

(Legislative Supplement No. 99)

LEGAL NOTICE NO. 250

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (LIAISON COMMITTEES)
REGULATIONS, 2021

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THE PHYSICAL AND LAND USE PLANNING ACT

(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 (LIAISON COMMITTEES) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Liaison Committees) Regulations, 2021.

Citation.

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

Interpretation.

“amendment” means the formal addition, modifications or removal of parts of a complaint, claim or appeal with an intention to improve the complaint, claim or appeal;

“application for development permission” means an application for permission to develop land under section 55 of the Act;

“appeal” means a matter filed—

(a) before the National Physical and Land Use Planning Liaison Committee under section 75 (1) (b); or

(b) before the County Physical and Land Use Planning Liaison Committee under section 78 (a), (b) and (d);

“County Liaison Committee” means the County Physical and Land Use Planning Liaison Committee established under section 76;

“enforcement notice” means a notice served by a planning authority on a developer under section 72;

“interested party” means a person or a legal entity who expresses interest to be enjoined in a claim, complaint or appeal, who may be prejudiced if not joined but is not an original party to the appeal;

“National Liaison Committee” means the National Physical and Land Use Planning Liaison Committee established under section 73;

“party” includes an appellant, applicant, respondent or interested party;

“register” means a record of appeals kept pursuant to section 87 (1) of the Act and these Regulations;

“secretariat” refers to an office offering secretariat services provided by the—

(a) Cabinet Secretary under section 74 (2); or

(b) by the County Executive Committee Member under section 77 (3); and

“secretary” means an officer appointed by—

- (a) the Cabinet Secretary under section 74 (2) of the Act in respect of the National Physical and Land Use Planning Liaison Committee, or
- (b) the County Executive Committee Member under section 74 (3) of the Act in respect of the, County Physical and Land Use Planning Liaison Committee.

3. The object of these Regulations to provide for the institutional framework and mechanisms for resolving disputes relating to physical and land use planning.

Object of the Regulations.

PART II—NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

4. The National Liaison Committee shall—

Conduct of business of National Liaison Committee.

- (a) save as otherwise provided in these Regulations, determine its own procedure; and
- (b) meet at least four times in a year, with not more than three months elapsing between the meetings of the Committee.

5. (1) The Cabinet Secretary shall convene the first meeting of the National Liaison Committee and preside over the election of the chairperson.

Election of the chairperson of the National Liaison Committee.

(2) If the office of the chairperson falls vacant, the Cabinet Secretary shall convene a meeting and preside over the election of a new chairperson.

6. Where the chairperson of a National Liaison Committee is unable to exercise his or her functions owing to illness, genuine absence or any other reason, the members present shall elect one of the members appointed under paragraph (h), (i), (j), (k), (l) or (m) of section 74 (4) to act as an interim chairperson for a particular meeting.

Election of an interim chairperson.

7. The office of the chairperson or a member shall become vacant if the holder—

Vacancy of office.

- (a) resigns from his or her position by notice in writing addressed to the appointing authority;
- (b) is absent from three consecutive meetings of the committee without notice;
- (c) is convicted of an offence by a court of competent jurisdiction and sentenced to imprisonment for a term of at least six months without the option of a fine;
- (d) is unable or unfit, by reason of mental or physical infirmity, to discharge his or her functions as a member of the committee;
- (e) dies;
- (f) loses membership in the nominating professional body;
- (g) the term of office expires; or

(h) is removed from office on the ground of—

- (i) gross violation of the Constitution or any other written law;
- (ii) gross misconduct or misbehavior;
- (iii) incompetence or neglect of duty; or
- (iv) bankruptcy.

8. (1) If a vacancy occurs in the office of the chairperson or member of the Committee, the secretary to the Committee shall communicate in writing to the Cabinet Secretary of the existence of a vacancy.

Filling of a vacancy.

(2) If a vacancy occurs in the office of a member under section 74 (1) (h), (i), (j), (k), (l) or (m), the Cabinet Secretary shall communicate in writing to the respective nominating body to nominate a suitable person within thirty days of the occurrence of the vacancy.

(3) A vacancy under paragraph (1) shall be filled within fourteen days after the name is nominated under subregulation (2).

9. The chairperson shall be responsible for—

- (a) presiding over the meetings of the National Liaison Committee;
- (b) approving communication from the National Liaison Committee; and
- (c) assigning any member or Secretariat any other role in accordance with these Regulations.

Responsibilities of chairperson.

10. The Secretary shall—

- (a) be the head of secretariat;
- (b) be responsible for the day-to-day operations of the secretariat;
- (c) in consultation with the chairperson, prepare the agenda of meetings of the National Liaison Committee;
- (d) record proceedings, deliberations and decisions of the National Liaison Committee;
- (e) keep a record of meetings and decisions of the National Liaison Committee;
- (f) avail certified copies of minutes when required;
- (g) receive, register and keep custody of appeals and any other supportive documents to the appeal;
- (h) facilitate provision of extracts and copies from the register; and
- (i) undertake any other duty assigned by the National Liaison Committee.

Role of the Secretary

11. (1) A person who is aggrieved by a decision of the planning authority may file an appeal to the Committee in accordance with section 32 (4) or 75 (2) of the Act.

Filing of appeals.

(2) An appeal shall be initiated by filing a statement of appeal signed by the appellant or the appellant's authorized representative in Form PLUPA LC- 1 (a) as set out in the First Schedule.

(3) A Statement of Appeal shall contain—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant's authorized representative, if any;
- (c) the nature of the decision appealed against and the facts and grounds on which the appeal relies on;
- (d) the relief sought;
- (e) any principle of law, policy or regulations that the appeal relies on;
- (f) a list of witnesses, if any; and
- (g) a list of the annexures containing—
 - (i) a copy of the decision being appealed against;
 - (ii) the documents the appellant wishes to rely on in the appeal; and
 - (iii) the details of witnesses as specified in the appeal application in Form PLUPA LC- 1(a) set out in the First Schedule;
 - (iv) minutes of the decision being appealed against, if any; and
 - (v) payment receipt of appropriate fee prescribed under the Second Schedule.

(4) Upon the receipt of the appeal, the respondent may file a response within seven working days

12. (1) The appeal shall be submitted to the secretariat of the National Physical and Land Use Planning Liaison Committee.

Submission of appeals.

(2) The appellant shall submit the print and electronic copy of the appeal in triplicate.

(3) The secretary shall, on receipt of the appeal and confirmation of payment of the fee specified under these Regulations—

- (a) record the particulars of the appeal in the register of appeals;
- (b) issue to the appellant a copy of the appeal, which has been duly stamped and with a reference number;
- (c) serve a copy of the appeal to the respondent within seven days;

- (d) advise the appellant of any other matter which the secretary deems fit and necessary; and
- (e) inform the appellant of the date the matter shall be heard.

13. (1) The Secretary shall keep a register of appeals which shall contain the following particulars—

Particulars of the appeals register.

- (a) the identity of the parties and their respective contacts; including physical address
- (b) the particulars of interested parties enjoined in the appeal, if any;
- (c) the serial number of the appeal;
- (d) the date of receipt of the appeal;
- (e) the nature of an appeal;
- (f) the relief sought by an appellant;
- (g) amendment, if any;
- (h) notice of withdrawal, if any and date thereof;
- (i) the decisions made and the date thereof;
- (j) the date of communication of the Committees decision to the appellant;
- (k) the date of filing the decision in the Environment and Land Court; and
- (l) any other details that the Committee may deem fit and just.

(2) A request for inspection of a register shall be in Form PLUPA LC - 5 (a) set out in the First Schedule.

14. (1) Within fourteen days of an appeal being lodged, any person may apply to the chairperson in writing to be enjoined as an interested party.

Interested parties.

(2) An application under regulation 13(1) shall include—

- (a) description of the interested party;
- (b) depiction of such prejudice as the interested party would suffer if the request was denied;
- (c) the grounds or submissions to be advanced by the interested party, their relevance to the appeal and their departures from the stand point of the parties.

(3) The committee shall determine whether to allow the interested party to be enjoined in the appeal and communicate in writing the Committee's decision to the applicant within fourteen days of determination of the application.

(4) The committee may issue an interim order to stop development pending determination of the appeal in accordance with regulation 24.

15. (1) An appellant may, with the leave of the Committee and upon such terms as to costs or otherwise as the Committee may direct at any time before the determination of an appeal, give a notice of intention to withdraw an appeal in writing in Form PLUPA LC - 8 (a) as set out in the Schedule.

Withdrawal and abandonment of appeals.

(2) Where an appeal is withdrawn pursuant to subregulation (1), no further appeal shall be allowed by the Committee in respect of the same subject matter.

(3) The Committee may determine an appeal to have been abandoned if the appellant fails to—

- (a) respond to summons to appear for hearings for two consecutive sittings;
- (b) file a response when required; or
- (c) show cause why the appeal should not be deemed abandoned or withdrawn within fourteen (14) days of service.

16. The appellant may amend the appeal within two working days upon filing.

Amendment of Appeals.

17. Upon receipt of an appeal, the respondent shall file a written response within fourteen (14) days stating whether or not the respondent intends to oppose the appeal and the grounds on which it relies in opposing the appeal.

Filing of response by respondent.

18. (1) The secretary, in consultation with the chairperson, shall set the time, date and place of hearing of an appeal.

Conduct of hearings.

(2) The secretary shall communicate to the parties, in writing, the date, time and place of the hearing within seven days of receipt of appeal in Form PLUPA 6 (a) set out in the First Schedule.

(3) At the commencement of a hearing, the chairperson shall direct the parties of the order in which they shall argue the appeal.

19. (1) A member of the committee shall disclose interest on the matter which is the subject of the proceedings which would conflict with the proper performance of the member's function.

Disclosure of conflict of interest.

(2) Except with the consent of all parties, any member of the committee who has declared interest under this regulation shall not take part in the proceedings.

(3) The committee shall maintain a register for recording of conflict of interest.

(4) A disclosure of conflict of interest shall be recorded in the minutes of the meeting and the register of conflicts of interest.

20. The Committee may, in its discretion consolidate appeals, where appeals have been filed in respect of the same matter or in respect of several interests in the same subject of the dispute.

Consolidation of appeals.

21. The quorum for the meetings of the committee shall be at least nine members.

Quorum of meetings and voting.

22. (1) The language of the appeals shall be Kiswahili or English.

Language of hearing.

(2) Despite subregulation (1), a party may make a request to make a representation in any language of their choice including braille or sign language.

(3) A request under subregulation (2) shall be made at least seven days before the hearing of the appeal.

(4) Upon receiving the request made under subregulation (2), the committee shall avail the interpretation services required during the hearing of the appeal.

23. (1) The committee shall issue summons in Form PLUPA LC - 2 (a) set out in the First Schedule, which shall be served upon the respondent by the secretary within the period specified in the summons.

Appearance of the parties at a hearing.

(2) The appellant shall appear at the hearing in person or through an authorized representative.

(3) The appointment of the representative shall be communicated in Form PLUPA LC - 3 (a) set out in the First Schedule.

(4) If on the scheduled date for hearing of an appeal—

(a) neither party attends the hearing, the application may be dismissed; or

(b) where either the applicant or the respondent does not attend the hearing, the committee may proceed as it deems fit.

(5) A party who, for a sufficient cause did not attend the hearing and is aggrieved by the decision of the committee under subregulation (4) may apply to the committee to have application heard afresh.

(6) The Committee, in case of subregulation (5) shall consider a request for fresh determination and may set aside the decision made:

Provided that the party shall demonstrate sufficient cause for non-attendance.

24. The Committee may, subject to consent in writing of all the parties to an appeal, determine the appeal without an oral hearing.

Power to determine appeal without hearing.

25. (1) The committee may issue interim orders to stop development for a period of fourteen days pending determination of the appeal in Form PLUPA LC - 7 (a) as set out in the First Schedule.

Power to issue interim orders

(2) Any development affecting any land to which an enforcement notice relates shall be discontinued and execution of the enforcement notice shall be stayed pending determination of an appeal.

(3) Where a party is aggrieved by a decision of the national planning authority and files an appeal seeking interim orders, the committee may direct that implementation of the decision be suspended until the matter is heard and determined.

26. Prior to the determination of an appeal, the committee may on its own motion or an application by any of the parties visit or inspect the site that is subject of appeal.

Site visits.

27. The chairperson shall notify the parties in an appeal of the committee's determination through paper or electronic form within fourteen (14) days of the determination in Form PLUPA LC – 4 (a) as set out in the First Schedule.

Communication of determination.

28. The Committee shall give reasons for all its decision and determinations, and each of any such decisions shall include—

Filing of response by a respondent.

- (a) a statement of the findings of fact made from the evidence adduced, including, where applicable, any relevant government policy; and
- (b) a statement of the laws and rules of law applied, and the interpretation thereof.

PART III—COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

29. The County Liaison Committee shall—

Conduct of business of the Committee.

- (a) determine its own procedure; and
- (b) meet at least four times in a year, with not more than three months elapsing between the meetings of the Committee.

30. The County Executive Committee Member shall convene the first meeting to inaugurate the County Liaison Committee.

Inauguration of the County Liaison Committee.

31. The position of the chairperson or a member of the County Liaison Committee shall become vacant, if the holder—

Vacancy of office.

- (a) resigns from his or her position by notice in writing addressed to the appointing authority;
- (b) is absent from three consecutive meetings of the committee without notice;
- (c) is convicted of an offence by a court and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (d) is unable or unfit, by reason of mental or physical infirmity, to discharge his functions as a member of the committee;
- (e) dies;
- (f) loses membership in the nominating professional body;
- (g) expiry of term of office; or
- (h) is removed from office on any of the following grounds—
 - (i) gross violation of the Constitution or any other written law;
 - (ii) gross misconduct or misbehavior;
 - (iii) incompetence or neglect of duty; or
 - (iv) declared bankrupt.

32. (1) In the event that a vacancy falls in the office of the chairperson, the secretary shall within seven days notify in writing the County Executive Committee Member on the existence of a vacancy.

Filling of vacancies.

(2) The County Executive Committee Member shall within seven days declare vacancy and notify the Law society of Kenya to nominate a replacement within fourteen days after notification.

(3) In case of a vacancy in the office of a member under section 14 (2) the chairperson shall notify the County Executive Committee Member in writing within seven days on the existence of a vacancy of a member.

(4) A vacancy declared under sub-regulation (3) shall be filled within fourteen days from the date of notification.

33. The chairperson shall—

Responsibility of the chairperson

- (a) preside over the meetings of the County Liaison Committee;
- (b) approve communication from the County Liaison Committee;
- (c) notify the County Executive Committee Member on the existence of a vacancy of a member; and
- (d) may assign any other role to any committee member or secretariat under these Regulations.

34. The secretary shall—

Roles of secretary.

- (a) be the head of secretariat;
- (b) be responsible for the day-to-day operations of the secretariat
- (c) prepare the agenda of meetings;
- (d) record proceedings deliberations and decisions of the committee;
- (e) keep a record of meetings and decisions of the committee;
- (f) avail certified copies of minutes when required;
- (g) receive, register and keep custody of appeals and any other supportive document to the appeal;
- (h) facilitate provision of extracts and copies from the register;
- (i) notify the County Executive Committee Member on the existence of a vacancy in the office of the chairperson;
- (j) undertake any other duty assigned by the committee.

35. (1) A person, who wishes to appeal a decision by a planning authority, shall file an appeal to the committee in accordance with sections 40 (4), 49 (2), 61 (3), 72 (3) and 78 of the Act which shall be signed by the appellant or the appellant's authorized representative in Form PLUPA LC- 1 (b) as set out in the First Schedule.

Complaint, claim or appeals procedure

36. A statement of appeal, complaint or claims shall contain—

Statement of complaint or claim or appeal

- (a) the name and address of the complainant, claimant or appellant;
- (b) the names and address of the complainant, claimant or appellant's authorized representative, if any;
- (c) the nature of the complaint or claim appealed against, the facts and grounds on which the complaint, claim or appeal relies on;
- (d) the relief sought;
- (e) any principle in law, policies or regulations that the appeal relies on;
- (f) a list of witnesses, if any; and
- (g) a list of—
 - (i) copy of decision being complaint, claimed or appealed against;
 - (ii) documents the complainant, claimant or appellant wishes to rely on in the complaint, claim or appeal
 - (iii) details of witnesses in Form PLUPA LC – 1 (b) as set out in the First Schedule;
 - (iv) minutes of the decision being appealed against, if any; and
 - (v) payment receipt of the appropriate fee prescribed under the Second Schedule.

37. (1) The complaint, claim or appeal shall be submitted to the committee.

Submission of
complaint, claim or
appeal.

(2) The complainant, claimant or appellant shall submit three hard copies or in an electronic copy of the appeal.

(3) On receipt of a complaint, claim or appeal and confirmation of the payment of the prescribed fee under these Regulations, the secretary shall—

- (a) acknowledge receipt by stamping on the face of the statement of appeal the date of receipt, which date must be the date of filing;
- (b) record the particulars of the complaint, claim or appeal in the register of complaints, claims or appeals;
- (c) issue a copy of the complaint, claim or appeal stamped as received with a reference number from the register to the complainant, claimant or appellant;
- (d) forward a copy of the complaint, claim or appeal to the respondent within seven days; and
- (e) advise the complainant, claimant or appellant of any other matter which the secretary deems fit and just.

38. (1) The secretariat shall keep a register of complaint, claim or appeal which shall contain the following particulars—

Particulars of the appeals register.

- (a) the identity of the parties and their respective contacts;
- (b) the serial number of the complaint, claim or appeal;
- (c) the date of receipt of the complaint, claim or appeal;
- (d) the nature of a complaint, claim or appeal;
- (e) the relief sought in complaint, claim or appeal;
- (f) amendments, if any;
- (g) notice of withdrawal, if any and date thereof;
- (h) the decisions made and the date thereof;
- (i) date of communication of the Committees decision to the complainant, claimant or appellant; and
- (j) the date of filing the decision in the Environment and Land Court.

(2) A request for inspection of a register shall be made in Form PLUPA LC- 5 (b) as set out in the First Schedule.

39. (1) A complainant, claimant or appellant may, with the leave of the committee and upon such terms as to costs or otherwise as the committee may direct at any time before the determination of a complaint, claim or appeal, give a notice of intention to withdraw a complaint, claim or appeal in Form PLUPA LC-8 (b) set out in the First Schedule.

Withdrawal and abandonment of complaint, claim or appeal.

(2) Where a complaint, claim or appeal is withdrawn under sub-regulation (1), no further complaint, claim or appeal shall be allowed in respect of the same subject matter.

(3) The committee may determine a complaint, claim or appeal to have been abandoned if the complainant, claimant or appellant fails to—

- (a) responds to summons by the committee within seven days of service effected either through electronic media, the known postal address or posting on the site;
- (b) file a response when required within seven days of service effected either through electronic media, the known postal address or posting on the site;
- (c) show cause why the appeal should not be declared abandoned or withdrawn within seven days of service;
- (d) fails without demonstrating sufficient cause to attend the hearing either in person or through a representative

(4) A party who for sufficient cause did not attend the hearing and is aggrieved by the decision of the committee under these Regulations, may apply to the committee to have the complaint, claim or appeal heard afresh.

(5) The committee shall consider the request under subregulation (4) and may set aside or vary the decision made.

40. The complainant, claimant or appellant may amend the complaint, claim or appeal within seven days upon filing and must serve all parties within seven days of filing.

Amendment of complaint/claim/appeal

41. (1) The respondent shall, upon receipt of a complaint, claim or appeal, file a written response within seven days of receipt thereof.

Filing of a response by respondent

(2) The respondent shall state—

(a) whether or not he intends to oppose the appeal and the grounds on which it relies in opposing the appeal;

(b) whether any other person or entity has a direct interest in the subject matter of the appeal, the name and address of such other person or entity; and

(c) care must be taken to see that documents filed are legible.

42. (1) The Secretary shall, in consultation with the chairperson, set the agenda, time, date and place of hearing of an appeal.

Conduct of hearings.

(2) The Secretary shall communicate in writing on the date, time and place of the hearing to the respective parties within seven days of receipt of complaint, claim or appeal in Form PLUPA LC- 6 (b) as set out in the First Schedule.

(3) At the commencement of a hearing, the chairperson shall direct the parties of the order in which they shall argue the complaint, claim or appeal.

43. The Committee may, in its discretion consolidate complaints, claims or appeals, where they have been filed in respect of the same subject matter or in respect of several interests in the same subject of dispute.

Consolidation of complaint, claim or appeal.

44. (1) The Committee shall maintain a register of conflicts of interest disclosed by the members.

Disclosure of conflicts of interest.

(2) A disclosure of a conflict of interest shall be recorded in the minutes of the meeting and the register of conflicts of interest.

45. The quorum at the meetings of the committee shall be at least one-half of the members and shall be maintained throughout a meeting of the Committee.

Quorum.

46. (1) The language of the complaint, claim or appeal shall be Kiswahili or English.

Language of hearing

(2) Despite subregulation (1), a party may make a request to make a representation in any language of their choice including braille or sign language.

(3) A request under subregulation (2) shall be made at least seven days before the hearing of the complaint, claim or appeal.

(4) Upon the request made under subregulation (2), the committee shall avail the required interpretation services required during the complaint, claim or appeal hearing.

47. (1) The committee shall issue summons in Form PLUPA LC- 2 (b) as set out in the First Schedule, which shall be served upon the respondent by the secretary within the period specified in the summons.

Appearance of the parties at a hearing.

(2) The complainant, claimant or appellant shall appear at the hearing in person or through an authorized representative.

(3) The appointment or substitution of the representative shall be communicated in Form PLUPA LC- 3 (b) as set out in the First Schedule.

48. The committee may, by consent in writing of all the parties to a complaint, claim or appeal determine the appeal without an oral hearing.

Power to determine complaint, claim or appeal without hearing.

49. (1) The committee may issue interim orders to stop development pending determination of the appeal in Form PLUPA LC- 7 (b) as set out in the First Schedule.

Power to issue interim orders.

(2) Any development affecting any land to which an enforcement notice relates shall be discontinued and execution of the enforcement notice shall be stayed pending determination of an appeal.

(3) Where a party is aggrieved by approval of a development application by the planning authority and files an appeal seeking interim orders, the committee may direct that the approval be suspended until the matter is heard and determined.

50. Prior to determination of a complaint, claim or appeal, the committee may on its own motion or an application from any of the parties visit or inspect the site subject of complaint, claim or appeal.

Site visits.

51. (1) The decisions of the committee shall be taken by the vote of the majority members but shall not include the votes of co-opted any members.

Decisions of the committee.

(2) In case of a tie of the vote the chairperson or the member acting as the chairperson shall have a casting vote in addition to the deliberative vote.

52. The chairperson shall notify the parties in an appeal of the committee's determination of the complaint, claim or appeal, in Form PLUPA LC-4 (b) as set out in the First Schedule.

Communication of decisions.

53. The committee shall give reasons for all its decision and determinations, and each of any such decisions shall include—

Reasons for committees' decisions.

(a) a statement of the findings of fact made from the evidence adduced, including, where applicable, any relevant government policy; and

(b) a statement of the laws and rules of law applied, and the interpretation thereof.

54. Determination by liaison committee under section 80 (3) shall be transmitted to the Environment and Land Court by the chairperson under the seal of the committee

Filing and publication of determination.

55. A clerical or arithmetic mistake in a liaison committee decision as a result of omission or slip may after determination under section 80 (3), or before or after recording by the court as a judgment of the court be corrected by the Committee on its own motion or by an order by the court or on application of any interested party to give effect to what was the intention of the Committee

Correction of errors.

56. There shall be paid such fees for the purposes of these Regulations as prescribed in the Second Schedule.

Fees.

FIRST SCHEDULE

Forms

FORM PLUPALC-1(a)

(r.11(2))



REPUBLIC OF KENYA

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

APPEALS APPLICATION FORM

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

STATEMENT OF APPEAL

In the matter of an appeal under section 75 of The Physical and Land Use Planning Act, 2019

1. TAKE NOTICE that the Appellant appeals against the decision of the
made on the..... day of20.....

2. The Appeal relates to.....
.....

3. The decision appealed against is

4. The Appeal is based on the following grounds: (set out each ground concisely)

(a)

(b)

(c)

5. The principle of policy or law relied on in the appeal:

(a)

.....

- (b)
- (c)
- (a)
- (b)

6. The documents the Appellant intends to rely on in the Appeal:

- (a)
- (b)
- (c)

7. The witnesses the Appellant intends to call up at the hearing of the Appeal: *where applicable*

- 1) Name.....
contact(s)
- ID/Passport No.
- 2) Name.....
contact(s)
- ID/Passport No.
- 3).....
Name
- contact(s)
- ID/Passport No.

(attach ID/passport copies)

6. The reliefs sought in this Appeal are as follows: (set out each relief concisely)

- a)
- b)
- c)

FILED ON THIS.....DAY OF.....20.....

SIGNED

Appellant

Name

Telephone No

Postal Address

Email Address

Physical Address

Appointed Representative's *where applicable*

SIGN.....

Name

Telephone No

Postal Address

Email Address

Physical Address

TO BE SERVED UPON: *Insert the names and address of the other parties to the Appeal.*

1)

2)

3)

For Official Use Only

APPEAL No OF 20.....

FORM PLUPA LC-1(b)

(r.34)



REPUBLIC OF KENYA

(Enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

COMPLAINT/CLAIM/APPEAL APPLICATION FORM

COMPLAINT/CLAIM/APPEAL No OF 20.....

APPELLANT
-VERSUS

RESPONDENT
AND (where applicable)

INTERESTED PARTY

STATEMENT OF COMPLAINT/CLAIM/APPEAL

In the matter of an appeal under section 75 of The Physical and Land Use Planning Act, 2019

1. TAKE NOTICE that the Appellant complains/appeals against the decision of the county Executive Committee Member made on the..... day of 20.....

2. The Appeal relates to

.....
.....
.....

3. The decision appealed against is

.....
.....
.....

4. The Complaint/Claim/Appeal is based on the following grounds: (set out each ground concisely)

a).....

b)

- c).....
- d)
- e).....
- f).....

5. The principle of policy or law relied on in the appeal:

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

6. The documents the Complainant/Claimant/Appellant intends to rely on in the Appeal:

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

7. The witnesses the Complainant/Claimant/Appellant intends to call up at the hearing of the Appeal: *where applicable*

Name

Telephone No

Postal Address

Email Address

Physical Address

ID/Passport No.

1) Name.....

Telephone No

Postal Address

Email Address

Physical Address

ID/Passport No.

Name

Telephone No

Postal Address

Physical Address

Email Address

ID/Passport No.

(attach ID/passport copies)

6. The reliefs sought in this Complain/Claim/Appeal are as follows: *(set out each relief concisely)*

a).....

b)

c).....

FILED ON THIS.....DAY OF.....20.....

SIGNED

Complainant/Claimant/Appellant

Name

Telephone No

Postal Address

Email Address

Physical Address

Appointed Representative's *where applicable*

Name

Telephone No

Postal Address

Email Address

Physical Address

SIGN.....

TO BE SERVED UPON: *Insert the names and address of the other parties to the Appeal.*

1)

2)

3)

FORM PLUPA LC- 2(a)

(r.22(1))

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



(Enter county name)

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE

SUMMON FORM

.....
APPELLANT
-VERSUS
.....

RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

SUMMONS TO:
.....
.....

NOTE YOU ARE SUMMONED to appear in person before the National Physical and Land Use Planning Liaison Committee at on day of for the hearing of the appeal and thereafter to remain in attendance until excused by the Liaison Committee regarding all matters within your knowledge relating to the appeal.

YOU ARE REQUIRED to bring and produce to the Liaison Committee the following;
(Insert the document to be produced)

- a.
- b.
- c.
- d.

TAKE NOTE that if you do not comply with this summon you will be subject to Contempt of National Physical and Land Use Planning Liaison proceedings.

TAKE NOTE also that failure to honor the summon would not stop the Committee from determining the matter or taking any other action as it deems fit.

SIGNED ON THIS.....DAY OF.....20.....

.....
SECRETARY,
NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE.

FORM PLUPA LC- 2(b)

(r.46)



REPUBLIC OF KENYA

(Enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

SUMMON FORM

COMPLAINT/CLAIM/APPEAL No OF 20.....

APPELLANT -VERSUS

RESPONDENT AND (where applicable)

INTERESTED PARTY

SUMMONS

TO:

NOTE YOU ARE SUMMONED to appear in person before the County Physical and Land Use Planning Liaison Committee at on day of for the hearing of the complain/claim/appeal and thereafter to remain in attendance until excused by the Liaison Committee regarding all matters within your knowledge relating to the appeal.

YOU ARE REQUIRED to bring and produce to the Liaison Committee the following; (Insert the document to be produced)

- a.
b.
c.
d.

TAKE NOTE that if you do not comply with this summon you will be subject to Contempt of County Physical and Land Use Planning Liaison proceedings.

TAKE NOTE also that failure to honor the summon would not stop the Committee from determining the matter or taking any other action as it deems fit.

SIGNED ON THIS.....DAY OF.....20.....

.....
SECRETARY,
COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE.

FORM PLUPA LC- 3(a)

(r. 22(3))

REPUBLIC OF KENYA
PHYSICAL AND LAND USE PLANNING ACT
(No. 13 of 2019)



THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE
APPOINTMENT/SUBSTITUTION* OF RECOGNISED REPRESENTATIVE

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

I.....bein
g the Appellant/Applicant/Respondent/Interested Party* authorize.....
.....to appear on my behalf in the above Appeal/Application.
I authorize that service of all pleadings shall be effected upon my recognized
representative.

SIGNED ON THIS.....DAY OF.....20.....
APPELLANT/APPLICANT/RESPONDENT/INTERESTED PARTY*

.....
REPRESENTATIVE'S NAME AND ADDRESS

.....
.....



REPUBLIC OF KENYA

(enter County name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

APPOINTMENT OF RECOGNISED REPRESENTATIVE FORM

COMPLAINT/CLAIM/APPEAL No OF 20.....

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

I.....
being the appellant/applicant/respondent/ Interested Party* authorize.....
.....to appear
on my behalf in the above Appeal/Application.

I authorize that service of all pleadings shall be affected upon my recognized representative.

SIGNED ON THIS.....DAY OF20.....
APPELLANT/APPLICANT/RESPONDENT/INTERESTED PARTY*

.....
REPRESENTATIVE'S NAME AND ADDRESS
.....

FORM PLUPA LC- 4(a)

(r.26)



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

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE

NOTIFICATION OF DETERMINATION

.....
APPELLANT
- VERSUS -

.....
RESPONDENT

AND (where applicable)

.....
INTERESTED PARTY

The National Physical and Land Use Planning Liaison Committee pursuant to provisions of section 80(2) of Physical and Land Use Planning Act, 2019 heard the Appeal Ref No.....filed on..... by (insert party(s) and vide minute No..... dated.....the Committee made the determination as follows (reliefs)

- 1.
- 2.
- 3.

Dated at this Day of 20.....

Name

Sign.....

Seal.....

CHAIRPERSON,
NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE



REPUBLIC OF KENYA

(enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

NOTIFICATION OF DETERMINATION

COMPLAINT/CLAIM/APPEAL No OF 20.....

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

The County Physical and Land Use Planning Liaison Committee pursuant to provisions of section 80(2) of Physical and Land Use Planning Act, 2019 heard the Complain/Claim/Appeal Ref No..... filed on..... by (insert party(s) and vide minute No.....dated.....the Committee made the determination as follows (reliefs)

1.
2.
3.

Dated at this Day of 20.....

Name.....
sign.....
seal.....

CHAIRPERSON,
COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

FORM PLUPA LC 5(a)

(r.12(2))



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

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE

INSPECTION OF APPEALS REGISTER

I/Weof
ID/passport/ Reg No(s).....Tel. PO
Box pursuant to section 87(3) of Physical and Land Use Planning Act, 2019
apply to examine the Appeals register.

Subject Matter/Interest in the Register
.....
.....
.....
.....

Signed by
Perusee.....
Date.....
(attach ID/passport copies)
Authorised by Secretary.....

FORM PLUPA LC 5(b)

(r .38(2))



REPUBLIC OF KENYA

(Enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE
INSPECTION OF APPEALS REGISTER

I/Weof
ID/passport/ Reg No(s).....Tel. PO
Box pursuant to section 87(3) of Physical and Land Use Planning Act, 2019
apply to examine the Appeals register.

Subject Matter/Interest in the
Register.....
.....
.....
.....

..... Signed by
Perusee..... Date.....

.....
(attach ID/passport copies)

Authorised by Secretary.....

FORM PLUPA LC- 6(a)

(r.17(2))



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

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE
NOTICE OF HEARING

APPEAL No OF 20.....

.....
APPELLANT
-VERSUS
.....

RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

TO:

.....
.....
.....

TAKE NOTICE that the HEARING of this appeal has been scheduled for the day
of,20..... starting(Time) before the Committee at
.....(State location; Name of building,
Floor and room Number)

Given under my hand and Seal of the Committee this..... day
of.....,20.....

.....
SECRETARY

NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE



REPUBLIC OF KENYA

(enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

NOTICE OF HEARING

COMPLAINT/CLAIM/APPEAL No OF 20.....

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

TO:

.....
.....
.....

TAKE NOTICE that the HEARING of this appeal has been scheduled for theday
of20..... starting(Time) before the Committee at

.....
.....(State location; Name of building, Floor and room Number)

Given under my hand and Seal of the Committee this..... day
of.....,20.....

.....
SECRETARY
COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

FORM PLUPA LC- 7(a)

(r.24(1))



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

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE

ORDER FORM

APPEAL No OF 20.....

.....
APPELLANT
-VERSUS

.....
RESPONDENT
AND (where applicable)

.....
INTERESTED PARTY

TO:

.....
.....
.....

ORDER

In hearing the Appeal on (date)..... on its Own Motion,

In determining the appeal on (date) , on its Own Motion, the Liaison
Committee in its proceedings, vide minute number

It is ORDERED that:

1.
2.
3.
4.
5.

Made this..... day of.....20.....

Name.....Signature:.....
CHAIRPERSON,
NATIONAL PHYSICAL AND LAND USE PLANNING LIASION COMMITTEE.

FORM PLUPA LC- 7(b)

(r.48(1))



REPUBLIC OF KENYA

(Enter county name)

THE COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE

ORDER FORM

COMPLAINT/CLAIM/APPEAL No OF 20.....

.....

APPELLANT

-VERSUS

.....

RESPONDENT

AND (where applicable)

.....

INTERESTED PARTY

TO:

.....
.....
.....

ORDER

In hearing the Appeal on (date)..... on its Own Motion,
In determining the appeal on (date) , on its Own Motion, the Liaison
Committee in its proceedings, vide minute number

It is ORDERED that:

1.
2.
3.

4.

5.

6. Made this.....day of.....20.....

Name.....Signature:.....

.....

CHAIRPERSON,
NATIONAL PHYSICAL AND LAND USE PLANNING LIASION
COMMITTEE.

FORM PLUPA LC- 8(a)

(r.14(1))



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

THE NATIONAL PHYSICAL AND LAND USE PLANNING LIAISON
COMMITTEE

WITHDRAWAL OF AN APPEAL

I/We

of ID/passport No(s).....Tel. PO Box
..... pursuant to section 83(1) of PLUPA apply to withdraw appeal Ref. No.
.....Dated

Reasons for
withdrawal.....

Signed By.....

Date.....

Name:.....

(Attach ID/passport copies)

FORM PLUPA LC- 8(b)

(r.38(1))



REPUBLIC OF KENYA

(enter county name)

WITHDRAWAL OF AN APPEAL

I/We

...../.....of
ID/passport No(s)..... Tel. PO Box

..... pursuant to section 83(1) of PLUPA apply to withdraw appeal Ref. No.
.....Dated

Reasons for withdrawal.....

Signed by.....Date.....

Name:.....

(attach ID/passport copies)

SECOND SCHEDULE

| No | Fees description | Amount (Kshs) |
|----|---|---------------|
| 1 | Filing fees: | |
| | a) Costs of filing in National Liaison Committee | 5000 |
| | b) Costs of filing in County Liaison Committee | 3000 |
| 2 | Examination of appeals register | Free |
| 3 | Obtaining extracts of appeals at National Physical and Land use planning Liaison Liaison committee | 500 |
| 4 | Obtaining extracts of appeals at County Physical and Land use Liaison committee | 300 |
| 5 | Photocopy of determinations under both National and County Physical Planning and Land use committee by third parties: | |
| | a) Front page | 300 |
| | b) Any other page | 20 |
| 6 | Amendment of appeals | |
| | a) National Physical Planning and Land use committee | 1000 |
| | b) County Physical and Land use planning committee | 500 |
| 7 | Certification of Full determination | 500 |
| 8 | Appointment/ change of an authorized representative | |
| | a) National Physical Planning and Land use committee | 1000 |
| | b) County Physical and Land use planning committee | 500 |
| 9 | Counter-claim fees-Filing of counter claims | 3000 |

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 251

THE PHYSICAL AND LAND USE PLANNING ACT, 2019

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL
ENFORCEMENT) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Object of the Regulations.

PART II—ADMINISTRATION

- 4—Enforcement teams.

5—Functions of members of enforcement teams.

6—Mandate of the Technical Team.

PART III—COMPLAINTS

7—Lodging of complaints.

8—Verification of complaints.

PART IV—ENFORCEMENT

9—Enforcement notice.

10—Mode of service of enforcement notice.

11—Feedback mechanism.

12—General principles of enforcement.

13—Execution of enforcement notice.

14—Identification of Enforcement Team.

15—Execution of Enforcement Notice for demolition and alteration of buildings.

16—Determination of Restoration costs.

17—Appeals.

18—Register.

First Schedule—Conditions and Timelines for Various Enforcement Issues

Second Schedule—Forms

THE PHYSICAL AND LAND USE PLANNING ACT

(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 (DEVELOPMENT CONTROL ENFORCEMENT) REGULATIONS, 2021

PART I—PRELIMINARY

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

Citation.

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

Interpretation.

“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 effecting 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;

“enforcement officer” means an officer mandated by the planning authority to take action on any development that contravenes development permission or takes place without development permission or breaches the development specifications of the drawings and plans;

“non-compliant development” means development that is undertaken without development permission or that fails to meet 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 the Physical and Land Use Planning (Development Control Enforcement) Regulations, 2021.

3. The object of these Regulations is to provide for procedures, standards, guidelines and prescribed Forms for carrying out enforcement under the Act.

Object of the Regulations.

PART II—ADMINISTRATION

4. An Enforcement Team shall be composed of—

Enforcement teams.

- (a) the County Director Physical and Land Use Planning;
- (b) the County or Municipal Physical Planners;
- (c) Building Inspectors; and
- (d) County Enforcement Officers.

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

Functions of members of enforcement teams.

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

(2) The County Director 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 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) An enforcement officer shall have the power to—
 - (a) issue an enforcement notice;
 - (b) execute the enforcement notice upon expiry of the period specified in the notice; and
 - (c) report to County Director on the status of the enforcement of the enforcement notice.

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

Mandate of
Technical
Committees.

- (a) assess the matter;
- (b) prepare a report on the status of development and any corrective measures to be undertaken; and
- (c) submit the status report to the County Executive Committee Member for action.

PART III—COMPLAINTS

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

Lodging of
complaints.

- (a) individual members of the public;
- (b) residents' associations;
- (c) private or public institutions; or
- (d) any other affected persons.

(2) A complaint under subregulation (1) may be lodged through any of the following means—

- (a) postal mail;
- (b) hand delivered mail;
- (c) transcription of verbally lodged complaints;
- (d) electronic address; or
- (e) website or portal.

(3) A complainant under this regulation shall provide proof of non-compliance.

(4) The complainant shall not be under an obligation to disclose his or her identity and, where a complainant discloses his or her identity, the County Director shall protect the identity of the complainant.

8. The County Executive Committee member shall verify the validity of the complaint and, if it may deem necessary, issue a Stay Order in Form PLUPA-DC-19 as set out in the Second Schedule.

Verification of
complaints.

PART IV—ENFORCEMENT

9. (1) Where a person fails to comply with any of the conditions specified in a stay order issued under these Regulations, the County Executive Committee Member shall, on the expiry of the stay order, issue an enforcement notice in Form PLUPA-DC-20 as set out in the Second Schedule specifying the actions to be taken by that person in order to comply with the provisions of the Act or these Regulations.

Enforcement notice.

(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 8;
- (b) cause the revocation of the development permission;
- (c) cause the modification or alteration of the conditions imposed on development permission;
- (d) cause the development to be discontinued;
- (e) cause the building to be altered or demolished; or
- (f) cause the land to be restored to its original or near-original condition.

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

10. (1) An enforcement notice may be served—

Mode of service of enforcement notice.

- (a) by post to any postal address inside 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 subregulation (1) shall be regarded as having taken place if—

- (a) for service under subregulation (1) (a), the notice is served within seven working days in case of address within Kenya and fourteen working days in case of address outside Kenya after being posted;
- (b) for service under subregulation (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.

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

Feedback mechanism.

(2) Where a person served with the notice complies with stipulated conditions, the County Director shall issue an enforcement compliance in Form PLUPA-DC-21 as set out in the Second Schedule.

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

General principles of enforcement.

- (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.

13. 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.

Execution of enforcement notice.

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

Identification of Enforcement Team.

- (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 9.

15. (1) Where enforcement requires the Enforcement Team to demolish buildings or works, the demolition shall be carried out between 6.00 a.m. and 6.00 p.m.

Execution of Enforcement Notice for demolition and alteration of buildings

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

- (3) The inventory shall be served to the owner or occupiers.
- (4) The owner or occupiers of the premise shall be responsible

for securing the possessions on the premises when an enforcement action is initiated.

16. 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) of the Act, the County Director shall—

Determination of
Restoration costs

- (a) be guided by the general principles of enforcement outlined in regulation 12;
- (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.

17. 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) of the Act.

Appeals.

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

Register.

(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. 9(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 (8)



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) ondate..... 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 fourteen 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.

Signeddate.....

Owner/ Developer/Agent/Occupier

Signeddate.....

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 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.

PLUPA-DC-21

r. 11(2)



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..... ofDay 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.....

FORM PLUPA-DC-22

r.15(2)



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..... of20..... 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 15th November, 2021

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 252

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (OUTSOURCING OF PROFESSIONAL SERVICES) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

1—Citation.

2—Interpretation.

PART II—PROCURING PHYSICAL AND LAND USE PLANNING SERVICES

3—Procurement of consultancy services.

4—Mode of consulting.

5—Functions and compositions of planning teams.

6—Reporting.

7—Procurement of physical and land use planning services.

8—Performance of consulting services.

9—Ownership of professional work.

PART III—COSTING OF CONSULTING SERVICES AND PHYSICAL AND LAND
USE PLANNING SERVICES

10—Costing for provision of physical and land use planning services.

11—Factors influencing costing.

12—Costing elements.

13—Professionals' roles.

PART IV—MISCELLANEOUS

14—General Guidelines

15—Preference for local consultants.

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 (OUTSOURCING OF PROFESSIONAL SERVICES) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Outsourcing of Professional Services) Regulations, 2021.

Citation.

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

Interpretation.

“consultant” means a registered and practicing physical planner contracted to provide professional physical and land use planning services;

“consultancy services” means physical and land use planning services of an intellectual, technical or advisory nature;

“lead consultant” means a licensed physical planner contracted to provide physical and land use planning services;

“local consultant” means a licensed physical planner who is a resident in Kenya;

“physical and land use planning services” include—

- (a) specialized studies including scenario building necessary in the process of formulating of policies, standards, guidelines and strategies;
- (b) the preparation of physical and land use development plans;
- (c) undertaking research on matters relating to physical and land use development planning at national and county levels;

“planning team” a multi-disciplinary team of professionals constituted by a lead agency to undertake physical and land use planning services;

“procurement” means the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means, of any type of works, assets, services or goods or any combination thereof; and includes advisory, planning and processing in the supply chain system;

“public entity” has the meaning assigned to it in section 2 of the Public Procurement and Asset Disposal Act, 2015; and

“surveyor” has the meaning assigned to it in section 2 of the Survey Act.

3. The object of these Regulations is to provide for the procurement of physical and land use planning services by planning authorities.

Object of the Regulations.

PART II—PROCURING PHYSICAL AND LAND USE PLANNING SERVICES

4. A planning authority or a person or entity authorized to perform a planning function shall ensure that the procurement of consulting services is conducted in accordance with the Public Procurement and Assets Disposal Act, 2015.

Procurement of consultancy services.

5. A planning authority may fully or partially procure the services of a consultant to undertake some components of physical and land use planning.

Mode of consulting.

6. (1) A planning team shall co-ordinate the identification of key planning issues, analysis and formulation of physical and land use planning proposals.

Functions and compositions of planning teams.

(2) Depending on the nature of the physical and land use planning service, the planning team shall include persons from the following disciplines—

- (a) policy analysis;
- (b) urban planning;
- (c) urban design;
- (d) architecture;
- (e) transport planning;
- (f) marine planning;
- (g) environmental management;
- (h) sociology;
- (i) land economics;
- (j) economics;
- (k) surveying;
- (l) agriculture;
- (m) rangeland management;
- (n) water management; and
- (o) disaster risk management.

7. (1) A planning authority shall specify the quality control benchmarks to be satisfied by a consultant when performing the consulting services.

Reporting.

(2) A planning authority shall specify the quality control benchmarks to be satisfied by a consultant when offering physical and land use planning services.

(3) A consultant shall submit to the relevant planning authority periodic reports based on the specified quality control benchmarks.

8. When procuring the physical and land use planning services a planning authority shall—

Procurement of physical and land use planning services.

- (a) conduct a planning needs assessment;
- (b) define the scope;
- (c) prepare a concept paper and terms of reference;
- (d) constitute a planning team;
- (e) give public notice on the intention to undertake a physical and land use planning service;
- (f) give a public notice of the completion of the physical and land use planning service;
- (g) process approval or adoption of the output of physical and land use planning service in accordance with the Act; and
- (h) maintain registers of all approved or adopted output of physical and land use planning services.

9. When providing consulting services in the development of a physical and land use development plan, pursuant to the Third Schedule, a consultant shall—

Performance of consulting services.

- (a) prepare a base map;
- (b) scope and undertake data collection;
- (c) undertake detailed situational analysis and synthesis of key planning issues;
- (d) conduct visioning and objective setting workshops;
- (e) formulate, compile and package the plan; and
- (f) submit the plan for approval and publication.

10. A physical and land use development plan or report prepared and approved under these Regulations shall be deemed to be the property of the relevant planning authority.

Ownership of professional work.

PART III—COSTING OF CONSULTING SERVICES AND PHYSICAL AND LAND USE PLANNING SERVICES

11. The costing for the provision of physical and land use planning services shall be in accordance with the guidelines set out in the First Schedule.

Costing for provision of physical and land use planning services.

12. A consultant shall consider the factors set out in the Second Schedule when costing for the development of a physical and land use development plan.

Factors influencing costing.

13. The costing of the activities specified in the third column of the table set out in the Third Schedule, for the phase specified in the second column thereof, shall be based on the elements set out in the fourth column thereof.

Costing elements.

14. The roles of the professionals engaging in consulting services or physical and land use planning services shall be as set out in the Table set out in the Fourth Schedule.

Professionals' roles.

PART IV—MISCELLANEOUS

15. (1) In this regulation, “consortium” means an association of two or more firms contracted to provide physical and land use planning services beyond the capacity of any one firm.

Lead consultant.

(2) Where a planning authority has procured the services of a consortium to offer consulting services under these Regulations, the lead consultant of the consortium shall be a licensed physical planner or firm.

16. Planning authorities shall give preference to local consultants during the procurement of physical and land use planning services under these Regulations.

Preference for local consultants.

FIRST SCHEDULE

(r. 11)

Guidelines for Costing Physical and Land Use Planning Services

The main costing elements may be clustered into the following—

- (a) public participation – publications and stakeholder workshops;
- (b) personnel - hiring of planning department personnel;
- (c) tools and equipment – procuring computers, GPS, software, plotters, printers, servers, internet, vehicles and setting up a GIS laboratory;
- (d) data acquisition – socio-economic data, mapping information (satellite images, aerial photography, topographic information);
- (e) work sessions/technical workshops - expert work sessions;
- (f) packaging, printing and dissemination; and
- (g) logistical costs – transport, daily subsistence allowance (per diem), airtime and lunch allowances.

SECOND SCHEDULE

(r. 12)

Factors Considered when Costing for the Development of a Physical and Land Use Development Plan

The cost of preparing a plan is dependent on several factors which include the—

- (a) geographical characteristics of the planning area;
- (b) number of experts;
- (c) range of equipment and tools;
- (d) type of plan;
- (e) mechanism of delivery;
- (f) population of the planning area;
- (g) number of public work sessions;
- (h) source of planning information; and
- (i) number of copies to be produced.

THIRD SCHEDULE

(r. 13)

Costing Elements

| <i>S/No.</i> | <i>Phase</i> | <i>Activity</i> | <i>Possible costing elements</i> | |
|--------------|--|---|--|---|
| | Initiation | Conducting planning needs assessment | Field work – rapid appraisal of the area | |
| | | Delineation of the planning area | Planning needs assessment workshop | |
| | | Preparing a concept paper | Technical workshop for development of concept paper | |
| | | Preparing Terms of Reference (ToRs) | | |
| | | Deciding the mode of delivering the plan | Meeting | |
| | | Procurement of consultancy services (when outsourcing) | Advertisement for consultancy services | |
| | | Presentation of inception report | Technical workshop | |
| | | Constituting of the planning team | Team building workshop | |
| | | Conducting data needs assessment | Technical workshop Fieldwork | |
| | | Stakeholder analysis | Work session | |
| | | Sensitization and awareness creation | Publication of the notice of intention to plan in the local dailies, electronic media, public barazas. | |
| | | Preparation of base map | Data acquisition | Satellite imagery Aerial photography Spatial data Ground controls Participatory mapping |
| | | | Data processing (digital and topographic mapping and preparation of base map) | Reconnaissance research Work session |
| | Scoping and data collection | Expert and sector engagement workshop | Stakeholder workshops | |
| | | SWOT analysis and preliminary visioning Socio-economic data collection | Research and fieldwork | |
| | Detailed situational analysis and synthesis of key planning issues | Preparation of thematic maps | Work session | |
| | | Socio-economic data analysis | Work session | |
| | | Situational analysis Validation | Analysis validation workshops Technical workshop | |
| | Visioning | Setting objectives | Visioning workshop | |

| <i>S/No.</i> | <i>Phase</i> | <i>Activity</i> | <i>Possible costing elements</i> |
|--------------|---|---|--|
| | | Scenario building | |
| | Plan formulation and associated outputs | Development of the land use plan | Work session |
| | | Formulation of policies and measures | Work session |
| | | Development of strategies | |
| | | Formulation of the implementation framework | Work session |
| | | Validation of draft plan | Technical workshop Stakeholder workshop |
| | | Finalization of the plan and associated outputs | Work session |
| | Compilation and packaging | Printing, publishing and publication | Printing, publishing and publication of notice of completion |
| | Plan approval and gazettelement | Sensitization and awareness creation | Gazettelement of the approved plan |

FOURTH SCHEDULE

(r. 14)

Roles of Different Professionals in the Preparation of a Physical and Land Use Plan

| <i>Professional</i> | <i>Role</i> |
|--------------------------|---|
| <i>Transport Planner</i> | Guides in formulation of future policies, goals, investments and designs to prepare for future needs to move people and goods to destinations |
| <i>Environmentalist</i> | Presents concerns and advice on the mechanisms for the protection of the environment |
| <i>Sociologist</i> | Guides on issues concerning development, structure, and functioning of human society |
| <i>Economist</i> | Brings issues of production, consumption, and transfer of resources |
| <i>Urban Designer</i> | Presents and advices on how to design the physical setting for life in cities, towns and villages. |
| <i>Surveyor</i> | Data capture and preparation of base maps, confirms areas of parcels and buildings, and fixes boundaries |
| <i>Land Valuer</i> | Provide advice on land values and return on investment |

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.