c) compliance to the National Land-Use Policy, land-use zoning regulations and the approved National and County Physical and Land-Use development plan of the area;
- (d) capacity of the lessee to develop to the new conditions as per the approved plan and or land-use zoning regulations for the area;
- (e) whether the land is required for purposes of environmental conservation and preservation;
- (f) whether portions or all of the land is required for registration of easements and way leaves for planned infrastructural facilities and for any other relevant way leaves.

PART IV—SUBDIVISION, RE-PARCELLATION, PARTITION AND AMALGAMATION

Application.

6. All subdivision, re-parcellation, partition and amalgamation in the areas to which these Regulations apply, shall require planning approval for the purpose of—

- (a) Part IV and Third Schedule, section 7 of the Act;
- (b) Land Registration (General) Regulations 2017, Section 43, 44 and 45; and
- (c) section 22 and 23 of the Land Registration Act, 2012.

Considerations
and standards.

7. (1) Subdivision, partition, re-parcellation and amalgamation schemes shall be prepared in accordance with the provisions of the Third Schedule to the Act and the Land Act, 2012.

(2) Where any proposed street or road or railway line or tramway is included in the scheme of subdivision, the layout shall conform to the relevant agency standards, planning standards and by-laws of the planning authority.

(3) Reference should be made to the abutting area regarding road alignment among other requirements as may be required by the relevant Road Agency—

- (a) a minimum road width of twelve metres shall be provided for a road reserve for a public through road;
- (b) where a public through road is between twelve metres and eighteen metres in width, an intersection or truncation of six metres shall be provided and in the case of roads that are wider than eighteen metres, a truncation of nine metres shall be provided;
- (c) where the road is not a public through road and the minimum is not less than nine metres wide, an intersection of a width of four metres shall be provided; and
- (d) footpaths and cycle paths shall be provided on all new roads demarcated if they are not less than two metres wide.

(4) Unless site conditions prohibit, each plot shall be at right angles to the road with regular shape for optimum use of land and integration to the spatial form of the wider area.

(5) Streets shall be aligned in a manner to facilitate natural storm water flow and where necessary demarcate storm water easements on the scheme.

(6) Riparian and ocean reserves, wayleaves and easements shall be respected.

(7) Preservation of the natural flora and fauna as much as possible for large scale subdivision.

Surrender of land for public purposes.

8. (1) An application under regulation 7 may be subjected to surrender in accordance with section 58 and paragraph 7 of the Third Schedule for public use at free of cost.

(2) Where required by the County Executive Committee Member, suitable and adequate land shall be surrendered by an applicant at no cost to the County Government for open spaces, amenities, recreational facilities, road reserves, a public purpose relating to the area to be subdivided and for road widening.

(3) The surrender can be in the form of part of the land to be subdivided or provision of equivalent size and value of land at an alternative suitable site.

(4) Land to be surrendered shall be marked in blue in the subdivision scheme.

(5) The surrendered land shall be registered in the name of the County Government or the Cabinet Secretary responsible for matters relating to finance in accordance with the provisions of the Land Registration Act, 2012.

(6) The County Government shall notify the National Land Commission of a surrender under this regulation for allocation, processing and communication to the relevant authorities or agencies.

(7) Relevant utility providers may be consulted in determining the most favorable location of the surrendered land for purposes of provision of utility services.

(8) The developer or any other interested private party can apply to the County Government to use the land once it is registered to provide the public purpose service or utility for which the land was surrendered.

PART V—BUILDING PLANS

Application.

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

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

(a) a dog kennel for domestic use and not holding more than ten dogs;

- (b) poultry house holding less than fifty chickens in urban areas;
- (c) a greenhouse not measuring more than five hundred square metres in an urban area;
- (d) a garden tool shed or small storage;
- (e) car shade and gazebos;
- (f) a temporary site house and/or store;
- (g) moveable tent meant for temporary accommodation not exceeding thirty calendar days;
- (h) site camps for major projects subject to compliance to other relevant laws.

Standards and considerations.

10. (1) The application meets thresholds set by this Act, relevant National and County Specific Legislations, Policies, Guidelines, Standards and Approved Development Plans.

(2) Applications for housing estates shall make provision for forest cover of at least five percent of the total land area of the housing estate intended to be developed as per Conservation and Management of Forests Act, 2016 section 37 (1).

(3) For applications on agricultural land, every developer shall be required to provide a minimum of ten per cent of the land for farm forestry as provided for in Agriculture (Farm Forestry) Rules, 2009.

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

(5) Compliance with specifications of the National Building Code

Siting of the building within the plot.

11. (1) Any person intending to erect a new building or re-erect an existing building shall comply with the provisions of the existing building code, planning authority by-laws and the physical and land use planning requirements and such conditions as may be imposed by the approving authority regarding the siting, size, height, shape and appearance of such building in order to safeguard, maintain or impose the dignity or preserve the amenity and general appearance of street, square, or public place or have effect on the complemented appearance of such street, square or public place.

(2) All new buildings and all additions to existing buildings, particularly out-buildings, latrines and all drains and sanitary apparatus of any kind pertaining thereto shall be situated on such plot, sub-plot or other piece of land on which they may be built, as to ensure the best

practicable hygienic and sanitary conditions and avoid as much as possible any nuisance or annoyance from the position and appearance of such latrines or buildings or from noise caused by the occupants of such out-buildings or from any other cause whatsoever.

Building line.

12. (1) The planning authority may prescribe a building line on any road, canals, wharves, retaining walls, port, berth, pier, quay, docks, railway facilities, jetty or any other linear feature or way leave to be such distance from the reserve boundary as the authority may deem expedient for preserving the amenity:

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

Provided that at the discretion of the County Executive Committee Member with advice from the County Director of Physical and Land Use Planning and in consultation with relevant road authorities such building line may vary in distance from the road boundary throughout a road or part thereof: Such building line shall generally be in accordance with the specification described below—

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

Back-to-back dwellings.

13. (1) No person shall erect a building in such manner as to provide any back-to-back dwelling.

(2) The expression “back-to-back” dwelling shall include any dwelling the whole of the habitable portion of which is not adequately and efficiently through-ventilated by means of ventilating aperture communicating directly with the external walls.

Cartilage.

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

Space in front of buildings.

15. (1) A domestic building shall be so sited as to leave an open space immediately in front thereof, which space shall extend throughout the

whole width of the front of the building to a distance of at least six metres measured at right angles therefrom:

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

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

Minimum measurements for courtyards.

16. Where any building contains more than one dwelling and is designed to have an internal courtyard or open space, there shall be provided within such courtyard or open space an area free from obstruction of not less than 32.5 sq.m (350 sq. ft.) and having no dimension less than 4.5 m. (15 ft.).

Service area.

17. A person erecting a building shall provide to the satisfaction of the planning authority in consultation with the County Director, a service area for the security serving that building, loading and unloading of vehicles, dustbins, and such other purposes as the County Director of Physical Planning may require, and the means of the access thereto shall be of a width not less than 3 m. (10 ft.).

Offensive sites.

18. No building shall be erected on any site which has been made up or filled up by offensive or insanitary materials on which has been used for the deposit of the refuse, excrementious materials or carcasses of dead animals or other filthy or offensive matter until such site has dealt with to the satisfaction of the Medical Officer of Health, Chief Materials Engineer, Environment Officer, NEMA County Officer and the County Director.

Reduction in plot area.

19. No plot on which a building is erected shall be reduced in area so that in relation to the reduced site the area covered by the building exceeds the percentage permitted for that class of building, except where the reduction in area is caused by acquisition of land by proper authority.

Plot coverage.

20. Each planning authority shall in accordance with norms and standards prescribed in physical and land-use planning standards, approved development plans and land-use zoning regulations determine the plot coverage and plot ratios depending on the zoning of the urban area and the level of urban services available.

Building heights.

21. The planning authority may prescribe allowable building heights for designated zones as per the approved development plan and land-use zoning regulations. The developer can be allowed extra height in lure of provision for space in front of the building, and pedestrian access within the development.

Plot size.

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

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

Safety, security and lighting.

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

(2) Every building shall be provided with adequate access to Persons Living with Disabilities.

(3) Every storey of every building used or intended to be used for the purpose of an office, shall be provided with lactation rooms and baby changing facilities in accordance with the Health Act, 2017.

(4) Provision of accessible and adequate sanitation facilities for offices and commercial facilities.

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

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

(7) For commercial buildings, and other establishments as may be determined by the County Director, boundary walls may be permitted provided that the solid base or opaque part of the wall is not more than 1.39m high with the rest of the wall made of transparent materials as may be prescribed.

Canopies and projections.

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

(a) shall not be less than 3 m above the level of the footway;

(b) shall not extend outwards from the building so as to be nearer the vertical plans of the kerb line of the footway than sixty centimetres;

(c) shall be impervious to moisture on the upper surface and drained in a manner which shall prevent the discharge of water therefrom on the footway.

(d) shall not support any load unless with approval of the planning authority

(2) No canopy shall be used in conjunction with or as a means of access to any room or apartment.

(3) No person shall place or permit or cause to be placed any article or load upon any canopy.

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

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

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

(7) Canopies erected on road reserves shall have permissions from the relevant road authority.

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

Access to dwellings and other buildings.

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

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

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

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

Front frontages.

26. (1) No building shall be erected on any plot or sub-plot which has no proper and sufficient frontage to a street, such street not being a sanitary lane or passage.

(2) No building shall, except with the prior written permission of the County Executive Committee Member with the advice of the County Director on behalf of the, be so erected as to have its principal access to or its principal frontage abutting on a service lane, alley or passage.

(3) No means of access from a service lane, railway line or tramway for use by the public shall be permitted in any premises used for retail trade or commercial.

Access to rear of buildings from street.

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

Secondary means of access.

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

External passages.

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

Access for persons with disabilities.
No. 14 of 2003.

30. Every building shall provide adequate access to persons with disability as per the requirements of the Persons with Disabilities Act, 2003, and the following provisions—

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

Access for non-motorised transport.

31. (1) Buildings shall not discriminate against pedestrians and cyclists.

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

(3) A developer may be required to provide an access for pedestrian access of not less than 2m wide through the development and may be compensated with additional floor area above the permitted building height.

Infrastructure services.

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

(b) Plans for every building shall indicate satisfactory provision for the drainage of the building

(c) Every development shall indicate a detailed storm water management plan

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

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

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

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

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

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

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

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

Occupation of a building

33. The architect and structural engineer shall issue a certificate of guarantee and compliance with specifications prescribed in the National Building Code prior to issuance of a certificate of compliance

Drainage installations

34. Where an planning authority is of the opinion that the size or complexity of the drainage installation in any building renders it essential to be the subject of a rational design, the planning authority may-

- (a) notify the owner in writing with reasons, the necessity for the design; and
- (b) require the owner to submit for approval plans and particulars of a complete drainage installation based on the design

Control of objectionable discharge

35. (1) No person shall cause or permit sewage discharged from any sanitary fixture to enter—

- (a) any storm-water drain, storm-water sewer, excavated or constructed watercourse;
- (b) any river, stream or natural watercourse whether ordinarily dry or otherwise; or
- (c) any street or other site.

(2) No person shall cause or permit storm-water to enter a sewer installation on any site.

(3) The approving authority may by notice in writing require an owner of any site to execute, at their own cost, any precautionary measures to prevent breaches outlined under sub-paragraph (1) and (2).

(4) No person shall, without approval of the approving authority, discharge or cause the discharge of any water from a swimming pool, fountain or reservoir into any public street or public place, or into any site other than the site upon which the swimming pool, fountain or reservoir is situated.

Industrial Effluent

36. (1) Prior to granting an approval to a person to discharge into any

drain any liquid or solid matter, other than soil water or waste water, where additional drainage and other installations including storage, pre-treatment and metering installations is required as a condition of the approval, the applicant shall submit any plans and other details of the installations.

(2) The installations contemplated in sub-paragraph (1) shall be constructed in accordance with the relevant requirements of Environmental Management and Coordination Regulations, 2006.

PART VI — EASEMENTS, WAYLEAVES AND RIPARIAN RESERVES

Application.

37(1) Riparian Reserves will be observed in urban and peri-urban areas as per the provisions of the Survey Act and rural areas as per the provisions of the Agriculture Act.

(2) The use of riparian reserves shall be dealt with the authority responsible and as per the provisions of the approved development plan.

(3) For the purposes of these Regulations—

“easement” means a non-possessory interest in another’s land that allows the holder to use the land to a particular extent, to require the proprietor to undertake an act relating to the land, or to restrict the proprietor’s use to a particular extent, and shall not include a profit; and

“way leave” means a contract between the owner or occupier of land (the grantor) and a third party (the grantee) permitting the grantee to access privately-owned land to carry out works in return for some form of compensation.

(4) In addition to the services contemplated in the Act and the Third Schedule, the following services shall also require easements or way leaves—

- (a) storm water drainage channels;
- (b) footpaths, pedestrian walkways and footbridges;
- (c) cycle paths;

- (d) water irrigation canals and pipelines;
- (e) gas reticulation systems;
- (f) street lighting works;
- (g) wildlife migratory corridors;
- (h) green spaces;
- (i) springs and water access points;
- (j) water storage points;
- (k) sub stations for power distribution or power-lines;
- (l) road reserves shall be managed in accordance to the Roads Act;
- (m) vicinity of strategic developments and special planning areas such as nuclear plants, coal plants, mineral exploration sites;
- (n) the development of ground water facilities shall be in accordance with the Water Act and shall not negatively impact on neighboring ground water facilities.

Standards and considerations.

38(1) The acquisition of easements for private use should be compatible with the existing developments and it should be appropriate for the intended use.

(2) New developments should not extinguish obligations that come with existing way leaves and easements.

(3) Where the way leaves are on road reserves, they should be dealt with as per the Road Act shall comply.

(4) The acquiring authority of way leaves and easements shall be required to register the way leaves with the Registrar of Lands.

(5) Way leaves shall be clearly indicated in the Survey Plans.

(6) Must provide adequate clearance for health and safety in siting developments in proximity to installations.

(7) The acquisition of way leaves shall be guided by the principle of health and safety, legal clarity, public participation, environmental conservation and protection, economic viability and sustainable developments.

(8) Siting considerations for street lights/ high mast floodlights should be at the most suitable location that affords illumination to more than one

path, proximity to electricity, security of facility, proximity to trading centres and should illuminate pathways. Minimum wayleave for erecting the high mast floodlights should be 3m by 3m.

PART VII—PUBLIC BUILDINGS AND FACILITIES

Application.

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

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

Standards and considerations.

40.The following shall apply—

- (a) No person shall erect a public building on any site unless that site has been recommended through the preparation of relevant development plan or an advisory plan as the case may be;
- (b) the site is suitable for the purpose;
- (c) the erection on the site of any such public buildings would be in the public interest;
- (d) the site sufficiently provides for the safety and health and well-being of persons frequenting such public building or the general public;
- (e) lactation rooms or breastfeeding stations and baby changing facilities as provided for in the Health Act, 2017;
- (f) provision of smoking zones where necessary;
- (g) the discharge of audiences or patrons from any such building on a site is not likely to interfere with the safe conduct of traffic in the streets;
- (h) the site is not so close to another public building that congestion of traffic may be possible; or

- (i) car parking, non-motorized transport and people with disabilities provision on or in the vicinity of the site is, in the opinion of the planning authority, adequate;
- (j) In the case of a theatre, cinematography halls, music halls and concert halls, the sites of these buildings shall have two sides as frontage to a public street and the street shall be of such width and direction as shall enable the persons accommodation in the premises to disperse rapidly in the event of fire or panic and as will afford facilities for the approach and use of fire appliances and for emergency evacuations
- (k) a private open and paved passageway for the exclusive use of the audience of such theatre or hall leading to a street and having a minimum width of seven meters
- (l) access to the facility has been permitted by the Relevant Authority and is compliance to the stipulated Acceleration and Deceleration Lane requirements
- (m) siting of all public facilities shall also be in accordance to the Alcoholics Drinks Control Act, 2010
- (n) The size of land is adequate for the intended purpose or use shall be guided by the manual prescribed by the Director General.
- (o) The planning authority shall require a property owner to develop and maintain their property frontage.
- (p) The planning authority shall approve any improvement on the frontage in adherence to the street and road designs and in accordance with regulations of a relevant road agency
- (q) The plan of a proposed building or any addition to the a building, shall show reasonable means of escape in the event of a fire.
- (r) If the planning authority considers, that any building, in which more than ten persons are employed on any floor above the ground floor, has insufficient means of escape in the event of fire, it shall require the owner or the occupier of the premises to execute the alterations as the council deems necessary to provide sufficient means of escape.
- (s) The planning authority may require the owner to suspend any process or stop work, as the case may be, until the necessary works to ensure reasonable means of escape in the event of a fire have been carried out.

PART VIII—GENERAL PROVISIONS

Aspects of urban design.

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

- (a) the preservation of historic buildings, heritage and archaeological considerations;
- (b) landscape architects and urban designers to be incorporated in the planning and development control in urban areas including open spaces, parks, streetscapes, infrastructure reserves, housing developments, burial grounds, monuments, commercial and industrial complexes, sports grounds, zoos, game parks, botanical gardens and recreational areas;
- (c) comprehensive land-scape and urban design plans to be submitted for consideration to the planning authority;
- (d) aesthetics and the provision of desirable public spaces and experiences;
- (e) place making and the integration of different user communities; including informal traders, artists, activism, festivals and sporting activities;
- (f) adopting the use of green building technologies such as passive space cooling, water recycling, renewable energy, greening among others;
- (g) installation of solar water-heating systems as the requirements of the Energy Solar Water Heating Regulations, 2012;
- (h) compliance to applicable national addressing system;
- (i) urban renewal and regeneration to respect elements of urban design such as axis, nodes, landmarks, vistas or square and offer new spaces for public use and recreation and involve registered physical planners, landscape architects, urban designers, architects, engineers and quantity surveyors.

Made on the, 2020.

FARIDA KARONEY,
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