



LEGAL NOTICE NO. ....

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

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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 for Lands and Physical Planning makes the following Regulations—

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

### PART I—PRELIMINARY

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

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

“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 line” means a line drawn 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;

“canopy” has the meaning assigned to it in the National Building Code;

“change of user” 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;

“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;

“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 user” means introduction of an auxiliary use in addition to the existing use within the same building or site while maintaining the dominance of the principal use on a specific parcel of land

"extension of lease" is as defined in the Land Act, 2012

“frontage” means a strip of land between a commercial development and a carriage way;

“highest water mark” means the highest level or boundary reached by a river or lake during floods, and by the ocean during periods of high tides

“national building code” means the National building code made by the Cabinet Secretary for the time being responsible for public works under section 42 (a) of the National Construction Authority Act, 2011;

“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;

“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 building;

“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 or public purpose;

“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 seeks reallocation of the property and a new lease after the expiry of a lease;

“riparian reserve” means the ecological buffer of earth surface not being the bed of a stream, river, ocean, dam, natural or artificial lake, swamp or riverine wetlands measured horizontally from the highest water mark and may include part of any land parcel situated at the distance from the bank within the measurements provided herein, that is protected under this Act or its use regulated under any other written law.

“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;

“subdivision” in relation to land means the division of a specific parcel of land, including buildings into units held under single ownership, into two or more parts whether the subdivision is by conveyance, transfer or partition or for the purpose of sale, gift, lease or any other purpose

“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; and

"user" means a specific designation to a registered parcel of land with development conditions for continued use or enjoyment of a right.

## **PART II—CHANGE OF USER AND EXTENSION OF USER**

Application.

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

- (a) a change of user; or
- (b) an extension of user.

(2) The change of user application shall be required when—

- (a) the proposal consists of a significant change of the registered use of the land and constitutes a change of more than twenty per cent of the registered user of the land based on the plot coverage and plinth area; and
- (b) the existing registered use of land does not conform to the approved plan or the zoning regulations.

(3) The extension of user application shall be required when the proposal consists of a change of the registered land use not exceeding twenty per cent in any case 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 paragraph 5 of the Third Schedule to the Act, a planning authority may consider the following matters with respect to an application under regulation 3—

- (a) whether or not the intended use shall be in accordance with the desirable urban form and character of the area;
- (b) where the land is needed 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 the provisions of any other relevant written law, the following matters 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 imposed on the lease;
- (c) the applicant's compliance with the National Land-Use Policy, land-use zoning regulations and approved National, Inter-County and County Physical and Land-Use development plans of the area;
- (d) the capacity of the lessee to develop in accordance with the new conditions of the approved plan or land-use zoning regulations for the area;
- (e) whether the land is required for environmental conservation and preservation; and
- (f) whether portions or all of the land is required for registration of easements and way leaves for planned infrastructural facilities and other relevant way leaves.

### **PART IV—SUBDIVISION AND AMALGAMATION**

Application.

**6.** Subdivision, and amalgamation in areas to which these Regulations apply shall require planning approval.

Subdivision and amalgamation schemes.

**7.** (1) Subdivision and amalgamation schemes shall be prepared in accordance with the provisions of the Third Schedule to the Act .

(2) Where any proposed street or road or railway line or tramway is included in the subdivision scheme, the layout shall conform to the relevant planning guidelines, standards, regulations 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 public roads intersect, a truncation of half the width of the lower hierarchy road shall be provided
- (c) where the road is private and the minimum is not less than nine metres wide, a truncation of four and a half metres shall be provided; and
- (d) footpaths and cycle paths that are not less than two metres wide shall be provided in all new roads.

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

(5) Streets shall be aligned in such a manner as to facilitate natural stormwater flow and, where necessary, the scheme shall demarcate stormwater easements.

(6) The scheme shall respect riparian and ocean reserves, wayleaves and easements.

(7) The subdivision scheme shall provide for the preservation of the natural flora and fauna as much as possible in the case of a large-scale subdivision.

Surrender of  
land for public  
purposes.

**8.** (1) Subdivision schemes under regulation 7 may be subjected to surrender of land for public use in accordance with section 58 and paragraph 7 of the Third Schedule to the Act.

(2) Where required by the County Executive Committee Member, suitable and adequate land shall be surrendered by the 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 or for road-widening.

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

(4) The land to be surrendered shall be shaded 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 Land Registration Act, 2012.

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

(7) Relevant utility services providers may be consulted during the process of 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 User—

- (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.

(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.

(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.

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 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.

(3) Prior to erecting new buildings, any person shall put up an onsite construction boards clearly indicating the role of all professional involved.

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 thirty-two point five square metres and having no dimension less than four point five metres.

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 three metres.

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.

(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 one hundred and thirty-nine centimetres 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 there from on the footway.

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

(3) No load or article shall be placed upon a canopy unless with an approval of the planning authority.

(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) The planning authority shall require a property owner to maintain their property frontage.

(4) The planning authority shall approve any improvement on the frontage in adherence to the street and road designs and in accordance with regulations of relevant agencies.

(5) 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.

**30.** Every building shall provide adequate access to persons with disability, 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 two metres wide through the development and may be compensated with additional floor area above the permitted building height.

Infrastructure services.

**32.** (1) 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.

(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.

Drainage.

**33.** Where a planning authority is of the opinion that the proposed development, requires a comprehensive drainage plan the planning authority may—

- (a) notify the owner in writing and with reasons, the necessity for the plan; and
- (b) require the owner to submit plans and particulars of the drainage for approval.

## PART VI—EASEMENTS, WAYLEAVES AND RIPARIAN RESERVES

Utilisation of  
riparian  
reserves.

**34.** (1) The utilization of riparian reserves shall be in strict compliance with the provisions of approved physical and land use development plans, The National Land Use Policy and applicable sectoral laws.

(2) For the purposes of this Part—

“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.

(3) 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.

**35.** (1) The acquisition of easements for private use shall be compatible with the existing developments and appropriate for the intended use.

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

(3) Where the way leaves are on road reserves, they shall be dealt with in accordance with the provisions of the Public Road and Roads of Access Act.

(4) Way leaves and easements shall be registered in accordance with the provisions of the Land Act of 2012.

(5) Where wayleaves and easements fall on private property, the planning authority shall apply for creation and registration under the Land Act 2012.

(6) Way leaves and easements shall be depicted in the physical and land use development plans and survey plans.

(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 and high mast floodlights shall—

(a) be at the most suitable location that affords illumination to more than one path;

(b) be in near proximity to electricity;

(c) provide for security of facility; and

(d) be in proximity to trading centres and shall illuminate pathways.

(9) The minimum wayleave for erecting the high mast floodlights shall be three metres in length and three metres in width.

## **PART VII—PUBLIC BUILDINGS AND FACILITIES**

Application.

**36.** 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.
- (g) Public Schools

Standards and considerations.

**37.** The following shall apply for the erection of public buildings and facilities—

- (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;
- (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.

### **PART VIII—GENERAL PROVISIONS**

Aspects of  
urban design.

**38.** 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 in accordance with the Energy Act, 2019;

- (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.

Demolition

**39.** (1) An owner of any site shall not demolish or cause to be demolished any building or any part without the prior written approval of the planning authority.

(2) A planning authority may within seven days of receipt of an application, grant an approval and impose any condition or requirement necessary for the safety, health and convenience of the public and for the safety of any other building or installation which in its opinion may be affected by the demolition.

(3) The planning authority may with reasons extend the period referred in (2) in case of any particular application for a further fourteen days.

(4) No person may at any time during the course of or after the demolition of a building leave it in a condition dangerous to the public or any adjoining property.

(5) The planning authority may serve a notice on the person requiring them to make the site safe within the time prescribed in the notice, and if the person fails to do so, the planning authority may itself carry out the necessary work and recover the costs incurred from the person.

(6) A registered contractor under the supervision of a structural engineer or architect shall carry out demolition of a building.

(7) The planning authority may prohibit the use of any method to be applied in the demolition of any building where in its opinion the method creates or cause to be created a danger to any person or other building or property, and where it prohibits shall give reasons in writing for the prohibition.

Unsafe buildings

**40.** (1) Where any building appears to be in a ruinous, dangerous or dilapidated condition, the planning authority on its own volition or request by the public may—

- (a) serve upon the owner a notice in writing, requiring them within the time specified, to shore up, secure, repair, renew or otherwise make safe, to the satisfaction of the planning authority the building, or to remove the same; or
- (b) take the steps by way of shoring up or securing or otherwise making safe the building as necessary and enter upon the premises and upon

any adjoining premises, which it may be necessary to enter for the said purpose.

(2) In the event of the owner failing to commence the work specified in the notice referred to in paragraph (1), within three days after the expiration of the time specified, or failing to complete the said work with the time specified in the notice, the planning authority at the owner's cost may proceed under paragraph (1)(b).

Sale of materials.

**41.** (1) If a building is demolished by the planning authority under any of the powers conferred by these Regulations, the planning authority may remove and sell the materials or any portion of them, and apply the proceeds of the sale in or towards payment of the cost and expenses incurred by it in relation to the work and shall pay the balance, if any, to the owner.

(2) If the proceeds of the sale are insufficient to cover the expenses incurred, the balance shall be recoverable as a civil debt from the owner.

Temporary closure of streets.

**42.**(1) The planning authority may, temporarily close any street or public place and erect hoardings, barricades or other structures as it may consider necessary for that purpose.

(2) Where the closure has been occasioned by the condition of a building, the owner shall pay to the authority on demand, all costs and expenses incurred by it in connection with the erection and subsequent removal of the hoardings, barricades or other structures.

(3) Any person who unlawfully interferes with any of the hoardings, barricades or structures erected commits an offence under section 67 .

Computation of time.

**43.** For purposes of computation of time, the deadline for electronic submission of documents including the county executive committee member issuing an advisory, on development applications lodged electronically shall be 23:59:59 hours Kenyan time.

**44.** Where due to a reasonable cause that may include a system prolonged down time, resulting in the author's inability to submit an application electronically, the author may submit a hard copy application to the county executive committee member and give reasons.

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

Registered Number of Application .....

REF No.....

Date.....

DEMOLITION PERMIT

<b>TO</b>	
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Property Location Details:

L/R	Plot No.	Sub County	Ward	Estate/Locality/Area	Nearest Street/Road

Reference is made to your application dated ....., on the above mentioned subject matter and your subsequent payment to the County Government of Kshs..... as fees.

The planning authority grants permission to carry out the under mentioned demolition works on the referenced plot subject to you having received consent for the same from the Landlord.

- 1.....
- 2.....
- 3.....

Subject to the following conditions-

- a) Compliance with the approved EIA& A Report
- b) To repair and make good any damage to adjacent building or structure caused by the demolition or negligent act or omission of any person engaged in it
- c) To remove material or debris resulting from demolition or clearance of the site
- d) To remove and seal at such a point as the statutory undertaker may reasonably require, any sewer or water pipe under the building
- e) To make arrangements with relevant statutory undertakers for disconnection of supply of gas and water to the building
- f) To leave the site following demolition in such a condition as the planning authority may consider reasonably necessary for protection of the public and preservation of amenity
- g) This approval is valid for ..... days from the date of this letter.
- h) Any other condition.....

In addition, you are required to indemnify the County Government against any claims that may arise from your negligence and/or acts of omission during the demolition works.

This letter granting permission to undertake the said demolitions does not authorize alterations or additions to the structure. Further, it does not grant authority to change/extend/densify use of the premises or interfere with any tenancy agreement between or among parties to the premises.

Name..... Date .....

Designation.....Sign.....

For: County Executive Committee Member

Made on the ....., 2021.

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