

SPECIAL ISSUE

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LEGAL NOTICE NO. 248

THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

THE PHYSICAL AND LAND USE PLANNING (LOCAL PHYSICAL
AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Application
- 4—Timelines
- 5—National security
- 6—Boundaries
- 7—Preparation of a Local Physical and Land Use Development Plan
- 8—Notice of intention to prepare plan
- 9—Notice of completion of draft
- 10—Public participation
- 11—Appeals
- 12—Approval of the plan
- 13—County assembly approval
- 14—Publication
- 15—Amendment or revision of the plan

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 (LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN) REGULATIONS, 2021

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

2. In these Regulations, unless the context otherwise requires— Interpretation.
 “city” has the meaning as assigned to it under section 8 of the Urban Areas and Cities Act, 2011;

“local physical and land use development plan” means a plan for the area or part thereof of a city, municipality, town or urban centre and includes a plan with reference to any rural area, trading or market centre; and

“register” means a register of local physical and land use development plans.

3. The object of these Regulations is to provide a framework for the preparation and approval of local physical and land use development plans pursuant to sections 45, 46, 47, 4, 49, 50 and 51 of the Act. Object of the Regulations.

4. These Regulations shall apply to the preparation and approval of local physical and land use development plans. Application of the Regulations.

5. (1) Whenever a plan touches on, relates to, borders, involves or in any way affects a safeguarding area or any aspect of national security, the County Physical and Land Use Planning Consultative Forum shall notify the National Security Council of the proposal to prepare the plan. National security.

(2) The National Security Council shall give its comments on the proposed plan within thirty days of receiving a notification under sub regulation (1).

(3) Where necessary, a plan touching on, relating to, bordering, involving or in any way affecting a national security. organ shall be subjected to any conditions that may imposed on it by the National Security Council.

(4) For the purposes of these Regulations, security organs responsible for the preparation of local physical and land use development plans shall be exempt from any form of publication required under these Regulations where the plans touch on, relate to, border, involve or in any way affect the said security organs.

6. (1) In defining the scope and the geographic area of a plan, the County Executive Committee Member shall delineate clearly defined boundaries as shall be provided for by the Director of Survey. Delineation of plan area.

(2) Each development relating to plans prepared under these Regulations shall be—

- (a) restricted to designated urban centres; and
- (b) have clearly-defined boundaries.

7. (1) The preparation of a plan may be initiated by a County Executive Committee Member —

Preparation of a local physical and land use development plan.

- (a) on his or her own motion;
- (b) on the request of a member of the county assembly on behalf of person who is a resident of the county;
- (c) on the recommendation of a residents' association; or
- (d) upon the request of the national government.

(2) The County Executive Committee Member may outsource the preparation of a plan and other related services to a suitably qualified physical and land use planning consultant in accordance with the relevant written laws relating to public procurement.

(3) A plan prepared through outsourcing by a physical and land use planning consultant under subregulation (2) shall be submitted to the County Director of Physical and Land Use Planning for scrutiny and who shall submit it to the County Executive Committee Member for approval.

8. The County Executive Committee Member shall publish a notice of intention to prepare a plan in the *Gazette*, in at least two newspapers with national circulation and through electronic media in Form PLUPA L-1 as set out in the First Schedule.

Notice of intention to prepare plan.

9. (1) Within thirty days of the preparation of a draft plan, the County Executive Committee Member shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that the plan is available at the places and times designated in the notice for inspections and that any person interested may comment on the contents of the plan within sixty days.

Notice of completion of draft.

(2) The notice published under subregulation (1) shall be in Form PLUPA L-2 as set out in the First Schedule.

10. (1) On completion and publication of a plan, the County Director shall circulate the plan to relevant agencies in the county and to the Director-General for comments.

Circulation.

(2) The relevant agencies shall submit to the County Director their comments on the plan within sixty days of the plan being circulated under sub regulation (1).

(3) The Director-General shall—

- (a) submit comments to the County Director on the plan within sixty days of the plan being circulated under sub regulation (1); and

- (b) assign a plan reference number to the plan.

11. (1) In facilitating public participation regarding the plan, the County Executive Committee Member may use various methods including—

Public participation.

- (a) direct contact using interview guides and questionnaires;
- (b) public notices in newspapers;
- (c) mass media including radio, television;
- (d) information communication platforms;
- (e) newsletter
- (f) public hearings and group discussions, town hall meetings, public fora;
- (g) conferences, seminars or workshops; and
- (h) placement of documents at a common place, available to the members of the public including noticeboards.

(2) In dealing with comments and other representations regarding draft plans from the public, the County Executive Committee Member may—

- (a) incorporate the comments or representations into the plan;
- (b) or dismiss the comments or representations and provide reasons therefor.

12. (1) A person aggrieved by a decision of the County Executive Committee Member concerning the local physical and land use development plan may, within sixty days of being notified of the decision, appeal to the County Physical and Land use Liaison Committee in writing against the decision in Form PLUPA L-3 as set out in the First Schedule.

Appeals.

(2) Representations made by the County Executive Committee Member in response to an appeal lodged before the County Physical and Land use Liaison Committee shall be in writing.

(3) The Liaison Committee shall consider the appeal within thirty days and may set aside, confirm or vary the decision appealed against and make such order as it deems necessary or expedient to give effect to its decision and communicate the decision to the appellant within fourteen days.

(4) In exercising its power to set aside, confirm or vary the decision appealed against, the County Physical and Land use Liaison Committee shall do so in accordance with the rules of natural justice and fair administrative action.

(5) A person dissatisfied with the decision of the County Physical and Land use Liaison Committee may lodge an appeal to the Environmental and Land Court within a period of thirty days from the date of the making of the decision by the Liaison Committee.

13. (1) Where all applications for review have been heard and determined, the County Executive Committee Member shall submit the draft local physical and land use development plan to the County Physical and Land Use Planning Consultative Forum for comments within fourteen days, and any changes shall be incorporated into the plan.

Approval of the plan.

(2) After submission of the plan by the County Executive Committee Member to the Consultative Forum for comments, the input of the Forum shall be in Form PLUPA L-4 as set out in the First Schedule.

14. (1) Pursuant to the provisions of sections 49 (3) and 41 (3) of the Act, the county assembly shall, on submission of the local physical and land use development plan by the Governor, consider the plan within thirty sitting days and thereby approve it with or without any modification.

County assembly approval.

(2) upon approval by the County Assembly, the County Director shall issue an approved plan number to the plan and enter the number in the register.

15. The register which shall be maintained by the County Director shall contain-

Contents of the Register.

- (a) date of initiation of plan preparation;
- (b) departmental reference number;
- (c) scale;
- (d) title;
- (e) sub-county;
- (f) date of completion;
- (g) date of circulation;
- (h) date of approval; and
- (i) approved plan number.

16. The notice required under section 50 of the Act regarding the approval of the local physical and land use development plan and on the inspection of the approved plan shall be in in Form PLUPA L-5 as set out in the First Schedule.

Publication.

17. (1) The amendment or revision of the plan pursuant to Section 51 of the Act may be initiated by the County Executive Committee Member—

Amendment or revision of the plan.

- (a) on his or her own motion;
- (b) on recommendation by the county or national government;
- (c) by request of a person ordinarily resident in that county; or
- (d) on recommendation of a residents' association in the county.

(2) The County Executive Committee Member shall notify the County assembly of the proposed amendment or revision of the plan in Form PLUPA L-6 as set out in the First Schedule.

(3) Upon approval of the amendment or revision of the plan by the county assembly, the County Executive Committee Member shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media the proposed amendments in form PLUPA L-2 as set out in the First Schedule inviting any interested party to make comments thereon.

(4) The provisions of regulations 11, 12 and 13 with the necessary modifications, shall apply to the amendment or revision of a Plan regarding the receiving of and decisions on public comments thereon.

(5) The County Executive Committee Member shall submit the amended Plan to the Governor, who shall place it before the County Assembly for approval.

(6) On the approval of the amended Plan by the County Assembly, the County Executive Committee Member shall publish the approval of the amended Plan in Form PLUPA L-7 as set out in the First Schedule, inviting comments and representations from the public.

(7) The provisions of regulation 17 shall apply to an amended local physical and land use development plan

(8) The amended local physical and land use development plan shall be published in Form PLUPA L-8 as set out in the First Schedule.

18. All reports, notices, plans prepared under these Regulations shall be submitted to the National Land Commission and the Director-General within fourteen days after publication.

Reports, etc. to be submitted to the Commission and the Director-General.

FIRST SCHEDULE

FORM PLUPA L-1

(r.9)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF INTENTION TO PREPARE A LOCAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section (47) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the County Government of.....intends to commence preparation of the above Plan on the.....day of.....20.....

The purpose of the Plan is:

.....

The objectives of the Plan are.....

.....

.....

Comments on the proposed plan may be directed to.....

.....

¹* not later than²*

Dated this day of20.....

County Executive Committee Member

Notes—

¹* provide details of the receiving entity.²* provide a twenty one day window.

FORM PLUPA L-2

(r.10)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF COMPLETION OF LOCAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

Title of Development Plan

Pursuant to the provisions of section 49(1) of the Physical and Land Use Planning Act, 2019, NOTICE is hereby given that the preparation of the above Plan was on the..... day of20.....completed.

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 within sixty days send the same to.....^{2*} and such representations or comments shall state the grounds upon which they are made.

Dated this day of20.....

*County Executive Committee Member**Notes—*

^{1*}provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

^{2*} provide details of the place where the plans are availed to the public and if electronic, give name and link to website.

FORM PLUPA L-3

(r.13)(1)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

APPEAL AGAINST DECISION REGARDING LOCAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

(To be filled in triplicate)

Title of Development Plan

To: The Secretary, County Physical and Land Use Planning Liaison Committee

..... County

I/We^{1*}, of P.O. Box
 appeal against the decision made
 by County Executive Committee
 Member regarding the above Plan.

My/our grounds for appeal are as follows:

- (a)
 (b)
 (c)^{2*}

The reliefs which I/We seek are:

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

Dated this day of 20.....

Signature of Applicant

Notes—

^{1*}Delete as necessary.^{2*}Please attach additional written text if space is insufficient.^{3*}Please attach additional written text if space is insufficient.

FORM PLUPA L-4

(r.14)(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF REVIEW OF LOCAL PHYSICAL AND LAND USE DEVELOPMENT
PLAN BY COUNTY PHYSICAL AND LAND USE CONSULTATIVE FORUM

Title of Development Plan

Pursuant to the provisions of section 49(3) of the Physical and Land Use Planning Act, 2019, the County Physical and Land Use Planning Consultative Forum of..... County of Post Office Box No.....in the Republic of Kenya has reviewed the above Plan on thisday of20.....and approves/ does not approve with the following comments^{1*}:

(1)

(2)

Dated the, 20.....

*Chairperson**Secretary**Notes—*^{1*} strike through where necessary.

FORM PLUPA L-5

(r.17)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF LOCAL PHYSICAL AND LAND USE
DEVELOPMENT PLAN

Title of Development Plan.....

Approved Development Plan No.

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act,
2019, NOTICE is hereby given that on the day of
20.....the County Assembly of
..... County approved the above Plan.

A certified copy of the plan as approved has been deposited
at.....^{1*}

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

Signed

*County Executive Committee Member**Notes—*^{1*} Provide physical address and if electronic, name of website and link.

FORM PLUPA L-6

(r.18)(2)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTIFICATION OF AMENDMENT/REVISION OF LOCAL PHYSICAL AND LAND
USE DEVELOPMENT PLAN

Title of Development Plan

Approved Development Plan No.

To: The Clerk County Assembly of
I/We^{1*}, of P.O. Box
propose modification to the Plan referenced above.

My/our reasons for the proposed amendments are as follows:

- (a)
 (b)
 (c)^{2*}

I/We certify that:

- (a) I/We have complied with the relevant provisions of the County Governments Act, 2012;
 (b) The proposed amendments are in conformity with the National, relevant Inter-County and County Physical and Land Use Development Plans.

Dated this day of 20

Signature

*County Executive Committee Member**Notes—*^{1*}Delete as necessary.^{2*}Please attach additional written text if space is insufficient.

FORM PLUPA L-7

(r.18)(6)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF APPROVAL OF AMENDMENT/REVISION OF A LOCAL PHYSICAL
AND LAND USE DEVELOPMENT PLAN BY THE COUNTY ASSEMBLY
Title of Development Plan
Approved Development Plan No

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act,
2019, NOTICE is hereby given that the County Assembly of^{1*}
has on theday of20..... approved
modification to the above Plan.

Dated this day of20

County Executive Committee Member

Notes—

^{1*} state name and address of entity that has approved modification.

FORM PLUPA L-8

(r.18)(6)

REPUBLIC OF KENYA



PHYSICAL AND LAND USE PLANNING ACT

(No. 13 of 2019)

NOTICE OF MODIFICATION/ AMENDMENT OF A LOCAL PHYSICAL AND
LAND USE DEVELOPMENT PLAN

Title of Development Plan

Approved Development Plan No

Pursuant to the provisions of section 50 of the Physical and Land Use Planning Act,
2019,

NOTICE is hereby given that on the..... day of20..... the
above plan has been amended.

The plan shall be available at.....^{2*} for inspection free of
charge.

Dated this day of20

County Executive Committee Member

Notes—

^{1*} strike through where necessary.

^{2*} state physical address and opening hours. If online, state website and give link.

SECOND SCHEDULE

PART I

The outline structure of the County Physical and Land Use Development Plan Report

PART I

1. Cover Page
2. Introduction
3. Constitutional, legal and policy planning context

PART II

4. Physiography and climate
5. Population and demography
6. Housing
7. Agriculture
8. Commerce
9. Industry
10. Education
11. Public purpose
12. Recreation, Conservation, preservation and open spaces
13. Public infrastructure and utilities
14. Transportation
15. Blue Economy

PART III

16. Synthesis and emerging issues

PART IV

17. Plan proposals
18. Action Plans
19. Implementation schedule- Timelines, Resource and Institutional requirements

Reference

Appendix

Annex

PART II

Preparation of the Maps

1. Notwithstanding the provisions of First Schedule Part IV (9), the actual scale to be used in the map shall depend on the level of detail and circumstances.
2. The Maps prepared shall adopt a scale of a multiple of 500.
3. Maps prepared shall be authenticated and approved by the authority responsible for Survey.
4. Base Map” means a geo-referenced and geometrically accurate graphical representation of land which includes topographical maps, administrative boundary maps, sea charts, aeronautical charts and other thematic and special purpose maps obtained from the relevant authorities.
5. All the maps and plan reports shall adopt standard paper size series A4-A0.
6. Fine details on the plan report shall be contained in an appropriate professional handbook and practicing notes.

THIRD SCHEDULE

SHORT-TERM PLANS

Short-term plans are of the following types—

- (a) Neighborhood Plans-Prepared for comprehensive planning of areas selected for intensive development, which is to commence within a specified period.
- (b) Sectoral Plans- Prepared for detailed treatment of a particular planning aspect, for example, housing, transportation (Roads, railway, airports and water ways), communication infrastructure including Fiber optic, water supply, sewerage, solid waste disposal, pipelines (Oil/Gas) conservation and preservation areas including wildlife migratory corridors and dispersal areas etc., The Plans should be prepared to guide the implementing agencies.
- (c) Property Site Master Plan, indicating permitted use, density, access, plot coverage, plot ratio and building heights. This shall include 3D models.
- (d) Part Development Plans /advisory plans, indicating precise sites for immediate implementation of specific projects including land alienation for public use. The Plan will be prepared by the planning authority in consultation with National Land Commission as per the provisions of the Land Act, 2012.

The form and content of short-term plans differ with plan types and in most cases will reflect details and proposals of a long-term plan, where it exists. However, the most important considerations in their preparation shall be—

- (i) An assessment of immediate land requirement to accommodate specific population needs as they arise for a period of 3 to 5 years;
- (ii) Detailed allocation of the land requirements to various land uses taking into account compatibility of adjoining land uses and conforming with a long-term plan proposal for the area; and
- (iii) Identification of authorities to service and/or develop the various land use allocations.

Except for part development plans, other short-term plans may be prepared by commissioned registered physical planners. In order to ensure that plans prepared by registered physical planners conform to long-term plans prepared by the Planning Authority, all such plans must have a seal of approval of the Planning Authority before their implementation.

Made on the 15th November, 2021.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.