

SPECIAL ISSUE

1719

Kenya Gazette Supplement No. 216

26th November, 2021

(Legislative Supplement No. 97)

LEGAL NOTICE NO. 243

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (PLANNING FEES)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation.
- 2—Interpretation.
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- 4—Determination of planning fees.
- 5—Planning fees of the National Government.
- 6—Planning fees of County Governments.
- 7—Waivers and variations.

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 (PLANNING FEES) REGULATIONS, 2021

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

Citation.

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

Interpretation.

“advisory plan” means a plan indicating the permitted subdivision, use and density of development;

“easement” has the meaning assigned to it in the Land Act, 2012;

“ordinary scheme” means development that—

- (a) does not exert demands on the existing infrastructure;
- (b) does not comprise of more than ten units; and
- (c) has one permitted use;

“part development plan” means a plan for the immediate implementation of a specific process including land alienation purposes;

“planning fees” means an amount payable for planning services;

“Planning Services” means services offered by a planning authority; and

“use” means any use of land for which development permission has been obtained.

3. The object of these Regulations is to provide for guidelines determining planning fees for services and processes under the Act.

Object of the Regulations.

4. (1) In determining planning fees chargeable for planning services, the planning authority shall be guided by the—

Determination of planning fees.

(a) principles of public finance set out in Article 201 of the Constitution;

(b) Articles 209 and 210 of the Constitution;

(c) Chapter Four of the Constitution; and

(d) the Access to Information Act, 2016.

(2) Planning fees shall be charged based on—

(a) the type of planning service being rendered;

(b) the actual cost of providing the planning service;

- (c) a subsidized provision of public goods and services;
- (d) the location, use and size of development;
- (e) the planning and land use zoning frameworks;
- (f) the unit cost;
- (g) the cost of the version, mode and making of copies of documents;
- (h) the cost of the sessions and pages of minutes of the session;
- (i) the cost of the certification of documents;
- (j) the type of installation, where the development is a communication mast;
- (k) whether the development or works are new, modifications or renovations;
- (l) in the case of enforcement, time for undertaking works, the technology required, risk factors, manpower, cost of transportation of materials from the site and unit cost for restoration per square meter; and
- (m) any other parameter that may be necessary in the circumstances.

5. (1) The national planning authority may impose planning fees for—

- (a) copies of national physical and land use plans and policies required by any person;
- (b) making applications for the preparation of the development plans for strategic national projects;
- (c) the sale of shape files for planning data;
- (d) copies of inter-county physical and land use plans and policies required by any person;
- (e) the scrutiny and sale of copies of the proceedings of the National Physical and Land Use Planning Consultative Forum;
- (f) the scrutiny and sale of copies of the proceedings of an Inter-County Joint Physical and Land Use Planning Committee;
- (g) the filing of making applications for appeal to the National Physical and Land Use Liaison Committee;
- (h) the scrutiny and sale of copies of minutes of the proceedings of the National Physical and Land Use Liaison Committee;
- (i) the vetting of applications for change of user or extension of user;
- (j) the inspection of sites;

Planning fees of the National Government.

- (k) the issuance of certificates of compliance; and
- (l) any other planning service offered in the performance of national government planning functions that Cabinet Secretary may designate by notice in the *Gazette*.

(2) A planning authority performing national government planning functions may impose the relevant planning fees set out in table 1 of the Schedule.

6. A planning authority performing county government planning functions shall charge planning fees for—

Planning fees of
County
Governments.

- (a) the sale of inter-county physical and land use plan and policies;
- (b) the sale of shape files for planning data;
- (c) the sale of copies of county physical and land use plans and policies;
- (d) the scrutiny and sale of proceedings of an Inter-County Joint Physical and Land Use Planning Committee;
- (e) the scrutiny and sale of proceedings of a County Physical and Land Use Planning Consultative Forum;
- (f) filing and making application for appeal to the County Physical and Land Use Liaison Committee;
- (g) the scrutiny and sale of the minutes of the proceedings of the County Physical and Land Use Liaison Committee;
- (h) the inspection of sites;
- (i) the vetting and approval of development applications;
- (j) the issuance of certificates of compliance;
- (k) the costs of enforcement; and
- (l) any other planning service offered in the performance of a county government planning functions, that the relevant County Executive Committee Member, in consultation with the respective County Director of Physical and Land Use planning, may deem necessary.

(2) A county planning authority may impose the relevant planning fees set out in table 2 of the Schedule.

7. (1) Subject to paragraph (2), a waiver or variation of planning fees shall be granted in accordance with the Public Finance Management Act, 2012 and section 63.

Waivers and
variations.

(2) The following may be exempted from payment of fees under these Regulations—

- (a) the surrender of land for public use;
- (b) the improvement of infrastructure for public use;
- (c) works by or on behalf of national security organs; or
- (d) where a land owner voluntarily permits imposition of

easements on the land owner's land under any written law.

SCHEDULE

TABLE 1

(r. 5(2))

PLANNING FEES FOR PLANNING SERVICES OFFERED BY THE NATIONAL GOVERNMENT

<i>S/No.</i>	<i>Item Description</i>	<i>Unit of Measure/charge</i>	<i>Paper copy</i>	<i>Electronic copy</i>	<i>Certification of Copies</i>
	Sale of Copies of National Physical and Land Use Plans and Policies				
1.	National Physical and Land Use Plan (Full version)	Per copy	2500	No charge	500 per copy
2.	National Physical and Land Use Plan (Popular version)	Per copy	No charge	No charge	500 per copy
3.	National Land Use Policy (Full version)	Per copy	1000	No charge	500 per copy
4.	National Land Use Policy (popular version)	Per copy	No charge	No charge	500 per copy
5.	Inter County Physical and Land use plans	Per copy	1000	No charge	500 per copy
6.	Inter County Physical and Land use plans (popular version)	Per copy	No charge	No charge	500 per copy
7.	Sale of shape files	Per theme	-	500 per layer	Not applicable
8.	Sale of prints of graphical plans per copy	Size	Colour	Black & White	Blue Print
A ₀		3000	1000	1500	
A ₁		2500	1200	1200	
A ₂		2000	1000	1000	
A ₃		1000	500	500	
		A ₄	500	200	200
9.	Certification of downloaded prints of plans	Per copy	500	Not applicable	-
10.	Proceedings of National Physical and Land Use Consultative Forum	Per copy	50 per page	No charge	500
11.	Proceedings of Inter-County Joint Physical and Land Use Planning Committee	Per copy	50 per page	No charge	500
<i>S/No.</i>	<i>Item Description</i>	<i>Unit of Measure</i>		<i>Charges (KSh.)</i>	
	Processing of Development Applications				
12.	Application for Development Permission for National	Per application		5000	

<i>S/No.</i>	<i>Item Description</i>	<i>Unit of Measure</i>	<i>Charges (KSh.)</i>
	Strategic projects		
13.	Site inspection fee	Per visit within the locality	Cities-3,000 Municipalities-1,000 Towns, markets and other areas - 500 Special Economic Zone- 5000 Territorial Sea and Exclusive Economic Zone- 10,000
14.	Certificate of compliance	Per copy	Cities-2,000 Municipalities-1,000 Towns, markets and other areas -500 Special Economic Zone- 3000 Territorial Sea and Exclusive Economic Zone- 5,000
15.	Vetting of applications for change of user or extension of user	Per application	3,000
16.	Vetting of sub-division	Per plot	500
	Appeal fees and Checking fees for National Physical and Land Use Planning Liaison Committee		
17.	Appeal to National Physical and Land Use Planning Liaison Committee	Per application	2000
18.	Amendment of appeal to National Physical and Land Use Planning Liaison Committee	Per application	1000
19.	Obtaining extracts of Register of appeals to the National Physical and Land Use Planning Liaison Committee	Per copy	1,000
20.	Obtaining copies of minutes of the National Physical and Land Use Planning Liaison Committee	Per page	50
21.	Certification of copies of minutes of National Physical and Land Use Planning Liaison Committee	Per set of minutes	500

TABLE 2

(r. 6(2))

PLANNING FEES FOR PLANNING SERVICES OFFERED BY A COUNTY GOVERNMENT

S/No.	Item Description	Unit of Measure/ Charge	Paper Copy	Electronic Copy	Certification of Copies
Sale of Copies of Physical and Land use plans/ Policy					
1.	Inter-County Physical and Land use plans (Full version)	Per copy	1000	No charge	500
2.	Inter-County Physical and Land use plans (popular version)	Per copy	No charge	No charge	500
3.	County Physical and Land use plans (full version)	Per copy	2000	No charge	500
4.	Sale of shape file	Per theme	-	500 per layer	Not applicable
5.	Sale of prints of graphical plans per copy	Size	Colour	Black & White	Blue Print
		A ₀	3000	1500	1500
		A ₁	2500	1200	1200
		A ₂	2000	1000	1000
		A ₃	1000	500	500
	A ₄	500	200	200	200
6.	Certification of downloaded prints of plans	Per copy	500	Not applicable	-

S/No.	Item Description	Unit of Measure	Sub-Units	Charges (KSh.)
Acquiring Forms and Certificates for Development Permission				
7.	Application for Development Permission (Form PLUPA/DC/1.....)	Per Form	-	1000
8.	Submission Certificate (Form PLUPA....)	Per application		1000
9.	Certificate of compliance	Per application		Cities-2,000 Municipalities-1,500 Towns, markets and other areas -1000
10.	Certificate of occupation	Per application		Cities-3,000 Municipalities-2,000

				Towns and other areas -1000
Processing Development Applications				
11.	Site inspection fee	Per visit		Cities-4,000 Municipalities-3,000 Towns, markets and other areas -2000
12.	Processing fee for subdivisions	No. of Plots	1-10	500
			11-20	400
			21-50	300
			51 and above	200
13.	Processing fee for building plans	Floor area(sq. M)		100 per square metre
14.	Processing fee for perimeter wall	Type of material	Stone	100 per linear meter
			Electric	
			Wooded	50 per linear meter
			Chain link	
			Iron sheets	
Barbed wire/razor wire				
15.	Processing fee for change of user /extension of user	User		5000
16.	Processing fee for communication masts e.g Base Transmission Stations, radio and television frequency transmission sites	Per Mast		25000
17.	Processing fee for advertisement	Siting and design of advertisement	On road reserve	As per the Roads Act No.2 of 2007
			Within private property	20,000 per annum
			Within public land under County Government	20,000 –one off for installation 20,000–per annum standing fee
			Hanging signs	3000 per square metre
			On buildings	3000 per square metre
		Type /Size in square meters	Bill boards /Wall wraps	
			First 3 square metres	15,000
Additional square metre	4,000 per square metre			
			Multi directional signs	

			First 3 square metres	5500
			Additional square metre	2000 per square metre
			LED Screen	
			First 3 square metres	13000 monthly
			Additional square metre	1500 monthly per square metre
18.	Processing fee for fibre optic cables	Length		100 per metre
Appeal fees and Checking fees for Physical and Land Use Liaison Committee				
19.	Appeals to County Physical and Land Use Planning Liaison Committee	Per application	-	2,000
20.	Obtaining extracts of register for appeals to County Physical and Land Use Planning Liaison Committee	Per copy	-	500
21.	Obtaining copies of minutes of the County Physical and Land Use Planning Liaison Committee	Per page	-	50
22.	Amendment of appeal to County Physical and Land Use Planning Liaison Committee	Per application	-	1,000
23.	Certification of copies of minutes of County Physical and Land Use Planning Liaison Committee	Per set of minutes	-	500

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 244

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

1—Citation

2—Interpretation

- 3—Application
- 4—Object of the Regulations
- 5—Period with which actions, notices, publications, etc. are to be executed
- 6—National security
- 7—Role of Director-General
- 8—Quorum
- 9—Delimitation of the Planning Area
- 10—Notice of intention to plan
- 11—Public participation
- 12—Notice of Completion
- 13—Circulation of draft plan for comments
- 14—Review of comments
- 15—Appeals
- 16—Certification by the Director-General
- 17—Status report

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 makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (INTER-COUNTY PHYSICAL AND LAND DEVELOPMENT PLAN) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Inter-County Physical and Land Use Development Plan) Regulations, 2021. Citation.
2. In these Regulations, unless the content otherwise requires— Interpretation.

“Commission” means the National Land Commission established under Article 67 of the Constitution;

“Committee” means an Inter-County Joint Physical and Land Use Planning Committee established under section 29 of the Act; and

“Liaison Committee” means the National Physical and Land Use Planning Liaison Committee.
3. These Regulations shall apply to all inter-county physical and land use development plans. Application.
4. The object of these Regulations is to provide for procedures, standards, guidelines and prescribed Forms for preparation of Inter-County Physical and Land Use Development Plans for inter-county projects under sections 33 and 69 (2) of the Act. Object of the Regulations.
5. Actions, notices, publications and any other matters provided for under the Act and these Regulations shall be executed within the specified period, unless such period is extended in accordance with the Act and these Regulations. Period with which actions, notices, publications, etc. are to be executed.
6. (1) Where an inter-county physical and land use development plan touches on, relates to, borders, involves or in any way affects a national security installationsafeguarded areas or any aspect of national security, the Cabinet Secretary shall seek the input of the National Security Council during the making of the plan. National security.
 - (2) The National Security Council shall comment on any plan submitted to it within a period of sixty days from the date of receiving the plan from the Cabinet Secretary.
 - (3) Any inter-county physical and land use development plan that touches on, relates to, borders, involves or in any way affects an area under a strategic national installation and project, as stipulated in section 13 (g) and the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019, shall be prepared in consultation with the respective institution.
 - (4) For the purposes of these Regulations, security organs shall be exempt from any form of publication required under these

Regulations where the said plans touch on, relate to, border, involve or in any way affect the said security organs.

7. (1) The Director-General shall—

Role of Director-General.

- (a) convene the first meeting in consultation with the other members of the Committee as provided in section 29 (6);
- (b) co-ordinate meetings and provide secretariat services to the Committee as provided in section 29 (7);
- (c) offer expertise on matters of physical and land use planning;
- (d) co-ordinate the preparation of inter-county physical and land use development plan;
- (e) undertake capacity building and technical support for county planning authority; and
- (f) vote on any matter, subject to the rules agreed upon by the Joint Committee.

(2) The secretariat services referred to in section 29 (7) and subregulation (1) (b) shall include the following—

- (a) keeping records of the meetings of the Committee;
- (b) consulting with the Chairperson on the order of business and agenda;
- (c) ensuring that the notice of the meeting and that copies of the agenda are prepared;
- (d) circulating to all members any material to be discussed at the upcoming meetings;
- (e) reading the minutes of the previous meeting, and if they are approved, obtaining the Chairperson's signature on them;
- (f) reporting on action or matters arising from the previous minutes and reading any important correspondence that has been received;
- (g) taking notes of the meeting, recording the key points and making sure that decisions and proposals are recorded, and the name of the person or group responsible for carrying out any decisions;
- (h) ensuring that the Chairperson is supplied with all the necessary information for items on the agenda, and reminding the Chairperson if an item has been overlooked;
- (i) preparing a draft of the minutes and consulting the Chairperson for approval;
- (j) sending a reminder notice of each decision requiring action to the relevant person;
- (k) promptly sending all correspondence as decided by the Joint Committee; and
- (l) any other role that may be assigned by the Committee.

8. The quorum for the meetings of the Inter-County Joint Physical and Land Use Planning Committee shall be all the County Executive Committee Members responsible for physical and land use planning of respective counties and the Director-General. Quorum.
9. (1) In defining the scope and the geographic area of the plan, the Committee shall delimit a planning area guided by the physiographic characteristics, administrative boundaries, electoral units, agro-ecological zones and planning projections. Delimitation of the Planning Area.
- (2) The Committee may on its own initiative or by a proposal submitted to it outsource physical and land use planning consultancy and other services in accordance with the relevant public procurement laws for the time being in force.
- (3) Outsourced physical and land use planning consultancy and other services shall be submitted to the Committee through the Director-General for scrutiny and authentication and shall remain the joint property of the counties.
10. (1) The Committee shall publish a notice of intention to prepare an inter-county physical and land use plan in Form PLUPA IC-1 of the First Schedule. Notice of intention to plan.
- (2) Notwithstanding any form of publication for the intention to prepare an inter-county physical and land use development plan, sensitization fora shall be conducted for members of the public to create awareness where the circumstances so permit.
11. (1) In the preparation of the inter-county physical and land use development plan, the Committee shall convene a meeting or a series of meetings in which stakeholders and other parties affected by the planning process will be allowed to participate and give their views and suggestions. Public participation.
- (2) The purpose of the meeting convened under subregulation (1) shall be to—
- (a) sensitize the public and develop consensus on the objectives of the plan;
 - (b) create awareness; and
 - (c) identify issues, problems and challenges with a view to developing proposals to address, mitigate or otherwise resolve the issues.
- (3) In order to facilitate the effective participation of stakeholders, the Committee shall identify key stakeholders and their interests and assess potential impacts of the plan on the stakeholders.
12. The Committee shall publish a notice of completion to prepare an inter-county physical and land use plan in Form PLUPA IC-2 as set out in the First Schedule herein. Notice of Completion.
13. (1) The draft inter-county physical and land use development plan shall be circulated to ministries, departments, public agencies, Circulation of draft plan for comments

statutory bodies, academic institutions, research institutions, and the private sector for comments.

(2) Comments on the draft plan from circulation and publication shall be submitted to the Director-General in paper and electronic form within sixty days of circulation and publication.

14. In dealing with comments and other representations from the public with regard to the draft inter-county physical and land use development plan, the Committee may—

Review of
comments.

- (a) wholly incorporate the comments or representations into the plan;
- (b) partially incorporate the comments or representations into the plan; or
- (c) altogether decline to incorporate comments or representations with reasons.

15. (1) Notwithstanding the provisions of section 32 (4) of the Act, the Committee may agree on an alternative dispute resolution method for any disagreement arising within the Committee or between a third party in relation to any action, omission or other matter relating to the plan before the matter is escalated to the Liaison Committee.

Appeals.

(2) The appeal to the Liaison Committee shall be made in Form PLUPA IC-3 as set out in the First Schedule, setting out the grounds and the reliefs sought.

(3) The Liaison Committee shall consider the appeal and communicate its decision to the dissatisfied party in writing, through the same channel which the application for appeal was received and copied to the Committee and the Commission.

(4) Any person dissatisfied with the decision of the Liaison Committee may, within fourteen days of the decision, appeal to the Environment and Land Court.

16. The Director-General shall issue a certificate in Form PLUPA IC-4 as set out in the First Schedule, confirming that the relevant county assemblies have approved the inter-county physical and land use development plan.

Certification by
the Director-
General.

17. (1) Every county executive committee member of a County covered by an Inter-County physical and land use development plan shall submit a report on the implementation of the Inter-County Physical and Land Use Development Plan to the Commission and the Cabinet Secretary at least three months before the end of every financial year

Status report.

(2) The report shall contain the details set out in the Second Schedule.

PLUPA IC-1

R10(1)

FIRST SCHEDULE
REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE AN INTER- COUNTY PHYSICAL AND
LAND USE DEVELOPMENT PLAN

Title of Development Plan.....

Pursuant to the provisions of section 31(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the Inter-County Physical and Land Use Planning Joint Committee from the Counties of
^{1*} intends to prepare the above Plan with effect from the day of20.....

The Inter-County Physical and Land Use Planning Joint Committee constitutes the following members from the corresponding counties:

<i>Name</i>	<i>ID No</i>	<i>County</i>
.....
.....
.....

The reason for establishing the Inter-County Physical and Land Use Planning Joint Committee is.....

Comments on the proposed plan may be directed to the Inter-County Physical and Land Use Planning Joint Committee’s address at

^{2*} not later thanday of.....20.....^{3*}

Dated the, 20.....

Chairperson, Inter-County Joint Committee.

Notes—
^{1*}state the names of the counties involved in the inter-county development plan.
^{2*} provide address as appropriate.
^{3*} provide timeline.

PLUPA IC-2

R.12

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF INTER - COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section 32(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Inter-County Physical and Land Use Development Plan was on theday of.....20.....completed.

The Plan relates to land situated within.....

A copy of the plan as prepared has been deposited for public inspection free of charge at^{1*}

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to^{2*} and such representations or comments the grounds upon which they are made not later than the day of.....20^{3*}

Dated this day of 20.....

Chairperson, Inter-County Joint Committee.

Notes—

^{1*} provide details of the Joint Committee’s address and if electronic, give name and link to website.

^{2*} provide details of the Joint Committee’s address and if electronic, give name and link to website.

^{3*} provide a 14-day window.

PLUPA IC-3

R15(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST A DECISION OF AN INTER-COUNTY PHYSICAL AND LAND USE PLANNING JOINT COMMITTEE

(To be filled in triplicate)

Title of Development Plan

To: The Secretary

National Physical and Land Use Planning Liaison Committee

Pursuant to the provisions of section 32(4) of the Physical and Land Use Planning Act, 2019, I/We^{1*}, of P.O. Box appeal against the decision made by the Inter-County Physical and Land Use Planning Joint Committee of the counties of^{2*}, regarding the above Plan.

My/our grounds for appeal are as follows:

- (a)
(b)
(c)^{3*}

The reliefs I/we seek are:

- (a)
(b)
(c)^{4*}

Dated thisday of 20

Signature.....^{5*}

Notes-

^{1*}Insert name of complainant/appellant.

^{2*}Delete as necessary.

^{3*}Please attach additional written text if space is insufficient.

^{4*}Please attach additional written text if space is insufficient.

^{5*} Insert name and signature of Authorised signatory of complainant/appellant.

PLUPA IC-4

R.16

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

CERTIFICATE OF APPROVAL OF AN INTER-COUNTY PHYSICAL AND LAND USE DEVELOPMENT PLAN BY COUNTY ASSEMBLIES

Title of the Plan.....

Pursuant to the provisions of section 33(1) of the Physical and Land Use Planning Act, 2019, this is to CERTIFY that the County Assemblies of.....^{1*} have issued the approval in respect of the Plan enclosed herewith known as.....^{2*}

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

Issued By.....^{3*}

Director-General

Department Seal^{4*}

Notes—

^{1*}Names of Counties

^{2*}Insert title of Plan

^{3*}Name of the Director-General

^{4*}Seal of the Director-General

R.17(2)

SECOND SCHEDULE

The content of the implementation report on an Inter-County physical and land use development shall include:

1. Strategic projects
2. Coordination framework
3. Financing strategy
4. Communication strategy
5. Community participation framework
6. Capacity building
7. Implementation framework
8. Monitoring and Evaluation mechanisms

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 245

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING
(DEVELOPMENT CONTROL FOR INTER-COUNTY
PROJECTS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1— Citation
- 2— Interpretation
- 3— Objects of the Regulations

PART II— DEVELOPMENT CONTROL FOR INTER-COUNTY
PROJECTS

- 4— Preliminary conceptual application
- 5— Establishment of an Inter-County Physical Planning and Land Use Joint Committee
- 6— Scope of Inter-County Project Proposal
- 7— Notice of intention to prepare Inter-County Project proposal
- 8— Public participation

- 9— Notice of and objections to an Inter-County project proposal
- 10— Appeals
- 11— Application for approval of Inter-County Project Proposal
- 12— Coordination and Certification of approved inter-county project proposal
- 13— Implementation of the approved Inter-County project proposal

PART III— ENFORCEMENT

- 14— Monitoring
- 15— Compliance

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 makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations, 2021.

Citation.

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

Interpretation.

“Inter-County Project” means a project carried out for the realization of development objectives for a geographical area covering two or more counties or parts thereof;

“Joint Committee” means the Inter-County Joint Physical and Land Use Planning Committee established for the purpose of formulation of an Inter-County Physical and Land Use Development Plan and for connected purposes under section 29; and

“reservation of land” means setting aside land for one or more purpose in the public interest.

3. The object of these Regulations is to provide for the procedures, standards, guidelines and prescribed forms for processing development control applications for inter-county projects under sections 33 and 69 (2).

Object of the Regulations.

PART II—DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS

4. (1) Where public land is required for an inter-county project, the relevant ministry, department, state corporations and county governments shall apply to the Commission for reservation of such land.

Reservation of land for Inter-County Projects.

(2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of an inter-county physical land use development plan

(3) The Commission shall register any public land reserved for a strategic national project under these regulations in accordance with the Land Registration Act, 2012, and publish in the *Gazette* a list of any reserved land.

(4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

(5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Liaison Committee.

5. (1) Where two or more counties are seeking to undertake an inter-county development project, they shall submit a project proposal and preliminary plans both in paper and electronic form to the Cabinet Secretary for consideration.

Preliminary conceptual application.

(2) The Cabinet Secretary shall within thirty days after receipt of the project proposal and preliminary plans under subregulation (1), issue an advisory or convene a meeting with the respective counties for further consultations.

6. An inter-county project proposal shall define the scope of the project and geographical area to which the project relates.

Scope of Inter-County Project Proposal.

7 (1) The Joint Committee shall publish a notice in the *gazette* and in at least two newspapers of national circulation in English and Kiswahili and electronic media informing the public of the intention to prepare an inter-county project proposal and request for submission of comments within thirty days.

Notice of intention to prepare Inter-County Project proposal.

(2) The Joint Committee shall within thirty days upon receipt of comments sought under subregulation (1) consider the comments and may incorporate them in the inter-county project proposal.

(3) The Joint Committee shall prepare and complete the inter-county project proposal within ninety days from the time notice of intention to prepare the inter-county project proposal is published.

(4) The Joint Committee may on its own motion extend the period under subregulation (1) by a period not exceeding thirty days.

8. The Joint Committee shall consult, consider the input of the National Security Council, publish and hold stakeholders' meetings during the preparation of the inter-county project proposal.

Public participation.

9. (1) Within thirty days of completion of the inter-county project proposal, the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances informing the public that—

Notice of completion of an Inter-County project proposal.

(a) the complete inter-county project proposal is available at the place and time specified in the notice for inspection; and

(b) any interested person may within fourteen days comment on the content of the project proposal.

(2) The Joint Committee shall within twenty-one days of the expiry of the notice period consider the submitted comments and may incorporate the comments in the inter-county project proposal.

(3) Within seven days of making the decision under subregulation (2), the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation and in such other manner as may be expedient in the circumstances informing the public that—

- (a) a decision on the comments received under this regulation has been made; and
- (b) the reviewed draft inter-county project proposal is available for perusal at the place and time specified in the notice.

10. (1) A person dissatisfied with the decision of the Joint Committee may appeal to the National Physical and Land Use Planning Liaison Committee within fourteen days. Appeals.

(2) The National Physical and Land Use Planning Liaison committee shall hear and determine the application within sixty days of receipt of the application.

(3) A person dissatisfied with the decision of the National Physical and Land Use Planning Liaison Committee may within fourteen days of the decision appeal to the Environment and Land Court.

11. (1) The Joint Committee shall submit the inter-county project proposal to the respective County Executive Committee Member. within twenty-one days of completion of the proposal.

Application for approval of Inter-County Project Proposal.

(2) The respective County Executive Committee Member shall within fourteen days of receipt of the inter-county project proposal separately submit the inter-county project proposal to the respective County Executive Committees for consideration and onward submission to the respective county assemblies for approval.

(3) The respective Governors participating in an inter-county project shall separately submit the inter-county project proposal to respective County Assemblies for approval.

(4) The Inter-County Project Proposal shall be submitted in the following format—

- (a) each document shall be paginated;
- (b) documents sent in electronic form shall be in PDF format;
- (c) all plans shall be geo-referenced; and
- (d) digital plans shall be embedded with a digital certification by the author.

12. (1) Upon presentation of the completed inter-county project proposal to the respective county assemblies, each county assembly may—

Approval by county assemblies.

- (a) approve it in whole;
- (b) approve it with amendments; or
- (c) reject it in whole.

(2) Where a county assembly approves the proposal in whole, it shall notify the County Executive Committee Member in writing of the approval and the County Executive Committee member shall notify the Director-General of the approval in writing.

(3) Where a county assembly approves a proposal with amendments—

- (a) the county assembly shall notify the County Executive Committee Member in writing of the approval, specifying the amendments required to be made to the proposal;
- (b) the County Executive Committee member shall notify the Director-General of the county assembly's approval in writing, and specify the areas that the county assembly has recommended the proposal should be amended; and
- (c) within fourteen days after receiving the notification under paragraph (b), the Director-General shall submit the recommendations of the county assembly to the Joint Committee for consideration.

(4) Where a county assembly rejects a proposal in whole—

- (a) the county assembly shall notify the County Executive Committee Member in writing, specifying the reasons for the rejection in the notification;
- (b) the County Executive Committee Member shall forward the county assembly's notification under paragraph (a) to the Director-General;
- (c) within thirty days after receiving the county assembly's notification under paragraph (b), the Director-General shall convene a meeting for the Joint Committee to consider the reasons for the county assembly's rejection of the proposal, rectify the proposal and resubmit the revised proposal to the county assembly within a period of sixty days.

(5) The county assembly shall notify in writing the County Executive Committee Member of the decision made under subregulations (2), (3) and (4) within sixty days after the decisions have been made.

13. Within thirty days after the approval of an Inter-County Project Proposal, the Director-General shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances the approval of the inter-county project proposal specifying in the notice the place and time the proposal shall be available to the public for inspection.

Notice of
Approval of the
Inter-County
Project Proposal.

14. (1) The inter-county project proposal contemplated in section 29 (1) of the Act shall be implemented subject to the governors of the relevant counties convening to consider and adopt the inter-county project proposal at a meeting organized by the Joint Committee.

Implementation of
the approved
Inter-County
project proposal.

(2) The approved inter-county project proposal shall be deposited with the respective County Director of Physical and Land Use Planning who shall submit certified copies of the inter-county proposal to the Director-General and the Commission.

PART III—COMPLIANCE

15. The respective County Executive Committee Member of a county participating in the implementation of an Inter-County Project shall ensure that the development permission conditions set out in the approved Inter-County Project Proposal are enforced within the respective County's jurisdiction in line with the approved Inter-County Physical and Land Use Development Plan. Monitoring.

16. (1) Every county executive committee member in respect of a county covered by an Inter-County Project shall submit a report on the implementation of the projects to the Commission and the Cabinet Secretary at least three months before the end of a financial year. Compliance.

(2) The Cabinet Secretary on his own motion or on the basis of a status report submitted under subregulation (1) may convene a consultative meeting of the Joint Committee if it comes to the notice of the Cabinet Secretary that—

- (a) two or more counties have commenced an inter-county development project without an approved inter-county project proposal;
- (b) the approved inter-county development project does not comply with the conditions of its approval; or
- (c) the approved inter-county development project is incompatible with the approved National Physical and Land Use Plan.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 246

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL FOR STRATEGIC NATIONAL PROJECTS)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Objects
- 4—Reservation of public land for strategic national projects
- 5—Plans may specify land to be acquired for strategic national projects

- 6—Preliminary conceptual application
- 7—Application for development permission
- 8—Determination of applications for development permission
- 9—Appeals
- 10—Exemptions
- 11—Certificate of compliance
- 12—Certificate of occupancy
- 13—Monitoring
- 14—Enforcement notices
- 15—Appeals
- 16—Public participation

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 makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR STRATEGIC NATIONAL PROJECTS) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2021. Citation.

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

“Certificate of Compliance” is a certificate issued by the Director-General with the approval of the Cabinet Secretary confirming a development’s adherence to approved development permission conditions and approved plans;

“Certificate of Occupancy” means a certificate issued by the State Department responsible for public works confirming a building’s compliance with applicable building codes and other laws, and indicating it to be in conditions suitable for occupancy;

“Commission” means National Land Commission established under Article 67 of the Constitution;

“Court” means the Environment and Land Court established under section 4 of the Environment and Land Court Act, 2011;

“developer” means a ministry, department, agency or state corporation, county government; or private entity;

“electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

“Forum” means the National Physical and Land Use Forum established under section 6 of the Act;

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

“strategic installation” means any installation that is—

- (a) classified as a strategic installation under the Act;
- (b) declared to be a strategic installation by the Cabinet Secretary under these Regulations; or
- (c) developed in a strategic national project; and

“strategic national project” means a project identified as a strategic national project by the national or a county government under the Act, the Intergovernmental Relations Act, 2012, and any other relevant written law.

3. The object of these Regulations is to provide procedures for the processing of development applications for strategic national projects under section 69 (4). Object of the Regulations.

4. (1) Where public land is required for a strategic national project, the relevant ministry, department, state corporation or county governments shall apply to the Commission for reservation of the land.

Reservation of land for strategic national or inter-county projects.

(2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of a national physical land use development plan or county physical land use development plan.

(3) The Commission shall register all public land reserved for a strategic national project under this regulation in accordance with the Land Registration Act, 2012, and publish in the *Gazette* a list of the reserved land.

(4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

(5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Liaison Committee within fourteen days.

5. In addition to the matters specified in the First and Second Schedules to the Act, the National Physical and Land Use Development Plan, an Inter-County Physical and Land Use Development Plan, a County Physical and Land Use Development Plan, a Local Physical and Land Use Development Plan and a Special Area Physical and Land Use Development Plan may indicate land that may be acquired for a strategic national project.

Plans may specify land to be acquired for strategic national projects.

6. (1) Where a public institution intends to undertake a strategic national project, the institution shall submit a concept paper and preliminary plans to the Cabinet Secretary for consideration and input.

Preliminary conceptual application.

(2) The Cabinet Secretary shall within thirty days upon receipt of the application, issue an advisory or refer it to the National Physical and Land Use Planning Consultative Forum for further consultations.

3. The Forum may consider and adopt the concept paper within thirty days.

7. (1) Where an advisory has been issued under regulation 6, the applicant may submit a detailed application in electronic form to the Cabinet Secretary.

Application for development permission.

(2) Within seven days of submission in electronic form, the applicant shall submit hard copies of the application and relevant documents to the Cabinet Secretary in Form PLUPA DC-13 as set out in the First Schedule.

(3) The application shall be submitted in the following format —

- (a) each document shall be paginated;
- (b) all plans shall be Geo-referenced; and
- (c) any digital plans shall —

- (i) have an electronic signature of the author of the plans;
- (ii) be in PDF format;
- (iii) not be password protected;
- (iv) be capable of being reproduced in A4 paper size while retaining sufficient accuracy and detail for the purposes of these Regulations;
- (v) be limited to 25 Mb per file except geo-database or shapefile and
- (vi) have images with a resolution of not less than 1200 printer dots per inch.

(4) Upon receipt of the application and within fourteen days, the Cabinet Secretary shall cause the Director-General to circulate the application to the following authorities for comments—

- (a) the County Executive Committee Member responsible for Physical and Land Use Planning in the respective County;
- (b) the Chief Architect responsible for National Public Works;
- (c) the Chief Engineer responsible for National Public Works;
- (d) the Chairman of the National Land Commission;
- (e) the Director-General of the National Environment Management Authority;
- (f) the Director-General of Medical Services;
- (g) the Director-General of the relevant roads' authority established under the Kenya Roads Board Act;
- (h) the Managing Director of the Kenya Railways Corporation;
- (i) the Director-General of the Kenya Civil Aviation Authority;
- (j) the Managing Director of the Kenya Airports Authority;
- (k) the National Director of Surveys;
- (l) the National Director of Land Administration;
- (m) the chairperson of the Community Land Management Committee in the relevant county; and
- (n) any other relevant authority.

(5) The authorities shall submit their comments to the Director-General within thirty days of receipt of the application in regulation 4.

(6) The Director-General shall publish in the *Gazette* and in at least two newspapers of national circulation and electronic media a notice informing the public of the intention to undertake a strategic national project and comments thereon within thirty days of the date of the notice.

(7) In consultation with the respective County Executive Committee Member, the Director-General shall convene public hearings to consider the strategic national project and receive comments within thirty days of publishing a notice in the *Gazette* under paragraph (6)

(8) The Director-General shall convene a technical committee to consider the input received under paragraph (6) and submit comments which shall include persons who are—

- (a) knowledgeable about the strategic operational nature of Strategic National Project;
- (b) understand the economic value and importance of National Strategic National Project; and
- (c) in possession of an appropriate qualification and relevant experience in the field of expertise.

(9) Upon receipt of comments from the technical committee under paragraph (8), the Director-General shall prepare a technical advisory report and submit to the Cabinet Secretary within thirty days.

8. (1) Upon receipt of the technical advisory report from the Director-General under regulation 7 (9), the Cabinet Secretary shall with reasons consider and—

- (a) approve the application;
- (b) defer the application; or
- (c) reject the application.

Determination of applications for development permission.

(2) The applicant shall be notified in form PLUPA DC-17 the decision within seven days.

(3) Within seven days of making the decision to approve or reject the application under regulation 8 (1) the Cabinet Secretary shall publish a notice of approval or rejection in the *Gazette* and in at least two newspapers of national circulation informing the public of the decision and specify the reasons thereof.

(4) The Cabinet Secretary shall notify in writing the relevant institutions and agencies including the respective County Executive Committee Member of the approval or rejection.

9. Any party aggrieved with the decision by the Cabinet Secretary for development permission under these regulations may appeal within fourteen days to National Liaison Committee in writing.

Appeals.

10. These Regulations shall not apply to developments specified under section 70 of the Act

Exemptions.

11. The Director-General, with the approval of the Cabinet Secretary, shall issue a certificate of compliance in Form PLUPA/DC/18 to the developer where—

Certificate of compliance.

- (a) an approved development has been completed; and
- (b) the development has adhered to the approval conditions and the approved Physical and Land Use Development plans.

12. The State Department responsible for public works may, subject to issuance of certificate of compliance under regulation 11, issue a certificate of occupancy to the developer confirming that a building is suitable for occupation.

Certificate of occupancy.

13. (1) A developer that receives development permission for a strategic national project shall, at least three months before the end of the financial year, prepare and submit a status report on its implementation in line with the approved development plan to the Cabinet Secretary and the Commission.

Monitoring.

(2) Where development permission relates to development of a strategic national project within the jurisdiction of any County, a copy of the status report shall be deposited with the respective County Executive Committee Member by the Commission

14. (1) The Cabinet Secretary shall serve a developer of a strategic national project with an enforcement notice where—

Enforcement notices.

- (a) a developer commences development of a strategic national project after the commencement of this Act without the required development permission having been obtained; or
- (b) any condition of a development permission granted under this Act has not been complied with.

(2) A copy of the enforcement notice shall be given to the relevant County Executive Committee member.

(3) An enforcement notice shall—

- (a) specify the development that is alleged to have been carried out without development permission;
- (b) specify the conditions of the development permission that are alleged to have been contravened;
- (c) specify the measures the developer shall undertake, the date on which the notice shall take effect, the period within which the measures shall be complied; and
- (d) require compliance by the developer within thirty days from the date the enforcement notice takes effect.

15. (1) Any developer aggrieved by the issuance of an enforcement notice under these Regulations may appeal to the National Liaison Committee within fourteen days of being served with the notice.

Appeals.

(2) The National Liaison committee shall hear and determine the appeal within thirty days of the appeal being filed.

(3) Any developer aggrieved with the determination of the National Liaison Committee may appeal within thirty days to the Environment and Land Court.

(4) Where a developer has been served with an enforcement notice and fails to comply with the notice the Director-General may, through the Cabinet Secretary refer the matter to the Forum for consideration and further direction.

16. (1) The developer undertaking the strategic national project shall consult, publish, consider national security and hold stakeholders' meetings before and during the development of the project. Public participation.

(2) Development permission shall not be granted under these Regulations without taking into consideration the comments of relevant authorities, agencies including the respective County Executive Committee Member.

(3) The Director-General shall keep and maintain a depository of all plans and projects approved under these Regulations.

(4) The information contained in the depository above shall be accessed in accordance with the provisions of the Access to Information Act, 2016.

REPUBLIC OF KENYA



APPLICATION FOR DEVELOPMENT PERMISSION OF A STRATEGIC NATIONAL PROJECT

To the Cabinet Secretary

- 1.0 Name of Applicant.....
- 1.1 Contacts
 - (a) Physical Address.....
 - (b) Telephone.....
 - (c) E-mail.....
 - (d) Permanent Postal Address.....
- 2.0 Location of Project
 - (a) County(s).....
 - (b) Sub County(s).....
 - (c) Ward(s).....
 - (d) Road.....
- 3.0 Status of Land
 - (a) Land Tenure (Public/Private/Community)
 - (b) Acreage (Hectares).....
- 4.0 Nature of the project.....
- 5.0 (1.) Indicate type of development permission sought
 -
 -
 -
 -
- (2) Indicate the national sectoral policy framework the project will operate under.....
- (3) Indicate the national sectoral legislation the project will operate under.....

(Attach a planning brief, a cadastral plan, architectural designs, civil drawings, structural drawings, Environmental Impact Assessment, Environmental and Social Impact Assessment and Strategic Environmental Assessment reports and any other relevant documents)

REPUBLIC OF KENYA



NOTIFICATION OF APPROVAL/REFUSAL/DEFERMENT OF DEVELOPMENT PERMISSION FORM

Section.....

Registered Number of Application.....

To:
.....

Your application number as above, submitted on
.....

for permission to

on L.R. /Parcel No.

situated in.....
(County/Sub County/Ward)

along/off.....Road has been.....
(approved/rejected/deferred) on (date)

.....

for the following reasons/subject to the following conditions:

(a)

(b)

(c)

(d)

(e)

Date Signed

Cabinet Secretary, Ministry of Lands and Physical Planning

Cc: Director-General, Physical and Land Use Planning

County Executive Committee Member - Responsible for Physical and Land Use Planning
for respective County Government

National Land Commission

Director of Surveys

Director, Land Administration

Chief Land Registrar

FORM PLUPA/DC/18 .(r.11)

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

Registered Number of Application

CERTIFICATE OF COMPLIANCE

Certificate No.

Name and Address of Applicant

Type of Development (Industrial, Commercial, etc.)

On L.R./Parcel No. with coordinates.....situated in

Road locality (City, Municipality, Township, etc.)

Received from (County Government) by

Ref. No. of

This is to certify that the application above is in compliance with:

(a) Approved Development Plan No.

(b) Approved Subdivision Plan/Advisory Plan No.

(c) Special conditions specified in the Notification of Approval Form PLUPA.....
datedday of20.....with respect to Registered Application No.....

Issued by

(Name of Officer)

.....

Sign

Director-General

For: Cabinet Secretary

Ministry's Seal

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 247

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL AROUND STRATEGIC INSTALLATIONS)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

1—Citation

2—Interpretation

- 3—Object of the Regulations
- 4—Declaration of strategic installations
- 5—Preliminary applications
- 6—Application for development permission
- 7—Determination of application permission
- 8—Appeals
- 9—Monitoring
- 10—Register

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 makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL AROUND STRATEGIC INSTALLATIONS) REGULATIONS, 2021

1. These Regulations may be cited as the Physical and Land Use Planning (Development Control Around Strategic Installations) Regulations, 2021. Citation.
2. In these Regulations, unless the content otherwise requires— Interpretation.
 - “advisory” means an opinion as to whether a concept note or preliminary plan is compatible with permitted development around a strategic installation;
 - “area around strategic installations” means an area of land or land use that abuts a strategic installation;
 - “Commission” means National Land Commission established under Article 67 of the Constitution;
 - “electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;
 - “Forum” means the National Physical and Land Use Planning Consultative Forum established under section 6 of the Act;
 - “geo-reference” has the meaning assigned to it in section 2 of the Land Act, 2012;
 - “Strategic installation” means an installation that is—
 - (a) classified as such under the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019;
 - (b) declared to be a strategic installation by the Cabinet Secretary after a risk assessment report prepared under these Regulations; or
 - (c) developed within or around a strategic national or inter-county project.
3. The object of these Regulations is to give effect to Part IV of the Act and to provide for the procedures of processing development applications around strategic installations. Object of the Regulations.
4. (1) The Cabinet Secretary may, on his or her own motion or on application by a State organ, and after consideration of a risk assessment report, declare an installation that has not been classified as a strategic installation under the Act to be a strategic installation. Declaration of strategic installations.

(2) The Forum shall, in accordance with sections 7 (d) and 8 (3) of the Act consider an application for a declaration under subregulation (1) after undertaking a risk assessment.

(3) The Forum shall, when undertaking the risk assessment under sub regulation (2) consider the following matters—

- (a) the safety and security of the installation;
- (b) the effect that the loss, damage, disruption or immobilisation of the installation may have on general administration or provision of essential services;
- (c) whether the proposed project may disadvantage Kenya;
- (d) how the proposed project impacts the delivery of essential service;
- (e) impacts on biodiversity;
- (f) impacts on international conventions and treaties;
- (g) impact on inter-boundary resource use and management;
- (h) land tenure;
- (i) funding;
- (j) socio-cultural; and
- (k) legal and institutional framework.

(4) The Cabinet Secretary shall, on the recommendation of the Forum, declare an installation to be a strategic installation by notice in the *Gazette* within fourteen days of receipt of the risk assessment report.

(5) Within fourteen days after the publication of the notice under subregulation (4), the Cabinet Secretary shall request the relevant county government to declare the area adjoining the strategic installation to be a special planning area in accordance with section 52.

5. (1) A person shall submit an application for development in the area adjoining a strategic installation in paper or electronic formats to the County Executive Committee Member for policy guidance and advice and the application shall include a concept paper.

Preliminary applications.

(2) The County Executive Committee Member shall, within fourteen days after receiving the application under paragraph (1), issue a written advisory or refer it to the Director-General for verification of compatibility with the development plan of the strategic installation.

(3) The County Executive Committee Member shall transmit a copy of the application to the head of the relevant ministry, department or agency responsible for the strategic installation.

(4) Where an applicant has not received an advisory under paragraph (2) within fourteen days after submitting the application to the County Executive Member, the applicant shall submit the application for development permission in accordance with Part IV of the Act.

6. (1) Where the County Executive Committee Member issues an advisory under regulation 5 (2), the applicant may submit the detailed application to the County Executive Committee Member for consideration and pay the prescribed fees.

Application for development permission.

(2) The application under subregulation (1) shall be submitted in the following format—

- (a) each document contained in the application shall be paginated;
- (b) each document sent in electronic form shall—
 - (i) be in PDF format;
 - (ii) not be password protected
 - (iii) not have hyperlinks
 - (iv) be capable of being reproduced in A4 size paper without losing accuracy;
 - (v) be limited to 25 Mb per file except for a geo-database or shapefile document; and
 - (vi) have images of with a resolution of at least 1,200 printer dots per square inch; and
- (c) each plan contained in the application shall be geo-referenced.

(3) Each digital plan contained in the application shall embed an electronic signature or a manual signature on a document that is scanned for electronic submission by the author.

(4) Where due to a reasonable cause that may include a system prolonged down time, resulting in the applicant's inability to submit an application electronically, the applicant may submit a paper copy of the application to the County Executive Committee Member and give reasons for the inability within fourteen days from the date of application.

(5) Upon receipt of the application, the County Executive Committee Member shall invite comments from relevant authorities and agencies including the Director-General.

(6) The comments sought under subregulation (5) shall be submitted to the County Executive Committee Member within fourteen days after the request by the County Executive Committee Member.

(7) After receiving a copy of the application under regulation 4 (3), the Director-General shall request comments from the head of the ministry, department or agency responsible for the strategic installation and the committee constituted under section 8 (3) to consider and give comments on the application.

(8) The Director-General shall submit comments on the request under subregulation (5), which shall take into consideration the comments of the relevant ministry, department or agency responsible

for the strategic installation and the forum within the period specified in paragraph (6) to the County Executive Committee Member.

(9) When considering an application for development permission, a County Executive Committee Member shall also take into consideration the comments sought under subregulation (6) before granting development permission.

(10) A person shall not undertake any development in the area around a strategic installation without development permission from the relevant County Executive Committee Member.

(11) Where a service provider receives a request for connection to a development around a strategic installation, the service provider shall confirm that development permission has been granted before making the connection.

7. (1) After receiving the comments requested under regulation 6 (5), the County Executive Committee Member shall with reason consider the application for development permission under regulation 6 (1) and—

Determination of application for development permission.

- (a) approve the application with or without conditions;
- (b) reject the application; or
- (c) defer an application.

(2) The County Executive Committee Member shall, within fourteen days of receiving comments under regulation 6 (6), notify the applicant of the decision made on the development application in writing specifying the reasons for the decision.

(3) The County Executive Committee Member shall transmit a copy of the decision under subregulation (2) to the Director-General and the head of the ministry, department or agency responsible for the strategic installation.

8. Any person aggrieved by a decision of the County Executive Committee Member with respect to an application for development permission under these Regulations may appeal in writing to the County Physical and Land Use Planning Liaison Committee within fourteen days after the decision.

Appeals.

9. (1) The County Executive Committee Member shall monitor the implementation of approved developments in areas adjacent to strategic installations to ensure that they comply with the conditions of development permissions and prepare status reports thereon.

Monitoring.

(2) The County Executive Committee Member shall transmit copies of the status reports prepared under subregulation (1) to the Director-General.

(3) The Director-General may, on his or her own motion, or on request from the head of the ministry, department or agency responsible for the strategic installation, or on the basis of the status report transmitted under subregulation (2), convene a meeting with the respective County Executive Committee Member, a representative from the ministry, department or agency and the developer if—

- (a) a developer commences development without development permission; or
- (b) the development does not comply with the conditions of the development permission.

(4) Where a developer commences development in an area adjacent to a strategic installation without development permission or does not comply with the conditions of the development permission, the County Executive Committee Member may, by notice in writing—

- (a) direct that the developer shall cease all operations until the developer has complied with the provisions of these Regulations;
- (b) specify the measures the developer shall be required to take in order to comply with the conditions of the development permission with a period to be specified by the County Executive Committee Member;
- (c) specify the measures the developer shall take to regularise the development and the period within which the regularisation shall take place; or
- (d) require the demolition or alteration of the development or works or the discontinuance of any use of the subject land or the carrying out of any other activities within a period to be specified by the County Executive Committee Member.

(5) The determination of the County Executive Committee Member made under subregulation (4) shall be transmitted to the Director-General and the head of the ministry, department or agency responsible for the strategic installation.

10. The County Executive Committee Member shall maintain a register of all development applications received and development permissions granted under these Regulations.

Register.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.