



LEGAL NOTICE NO. ....

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

**ARRANGEMENT OF REGULATIONS**

*Regulation*

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**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 (DEVELOPMENT CONTROL ENFORCEMENT)) REGULATIONS, 2021**

**PART I—PRELIMINARY**

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

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

“building inspector” means a person with professional expertise in architecture, civil engineering, structural engineering, quantity surveying, mechanical engineering or electrical engineering charged with inspection of buildings or works;

“development permission” means approval granted by a planning authority for development, with or without conditions, after submission of a development application;

“enforcement” means action carried out by a planning authority with respect to any development that contravenes development permission or takes place without development permission or breaches the development specifications of the drawings and plans;

“electronic address” means an email address or any other prescribed form of electronic address suitable for address for service;

“enforcement notice” means a notice served by a planning authority on a developer under the provisions of section 72 of the Act communicating the intention of the planning authority to correct a breach or act on development that has been undertaken without planning permission or in contravention of planning permission granted;

“non-compliant development” means development that is undertaken without development permission or that fails to meet the any of the conditions granted under the Act;

“use” means the purpose or activities carried in, alongside or on land, buildings or structures without interfering with the physical characteristics of the land;

“user” means the designation given to a registered parcel of land with development conditions for continued use or enjoyment of a right;

“subdivision”—

- (a) in relation to land, means the division of any land other than buildings held under single ownership, into two or more parts whether the subdivision is for conveyance, transfer or partition or for the purpose of sale, gift, lease or any other purpose; and
- (b) in relation to buildings, means the division of a unit as defined in the Sectional Properties Act, 2020; and

“technical committee” means a working team established under Physical and Land Use Planning (Applications for Development Permission) (Application and Approval) Regulations;

## **PART II—ADMINISTRATION**

Enforcement teams.

**3.** An Enforcement Team shall be composed of—

- (a) County Director Physical and Land use Planning;
- (b) County or Municipal Physical Planners;
- (c) building inspectors; and
- (d) County Enforcement Officers.

Functions of members of enforcement teams.

**4.** (1) Building Inspectors shall have the authority to—

- (a) inspect building and works for compliance;
- (b) issue a stay order to the developer in case of noncompliant buildings or works; and
- (c) report to the County Director any noncompliance of buildings or works.

(2) County Directors shall have the authority to—

- (a) issue and enforce enforcement notices on behalf of the County Executive Committee Member;
- (b) take action on the report from the county building inspector on non-compliant buildings and works;
- (c) refer the report to the technical committee for further investigation if need be;
- (d) determine compliance of other aspects of development other than buildings and works; and
- (e) issue enforcement compliance certificates.

- (3) County or Municipal planners shall have the power to—
  - (a) inspect other aspects of development other than buildings and works for compliance to development permission;
  - (b) issue a stay order to the developer;
  - (c) report to the County Director.
- (4) County enforcement officer shall have the power to—
  - (a) issue enforcement notice;
  - (b) execute the enforcement upon expiry of the notice;
  - (c) report to County Director on the status of implementation of the enforcement.

Mandate of the  
Technical Team

**5.** In case a matter reported from preliminary investigation requires further investigation, the County Director shall within 14 days convene a meeting of the Technical Committee to—

- (a) assess the matter
- (b) prepare a report on the status of development and any corrective measures to be undertaken
- (c) submit the status report to the county executive committee member for action

### **PART III—COMPLAINTS**

Lodging of  
complaints.

**6.** (1) Lodging of complaints about non-compliant development may be made to the County Director by—

- (a) individual members of the public
- (b) neighbourhood associations
- (c) private or public institutions
- (d) any other stakeholders

(2) Such complaints may be lodged by any of the following means—

- (a) post;
- (b) hand delivery;

- (c) transcription of verbally lodged complaints;
- (d) electronic address; or
- (e) website or portal.

(3) The complainant shall not be under an obligation to disclose his or her identity.

(4) The County Director shall ensure protection of the identity of the complainant.

Verification of complaints.

7. The County Executive Committee member shall verify the validity of the complaint and, as the circumstances. May warrant, issue a Stay Order in Form PLUPA 19 as set out in the Second Schedule.

#### **PART IV—ENFORCEMENT**

Enforcement notice.

8. (1) Where a person fails to comply with conditions stipulated in a stay order issued, the County Executive Committee Member shall immediately upon expiry of the stay order issue an enforcement notice containing details as specified in First Schedule.

(2) Where the matter is referred for further investigation by the technical committee, the committee may advise the County Executive Committee Member to—

- (a) lift the stay order issued under regulation 7;
- (b) cause the revocation of the development permission;
- (c) cause the modification or alteration of the conditions imposed on development permission;
- (d) cause the owner, occupier, agent or developer to discontinue the development;
- (e) cause the owner, occupier, agent or developer to alter or demolish the building or works; or
- (f) cause the owner, occupier, agent or developer to restore the land to its original or near original condition.

(3) The County Director shall within seven days of approval by the County Executive Committee Member of the decision of the technical committee issue an enforcement notice or lift the stay order.

Mode of service of enforcement notice.

9. (1) All enforcement notices that the County Director is required to issue may be served—

- (a) by post, to any postal address in or outside Kenya entered in the land register as an address for service or as provided in the application for development permission;
- (b) by electronic transmission to the electronic address entered in the land register or in the application for development permission as an address for service;
- (c) by hand delivery to the registered owner or the applicant through the national or county government administration officers within the area of jurisdiction; or
- (d) by notice in the *Gazette* and in one newspaper with nationwide circulation where appropriate at least three months before the enforcement in case of demolition.

(2) For unregistered property or where application for development permission has not been made, the notice may be served to any address where the county director believes the owner, occupier, agent or the developer is likely to receive it or in a newspaper of nationwide circulation.

(3) In all cases, a copy of the notice shall be visibly displayed on the property.

(4) The service of a notice under paragraph (1) shall be regarded as having taken place if—

- (a) for service under paragraph 1(a), the notice is served within seven working days in case of address within Kenya and 14 working days in case of address outside Kenya after being posted;
- (b) For service under paragraph 1(b), the notice is served within two working days after being transmitted; or
- (c) for service under paragraph 1(c), the notice is served within the same day that it was posted.

Feedback mechanism.

**10.** (1) the County Director may send reminders to the persons in breach during the life of the notice to notify them that the breach and the enforcement notice are still in force

(2) Where a person served with the notice complies with stipulated conditions, the County Director shall issue an enforcement compliance form in Form PLUPA 20 as set out in the Second Schedule.

General principles of enforcement.

**11.** In administering the enforcement notice, the County Director shall be guided by—

- (a) Article 47 of the Constitution;
- (b) the achievement of the intended goals of development control enforcement;
- (c) the requirement that the development control enforcement shall be commensurate to the breach; and
- (d) the principle of uniformity and equity in the application of the enforcement action.

Execution of enforcement notice.

**12.** Upon expiry of the enforcement notice and where the person on whom an enforcement has been served has not appealed to the liaison committee, the Enforcement Team shall within seven days enter the premises or property and execute the conditions in the notice.

Identification of Enforcement Team.

**13.** Any person participating in executing an enforcement shall identify himself or herself by the production of—

- (a) his or her original national identification card;
- (b) his or her official or staff identification card;
- (c) a letter of authorization from the County Director; and
- (d) a certified copy of enforcement notice issued under regulation 8.

Execution of Enforcement Notice for demolition and alteration of buildings

**14.** (1) Where enforcement requires the Enforcement Team to demolish buildings or works, the demolition shall be carried out between 6.00 am and 6.00pm.

(2) The enforcement officers taking part in enforcement may take an inventory of any possessions on the premise or property in Form PLUPA 22 as set out in the Second Schedule.

(3) The owner or occupiers of the premise shall be responsible for securing the possessions on the premises when an enforcement action is initiated.

Determination of Restoration costs

**15.** For the purpose of determining the costs for restoration of land to its original state or near to its original state after enforcement under section 57 (4), the County Director shall—

- (a) be guided by the general principles of enforcement outlined in regulation 11;
- (b) develop a costing roll for restoration based on—
  - (i) the technology required for the restoration;

- (ii) risk factors;
- (iii) manpower needs;
- (iv) unit cost for restoration per square meter; and
- (v) transportation cost of materials from the site.

Appeals.

**16.** Any person who is aggrieved by a decision of the County Director may appeal against such decision in accordance with section 72 (3) and (4).

Register.

**17.** (1) The County Director shall keep a register in form PLUPA 23 as set out in the Second Schedule containing the information in respect of every enforcement notice issued.

(2) Every entry in the register shall be made within seven days of the happening of the event in respect of which an entry is required to be made.

(3) The register of enforcement notices shall be kept at the office of the County Director in paper form or electronic form.



**FIRST SCHEDULE**

r. 8(1)

**Conditions and Timelines for Various Enforcement Issues**

<i>S/No.</i>	<i>Nature of Non-Compliant Development</i>	<i>Notice period</i>
1.	Commencing the development of a Commercial/Residential/Industrial/Institutional building without the approval of building plans	30 days
2.	Commencing the development of Commercial/Residential/industrial/institutional building without submission of structural drawings to the county government for approval;	21 days
3.	Commencing the development of Commercial/ Residential/ Industrial/Institutional building without erecting notice of the development on the site	5 days
4.	Commencing the development of a perimeter wall without the approval of building plans by the county government;	30 days
5.	Extending development of Commercial/ Residential/Industrial/ Institutional development beyond approved level without development permission/ commencement notice;	30 days
6.	Development of Commercial/ Residential/Industrial/ Institutional buildings using outdated development permission;	30 days
7.	Development of Commercial/ Residential/Industrial/ Institutional premises without adhering to standard building lines;	90 days
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;	14 days
9.	Developing/occupying/ allowing the occupation of substandard Commercial/ Residential/Industrial/ Institutional buildings that pose danger to the occupants and general public;	90 days
10.	Subdividing/Re-parceling/amalgamating land without development permission,	21 days
11.	Changing the Use/Extending the Use of the land without development permission;	21 days
12.	Allowing effluent from the building to flow in the open posing danger to the public;	7 days
13.	Dumping waste on undesignated waste disposal site;	2 days
14.	Excavating soil/murram/sand without development permission;	7 days
15.	Digging channels across/ along the road without development permission;	7 days

16.	Leaving dug channels across/along roads uncovered or not cordoned posing danger to the public	Cordoning - 1 day Covering dug channels - 7 days
17.	Encroaching on a public road of access/ railway reserves/ wayleaves and easements/public space	Temporary - 7 days Permanent - 30 days
18.	Displaying advertisement without development permission	21 days
19.	Generating excessive noise causing nuisance to the public	Immediate

**SECOND SCHEDULE**

**FORM PLUPA-DC-19**

**r (7)**



**REPUBLIC OF KENYA**

**COUNTY GOVERNMENT OF.....**

**STAY ORDER**

[Physical and Land Use Planning Act Sec. 72(1)]

Serial No.....

Date Issued.....

To (Owner, Developer, Agent, Occupier)

Name.....

Postal address.....

E mail Address.....

Physical address.....

Description of the Land Parcel No.....

Coordinates.....

General description of land (for un-surveyed land).....

County/City/Municipality/Town/Ward.....

Name of road/street .....

Enforcement Notice No.....

## **Enforcement Report**

The under signed Enforcement Officer in the presence of the owner/Developer/Agent/

Occupier exercising their powers under section 72 of PLUPA, 2019 identified the following non-compliant development at..... hrs (time) on .....date..... while inspecting the land /premises

Developer/Agent/Occupier

Type of Development.....

Your attention is therefore drawn to the following provisions and requirements of PLUPA, 2019

### **Information/document required\***

- i. Approved Architectural drawings
- ii. Approved Structural drawings
- iii. Commencement Notice
- iv. Site notice
- v. Approved subdivision/Amalgamation/Re-parcellation/partitioning scheme plan
- vi. Consent to subdivide
- vii. Planning brief for subdivision/Change of User/Extension of User/Extension of Lease/Renewal of Lease prepared by a registered and practising Physical Planner
- viii. Application to National Land Commission for Renewal of Lease
- ix. PLUPA Form.....( Approval/deferment/rejection of development)
- x. PLUPA Form.....( Certificate of compliance)
- xi. Certificate of Occupation in case of Buildings

\*Tick as appropriate

You are hereby required to immediately stay the development and submit the required information/documents to the County Director of Physical and Land Use Planning within seven working days from the date of this notice failure to which an Enforcement Notice shall be served on you in accordance to Section 72(1) of PLUPA 2019.

Signed

.....date.....

Owner/ Developer/Agent/Occupier

Signed

.....date.....

Enforcement Officer

**Copy:** County Executive Committee Member in charge of Physical and Land Use Planning

County Director of Physical and Land Use Planning



REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

ENFORCEMENT COMPLIANCE CERTIFICATE

[Physical and Land Use Planning Act Sec 72(1)]

Ref No.....

To (Owner, Developer, Agent, Occupier,)

Name.....

Particulars of property.....

Postal address.....

Email address.....

Physical address.....

IT IS HEREBY confirmed that you have FULLY COMPLIED with conditions of Enforcement Notice No..... of .....Day of ....., 20..... and are therefore allowed to continue with utilization of the property

Official use:

Name and Signature of Authorized Officer.....

Official stamp

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

CC

Deputy County Commissioner.....

Sub County.....

OCPD.....

Division.....

County Enforcement Officer.....

County.....



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.....

Official stamp

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

CC

Deputy County commissioner.....Sub County

OCPD..... Division

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

## **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-parceling/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.



**REPUBLIC OF KENYA**

**COUNTY GOVERNMENT OF.....**

**INVENTORY OF ITEMS FOUND ON SITE DURING ENFORCEMENT**

[Physical and Land Use Planning Act Sec 72(1) ]

Ref No.....

Date.....

Description of the Land Parcel no.....  
.....

Coordinates.....

General description of land (for un-surveyed land)  
.....  
.....  
.....  
.....

County/City/Municipality/Town/Ward.....

Name of road/street.....

Enforcement notice No.....

S/NO.	ITEM DESCRIPTION	NO. OF ITEMS	STATUS	SIGNATURE- OWNER/AGENT	SIGNATURE- Enforcement Officer

**WITNESS**

I hereby confirm that the items described above were retrieved from the premises on this day..... of .....20..... in my presence.

Name.....Signature.....

(To be Completed by; Ward Administrator or Chief or Assistant Chief.)



REPUBLIC OF KENYA

COUNTY GOVERNMENT OF.....

**REGISTER OF ENFORCEMENT NOTICES**

[Physical and Land Use Planning Act Sec 72(2) ]

S/No	Enforcement Notice Number	Date of Notice	Particulars of Person Served	Land Ref. No./description of property	Physical Address	Stipulated Corrective Measure	Date & brief of action taken by the person served	Date of issuance of compliance form	Date & Decision of appeal to Liaison Committee	Date & Decision of Court

Made on the ....., 2021.

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