



LEGAL NOTICE NO. ....

**THE PHYSICAL AND LAND USE PLANNING ACT, 2019**  
(No. 13 of 2019)

**ARRANGEMENT OF REGULATIONS**

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# THE PHYSICAL AND LAND USE PLANNING ACT, 2019

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

## THE PHYSICAL AND LAND USE PLANNING (INSTITUTIONS) REGULATIONS, 2021

Citation. **1.** These Regulations may be cited as the Physical and Land Use Planning (Institutions) Regulations, 2021

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

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

“guidelines” mean procedures and standards issued by the Cabinet Secretary to county executive committee members, physical planners and the public meant for uniform application across the country; and

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

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

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

Nomination process. **4.** (1) The institutions or organisations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall nominate two

persons of the opposite gender and submit their names to the Cabinet Secretary for appointment.

(2) The institutions or organisations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall submit to the Cabinet Secretary the record of the proceedings at which the nominees were selected.

Notice.

**5.** Wherever a vacancy arises in the office of a member of the National Physical and Land Use Planning Consultative Forum nominated under section (6) (2) (k), (l), (m), (n), (o) and (p), the Cabinet Secretary shall notify the respective institution or organization of the vacancy within fourteen days of the vacancy and invite the institution or organization to nominate two qualified persons of opposite gender to fill in the vacancy.

Submission of names of nominees.

**6.** The institutions or organizations nominating the members of the National Physical and Land Use Planning Consultative Forum under section (6) (2) (k), (l), (m), (n), (o) and (p) shall submit to the Cabinet Secretary the names of the nominees within fourteen days of the notice under regulation 4.

Appointment of nominees.

**7.** Upon receipt of names of nominees, the Cabinet Secretary shall appoint and gazette the names within thirty days for a term of three years renewable once.

Quorum.

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

Decision of the Forum.

**9.** (1) All instruments made by, and decisions of, the Forum shall be signified in writing under the hand of the chairperson and secretary save as may be provided for in any other written law.

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

Communication channel.

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

Implementation of the resolutions of the Forum.

**11.** Where relevant agencies have not acted on the recommendations of the forum, the chair person shall refer the matter to the National Physical and Land Use Planning Liaison Committee

Vacancies.

**12.** Within fourteen days of a position falling vacant under section 6 (2) (k), (l), (m), (n) or (p), the Cabinet Secretary shall initiate the

appointment of a new member as outlined in these regulations. Such member appointed shall serve the full term.

Committees.

**13.** (1) The Forum shall establish committees in line with thematic areas.

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

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

Review of national policy.

**14.** The Cabinet Secretary shall cause the review of the national policy on physical and land use planning—

(a) upon receipt of a recommendation from a planning authority;

(b) when, in the opinion of the Cabinet Secretary, it is necessary to undertake the review of the policy; or

(c) at the expiry of the implementation period of the policy.

Annual reports.

**15.** The Cabinet Secretary shall cause for annual reports to be prepared by the Director General on implementation of the national physical and land use development plans

Establishment of county offices.

**16.** The Cabinet Secretary shall cause the establishment of offices at the county level for purpose of coordinating physical and land use planning matters.

Qualifications of nominated members.

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

(a) be registered with appropriate professional bodies

(b) not be employed by the national or county government;

(c) be of good standing and uphold the national values and principles enunciated under Article 10 of the Constitution;

(d) be nominated in accordance with the guiding principles of leadership and integrity under the Constitution and all relevant laws.

Nominating bodies to present two names.

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

Deadline for nominations.	<b>19.</b> The relevant institutions shall submit the names and particulars of the nominees within fourteen days of request by the County Executive Member.
Appointment of members.	<b>20.</b> The County Executive Committee Member shall, within thirty days of receipt, cause the names and particulars of the nominees to be published in the <i>Gazette</i> .
Tenure.	<b>21.</b> The members of the National Physical and Land Use Planning Forum shall serve for a term of three years and may be eligible to be reappointed for one further term of three years.
Quorum.	<b>22.</b> The quorum for the conduct of business at a meeting shall be eleven members.
Decisions of the Forum.	<b>23.</b> The decisions of the Forum shall be by concurrence of the members present but where concurrence is not achieved, decisions shall be by a majority of the members present through voting.
Secretary to communicate recommendations.	<b>24.</b> The recommendations for the Forum shall be communicated to relevant agencies by the Secretary.
Implementation of the resolutions of the Forum.	<b>25.</b> Where relevant agencies have not acted on the resolutions of the forum, the chair person shall refer the matter to the County Physical Liaison Committee.
Vacancies.	<b>26.</b> Within fourteen days of a position falling vacant under section 14 (2) (j), (k), (l), (m) or (n), the County Executive Committee Member shall initiate the appointment of a new member as new member as per the procedure for nomination as outlined in these regulations. Such member appointed shall serve the full term.
Sectoral projects to be submitted to Forum.	<p><b>27.</b> (1) For the purpose of effective co-ordination and integration, all sectoral projects identified by various sectors shall be submitted to this Forum to ensure compliance with the county Physical and Land Use Development Plan.</p> <p>(2) In matters cutting across more than two counties, the respective affected counties shall identify and deliberate on the issues and refer their resolutions to the Joint Inter-County Physical and Land Use Planning Committee for planning.</p> <p>(3) The Inter-County Physical and Land Use Development Plan shall be circulated to the forum for comments.</p> <p>(4) In the event the emerging issues leading to the formation of the inter-county Joint physical and land use planning committee affects</p>

other counties which are not part of the committee, the Director General shall communicate the decision for the purposes of incorporating them to the plan.

Meetings.

**28.** The Forum shall meet at least four times in a year and not more than three months shall elapse between the meetings of the Forum.

Committees of the Forum.

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

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

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

County policy on physical and land use planning.

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

(2) The County Executive Committee member shall establish a coordination framework comprising of sectoral heads or their representatives to ensure integration of the physical and land use planning with sectoral planning.

(3) The County Executive Committee Member may, in writing, give general or special approval to the County Director, the authority to consider development applications and issue development permission and other development control instruments under the Act,

Provided that the authority shall not be deemed to have divested the County Executive Committee Member of any of his or her functions, and he or she may perform such functions notwithstanding the authority given to the County Director.

Reports by County Directors.

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

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

(3) The County Director shall ensure that preparation of the Physical and Land Use Plans is informed by research.

(4) In undertaking his function under section 20 (f) the County Director shall establish resource center that will inform physical and land use planning.

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

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

**32.** The agreement to establish an Inter-county Joint Physical and Land Use Planning Committee in accordance with section 29 (1) of the Act shall be in writing and binding to the parties.

Director-General to convene the first meeting.

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

Quorum.

**34.** The quorum for the meetings of the Inter-County Physical and Land Use Planning Liaison Committee shall be the County Executive Committee Members in charge of physical and land use planning of respective counties and the Director General.

Decisions.

**35.** The decisions of the meetings shall be by consensus.

Record-keeping.

**36.** The Secretary shall keep and maintain up-to-date records of the resolutions of the meetings.

Venue.

**37.** The venue of the meetings of the Inter-County Physical and Land Use Planning Liaison Committee shall be agreed by consensus.

Circulars by Cabinet Secretary.

**38.** (1) The Cabinet Secretary may publish a circular in the *Gazette* notifying county executive committee members, physical planners and the public of new policies, norms and standards on physical and land use planning.

(2) The circular shall contain a brief statement of the purpose of the policies, norms and standards.

(3) In addition to the publication of the circular under paragraph (1), the Cabinet Secretary shall publish the circular in two newspapers with a national circulation in the English and Kiswahili languages.

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

Policy statements by Cabinet Secretary.

**39.** (1) On his own initiative, or as directed by the Environment and Land Court, or on the request of the National Land Commission, the



National Physical and Land Use Planning Consultative Forum, the County Physical and Land Use Consultative Forum and the National Physical and Land Use Planning Liaison Committee, the Cabinet Secretary may, in the public interest, publish in the *Gazette* a policy statement on physical and land use planning to provide concise and practical guidance to county executive committee members, physical planners and the public in a clear and accessible form.

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

Made on the ....., 2021.

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