

**SPECIAL ISSUE**

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**KENYA GAZETTE SUPPLEMENT**

**MACHAKOS COUNTY BILLS, 2023**

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**THE MACHAKOS COUNTY SPATIAL PLANNING BILL, 2023****A Bill for****AN ACT of the County Assembly of Machakos to provide for county spatial planning and management and for connected purposes**

**ENACTED** by the County Assembly of Machakos, as follows—

**PART I – PRELIMINARY****Short title**

1. This Act may be cited as the Machakos County Spatial Planning Act, 2023.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“advertisement” means any word, letter, devise, model, sign, placard, board, notice or representation, whether illuminated or not, in the nature of and employed wholly or in part for purposes of the advertisement of proprietary articles and includes any hoarding or similar structure used or adapted for use for the display of an advertisement,

“building” means any structure or erection whether permanent or temporary, whether fixed or movable, and whether completed or uncompleted;

“building operations” include rebuilding operations, structural alterations or additions to buildings and the making of access roads, railways, waterworks, sewerage and drainage works, electrical and telephone installations and any road works preliminary to, or incidental to, the erection of buildings;

“chief officer” means the chief officer responsible for matters relating to land;

“Committee” means the Machakos County Spatial Planning and Planning Committee created under section 10;

“density” means the maximum amount of development permitted or the maximum number of persons permitted to reside, as the case may be, on any area of land;

“Director” means the Director responsible for Spatial Planning appointed under section 6;

“Directorate” means the Directorate established under section 4;

“Executive Committee Member means the County Executive Committee Member responsible for matters relating to land;



**No. 17 of 2012**

“spatial plan” means the spatial plan as prescribed under the County Governments Act, 2012 or the physical development plan for the purpose of improving the land and providing for the proper physical development of such land, and securing suitable provision for transportation, public purposes, utilities and services, commercial, industrial, residential and recreational areas, including parks, open spaces and reserves and also the making of suitable provision for the use of land for building or other purposes.

**Object and Purpose**

3. The object and purpose of this Act is to provide for a legal framework for the preparation and implementation of county spatial plans and related development plans as provided for under section 8 of Part 2 of the Fourth Schedule to the Constitution of Kenya, Part XI of County Governments Act, 2012 and Urban Areas and Cities Act, 2012 for the—

- (a) coordination of spatial planning and development;
- (b) promotion of organized planning and development of physical infrastructure;
- (c) enhancement of the regulation of physical development and land use;
- (d) promotion of the effective and transparent physical planning process;
- (e) promotion of sustainable social economic development.

**PART II—ADMINISTRATION**

**Directorate of Spatial Planning.**

4. There is established the Directorate of Spatial Planning which shall be an office in the county public service.

**Functions of the Directorate.**

5. The functions of the Directorate include—
- (a) coordinating the implementation of this Act;
  - (b) preparing spatial plans for the county, sub-counties, towns or urban areas;
  - (c) ensuring compliance with physical development plans developed under this Act;
  - (d) receiving, reviewing and considering any development plan or proposal, building plan, building operation or application for

- change of user, extension of user, extension of leases, subdivision of land and amalgamation of land;
- (e) advising the Executive Committee Member on the most appropriate use of land including land management such as change of user, extension of user, extension of leases, subdivision of land and amalgamation of land;
  - (f) carrying out continuous research, study and assessment related to growth and development in the County and advise Executive Committee Member on the necessary measures and policy to be undertaken in facilitating planned development of physical infrastructure and economic development;
  - (g) maintaining safe custody of all records, physical development plans and documents prepared or submitted under this Act;
  - (h) liaising with the national government on any matter related to this Act;
  - (i) advising the Executive Committee Member generally on any policy to be adopted or matter necessary to the effective achievement of the objectives of this Act;
  - (j) carrying out any other function for effective realization of objectives of this Act.

#### **Director of Spatial Planning.**

6. (1) There shall be a Director responsible for spatial planning who shall head the Directorate.

(2) The Director shall be competitively recruited by the County Public Service Board.

#### **Powers of the Director.**

7. The powers of the Director include to—

- (a) cause to be prepared the County Spatial Plan and Physical Development Plan;
- (b) approve any building plan or building operations or work;
- (c) issue orders related to the implementation of this Act;
- (d) make, supervise or direct physical planning;
- (e) inspect, examine any document issues related to physical planning;
- (f) perform any other act in furtherance of the objectives of this Act.

(2) The Director may delegate in writing any of the powers under this Act generally or specially to any officer appointed under section 8.

### **Officers of the Directorate**

**8.** The County Public Service Board shall appoint such number of personnel to serve in the Directorate as may be necessary for the effective carrying out the functions under this Act.

### **Indemnity**

**9.** The Director, any officer appointed under section 8 or a member of the County Spatial Planning and Coordinating Committee shall not be personally liable for any action, claim, demand or other proceeding in respect of any act done or omitted to be done without negligence and in good faith in executing the functions, powers or duties given under this Act.

### **Spatial Planning and Coordinating Committee.**

**10.** (1) There is established the County Spatial Planning and Coordinating Committee.

(2) The County Spatial Planning and Coordinating Committee shall consist of—

- (a) the Chief Officer responsible for matters relating to land who shall be the chairperson;
- (b) the Director responsible for matters relating to spatial planning who shall be the secretary;
- (c) officers not below the level of Directors nominated by the respective Executive Committee Members from the Department responsible for the following matters—
  - (i) Survey;
  - (ii) Architecture;
  - (iii) Environment;
  - (iv) Planning;
  - (v) Water;
  - (vi) Public Health;
  - (vii) Agriculture;
  - (viii) Finance.

- (d) two registered physical planners in private practice and in good professional standing nominated by their respective professional body.
- (3) The functions of the County Spatial Planning and Coordinating Committee include to—
- (a) determine development applications for change of user or subdivision of land which may have significant impact on contiguous land or be in breach of any condition registered against a title deed in respect of such land;
  - (b) determine development applications relating to industrial location, dumping sites or sewerage treatment which may have injurious impact on the environment and applications in respect of land adjoining or within a reasonable vicinity of safe guarding areas;
  - (c) inquire into and determine complaints made against the Directorate or Director in the exercise of functions under this Act;
  - (d) enquire into and determine conflicting claims made in respect of applications for development permits;
  - (e) review and determine matters referred to it by the Department.

#### **Procedure of the Committee**

11. (1) The quorum of the Committee shall be half of the members.
- (2) Decisions of the Committee shall be taken by a vote of the majority of the members present and voting
- (3) In the case of an equality of votes the chairperson shall have a casting vote in addition to the deliberative vote.
- (4) The Committee shall meet at least once every month.
- (5) A member of the Committee shall not take part in the deliberation of any matter of which in which the member is directly interested or concerned with.

#### **Record of proceedings of the Committee**

12. (1) The Secretary to the Committee shall keep the record of proceedings of the Committee at the Secretariat.

- (2) Any person may inspect or make copies of the Committee records upon payment of the prescribed fees.

### **Appeals to the Committee**

13. (1) Any person who is aggrieved by a decision of the Director concerning any physical development plan, may, within sixty days of receipt of notice of such decision, appeal to the Committee in writing against the decision in such manner as may be prescribed.

(2) Subject to subsection (3), the Committee may reverse, confirm or vary the decision appealed against and make such order as it may deem necessary to give effect to its decision.

(3) Upon reversing a decision of the Director under sub-section (2), the County Spatial Planning and Coordinating Committee shall, before making any such order, afford the Director an opportunity of making representations on any conditions or to be included in the order, and shall also afford the appellant an opportunity to reply to such representations.

### **Judicial Review**

14. Any person who is aggrieved by a decision of the County Spatial Planning and Coordinating Committee may, within sixty days of receipt of the notice of such a decision appeal against such decision to the Environment and Land Court.

## **PART III— SPATIAL PLANNING**

### **Preparation of Spatial Plan**

15. (1) The Directorate shall, in collaboration with other county and national government departments, prepare a ten-year county spatial plan in relation to any public land, community land or private land within town, urban area and trading or marketing center.

(2) The spatial plan prepared in subsection (1) shall be used—

- (a) to guide the County Government in coordinating the development of infrastructural facilities and services for a specified area;
- (b) for the specific control of the use and development of land; or
- (c) to specify the provision of land for public purposes.

(3) The spatial plan may—

- (a) provide for long term or short-term physical development for purposes;
- (b) provide for planning, re-planning, renewal, reconstructing or redeveloping the whole or part of the area comprised in the plan;

- (c) provide for controlling the order, nature and direction of development in such area.

**Contents of a spatial plan.**

16. A spatial plan shall consist of—

- (a) the matters prescribed under the County Governments Act in regard to the content of county spatial plan;
- (b) matters specified in the First Schedule;
- (c) a technical report on the conditions and facilities in the area;
- (d) a statement of policies and proposals with regard to the allocation of resources and the allocations for development within the area;
- (e) such description and analysis of the conditions of development in the area as may be necessary to explain and justify the statement of policies and proposals;
- (f) relevant studies and reports concerning physical development of the area;
- (g) maps and plans showing present and future land uses and development in the area;
- (h) such other information as the Executive Committee Member may prescribe.

**Objections to spatial plan**

17. (1) The Director shall, not later than thirty days after the preparation of the spatial plan, publish a notice in the *Gazette* and in at least two local newspapers with the widest circulation in Kenya notifying the public that the plan is open for inspection at a place and the times specified in the notice.

(2) The notice in subsection (1) shall request any interested person who desires to make representations against, or object to the plan, to write to the Director not later than thirty days after the date of the first publication of the notice or such date as is specified in the notice.

(3) The Director may accommodate or decline to accommodate such representations or objections to the plan, and in either case, shall within thirty days of the decision, notify the petitioner in writing accordingly, and shall give reasons where the representations are declined.

(4) A petitioner who is aggrieved by the decision of the Director may appeal against such decision to the County Spatial Planning and Coordinating Committee.

(5) A person who is aggrieved by a decision of the Coordinating Committee may appeal against such decision to the Environment and Land Court.

**Approval of spatial plan.**

18. (1) If after the expiration of the thirty days' notice no representations against or objections to, the spatial plan have been made to the Director, the Director shall certify the plan in triplicate and submit the certified plans to the Executive Committee Member for transmission to the county executive committee for consideration and adoption.

(2) The County Executive Committee may—

- (a) adopt the spatial plan either without, or subject to, such conditions or modifications as it may consider necessary; or
- (b) refuse to adopt the spatial plan and require the Director to prepare a new plan for its approval taking into account the proposed modifications or the grounds for its refusal.

(3) The Executive Committee Member shall, within thirty days of the adoption of the spatial plan by the County Executive Committee, transmit the same to the County Assembly for consideration and approval.

**Publication of spatial plan.**

19. The Executive Committee Member shall, upon the approval of the spatial plan by the County Assembly, publish a notice in the Gazette and in at least two local newspapers with the widest circulation in the county to the effect that the plan has been approved and may be inspected in such a place and at such times as may be stipulated in the notice.

**Amendments of spatial plan.**

20. (1) The Director may from time to time and in such manner as may be prescribed, submit to the Executive Committee Member proposals for the revocation or modification of the spatial plan on the following grounds that there—

- (a) are practical difficulties in the execution or enforcement of the approved plan;
- (b) has been a change of circumstances since the plan was approved.

(2) The Executive Committee Member shall publish in the *Gazette*, a notice of the proposed revocation or modification of the physical development plan stating the period within which representations or objections to the proposed modification or revocation may be made to the Director.

(3) If after the expiration of the period specified in the notice no representations or objections have been made under subsection (2), the Director shall submit the proposed modification or revocation of the plan to the Executive Committee Member for transmission to the County Executive Committee for consideration and adoption.

(4) The County Executive Committee may adopt or reject the proposed revocation or modification of the plan.

(5) Where the County Executive Committee adopts the revocation or modification to the plan, it shall submit it to the County Assembly for approval.

(6) Where the County Executive Committee approves the proposed revocation or modification under subsection (5), the Executive Committee Member shall, not later than sixty days after the approval, publish in the *Gazette* a notice of such revocation or modification of the plan.

### **Special planning area**

21. (1) The Executive Committee Member may, by notice in the *Gazette*, declare an area with unique development potential or special economic interests or problems as a special planning area for purposes of the preparation of a spatial plan.

(2) Subject to subsection (3), the Executive Committee Member may, by notice in the *Gazette*, suspend for a period of not more than two years, any development as may be necessary in a special planning area until the spatial plan in respect of such area has been approved by the County Assembly.

(3) Where, before the declaration of a special planning area under subsection (1), a development permission has been granted for development in an area, such permission shall not be affected by the suspension, if the development in respect of which the permission is granted has been commenced not less than six months before the suspension of development of the kind in the special planning area.

### **Implementation and compliance**

22. The Directorate shall—

- (a) ensure and facilitate the implementation of spatial plans;
- (b) ensure compliance with the spatial plan and all the requirements with this Act.

### **Reporting**

23. (1) The Directorate shall prepare an annual physical planning report which shall be submitted to the County Executive Committee for consideration.



(2) The report shall contain among others the following information—

- (a) the level and extent of compliance with this Act;
- (b) measures taken by the directorate to facilitate the implementation and compliance with this Act;
- (c) challenges faced in the implementation and compliance with this Act;
- (d) any other information as may be Executive Committee Member may require.

#### **PART IV—DEVELOPMENT CONTROL**

##### **Compliance with the plan**

24. Development of any land shall only be undertaken if it is in conformity with the spatial plan.

##### **Powers and duties of the Directorate**

25. The Directorate has the power to—

- (a) prohibit or control the use and development of land and buildings in the interests of proper and orderly development in an area;
- (b) control or prohibit the subdivision of land or existing plots into smaller areas;
- (c) consider and approve development applications and development permissions;
- (d) ensure the proper execution and implementation of approved physical development plans;
- (e) propose for the adoption of Regulations to regulate zoning in respect of the use and density of development; and
- (f) reserve and maintain the land planned for open spaces, parks, urban forests and green belts in accordance with the approved physical development plan.

##### **Sub-division of land**

26. No private land within the county shall be subdivided except in accordance with the requirements of a physical development plan approved in relation to that area.

##### **Disposal or land, extension of lease**

##### **Cap 282. No. 2 of 2012**

27. Subject to the provisions of Trust Land Act and Land Registration Act, and any other written law relating to the administration of land, no

subdivision, consolidation, lease or renewal of lease of an unalienated public Land or Trust Land or of a private land shall be affected without due regard being had to the requirements of the physical development plan of the area.

#### **Application for subdivision**

**28.** (1) A person intending to subdivide a parcel of land shall apply to the Director for approval in the prescribed form and upon payment of the prescribed fees.

(2) An application under subsection (1) shall be accompanied by a subdivision plan prepared in accordance with this Act.

(3) Upon receipt of the application under subsection (1), the Director shall, within thirty days, consider and review the application.

#### **Subdivision with impact on contiguous land**

**29.** (1) Where in the opinion of the Director, an application in respect of development, change of user or subdivision has significant impact on contiguous land or does not conform to any conditions registered against the title deed of property, the Director shall, at the expense of the applicant, publish the notice of the application in the *Gazette*.

(2) The Director shall give notice of the application on every owner or occupier of the property adjacent to the land to which the application relates and to such other persons as the Director may deem fit.

(3) If the Director receives any objection to, or representation in connection with, an application made under subsection (1) the Director shall notify the applicant of such objections or representations and shall, before the application is determined afford the applicant an opportunity to make representations in response to such objections or representations.

#### **Permission for subdivision**

**30.** (1) The Director shall, where an application meets the requirements set out in this Act, grant the permission for subdivision in the prescribed form and subject to such conditions as the Director may stipulate.

(2) Where in the opinion of the Director, an application does not meet the requirements, the Director shall—

(a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or

(b) make comments and recommendations thereon and return it to the applicant within fourteen days.

(3) The applicant to whom the application is returned under subsection (2) (b) may re-submit a revised application within thirty days of the date of notification.

(4) On receipt of any revised application under subsection (3), Director shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a permission for subdivision.

#### **Preparation of subdivision plans.**

**31.** (1) Any registered physical planner may prepare subdivision and land use plans in relation to any private land

(2) A plan prepared under subsection (1) shall be subject to the approval by the Director upon payment of the prescribed fees.

(3) A subdivision plan shall not be prepared unless the subdivision scheme has been prepared and approved by the Director.

#### **Format of subdivision plan**

**32.** (1) An application for subdivision shall be submitted to the Director in the prescribed form and upon the payment of the prescribed fee.

(2) A subdivision plan shall be prepared in accordance with the conditions set in this Act and shall show the following—

- (a) that it is correctly plotted to scale;
- (b) the existing plot boundaries and their dimensions;
- (c) the location of the plot;
- (d) the land reference number or registration number of the plot and of contiguous plots;
- (e) the contiguous boundaries of all adjacent plots and road system;
- (f) lanes whether pedestrian and sanitary, and their widths;
- (g) the true north indicated by a pointer and the names of existing streets indicated including their widths;
- (h) the proposed scheme of subdivision;
- (i) the boundaries in the red colour;
- (j) the approximate dimensions of sub-plots;
- (k) the proposed means of access, road or lane system if any with the widths of such streets, roads or lanes clearly indicated appropriately in the blue colour on each plan;

- (l) other colours to be used in the subdivision plan in the blue colour for surrender and the yellow colour for demolition;
  - (m) existing buildings of any nature whatsoever, correctly plotted and the relationship with the proposed boundaries of the plots or sub-plots clearly indicated;
  - (n) building lines shown on the plan whenever necessary;
  - (o) the proposed use of each sub-plot;
  - (p) separate numbering for every sub-plot;
  - (q) the line of every or any right-of way road or access or way leaves over the plot or sub-plot;
  - (r) the signature of the owner or a duly authorised agent and the physical planning officer preparing the plans;
  - (s) the date of preparing the plans.
- (3) An application for subdivision under subsection (1) shall be accompanied by—
- (a) twelve copies of all the plans prepared in the scale of the series of 500's;
  - (b) a letter of consent to subdivide from the County Land Management Board; and
  - (c) a certificate of official search or any other evidence from the respective Land Registrar.

### **Sub-division schemes**

**33. (1)** In any scheme of subdivision of land the following conditions shall be complied with—

- (a) streets shall be laid out in a manner to facilitate natural storm water flow;
- (b) adequate drainage facilities by streets, drainage reserves way leaves or otherwise as may be expedient and suitable shall be provided and such reserves and way leaves shall not in any case be less than three metres in width;
- (c) way leaves or reserves along any river, stream or water course shall be provided of not less than ten metres in width on each bank, except in areas where there is an established flooding;
- (d) where required by the Directorate, land suitable and adequate shall be reserved at no cost to the County for open spaces,

amenities, recreational facilities, road reserves, public purpose relative to the area to be subdivided and for road widening;

- (e) streets connected at each end to other streets or which may be so connected shall be at a width required by the Directorate;
- (f) provision, adequate in the opinion of the Directorate shall be made for the truncation of street corners and the widening of existing streets or lanes;
- (g) plots shall be of appropriate shape and size and shall have proper and sufficient access to a street, such street not being a sanitary lane or passage;
- (h) the proposal shall conform with the provisions of any structure plan, local physical development plan, advisory plan, zoning, or development plan approved under this Act.

(2) Where any proposed street or road is included in the scheme of subdivision, the layout and construction of such street or road shall conform to the prescribed requirements.

#### **Subdivision to be carried out by surveyor**

34. Each subdivision or subdivision scheme shall be carried out by a registered surveyor in accordance with the law governing land survey.

#### **Registration of subdivision**

##### **No. 3 of 2012**

35. Each subdivision or subdivision scheme shall be registered in accordance with the Land Registration Act, 2012 and certificate of title issued in respect to each parcel subdivided.

#### **Registration of subdivision documents**

36. (1) The Registrar shall not register any document relating to the subdivision of land Act unless the subdivision has been approved under this Act.

(2) Any registration of a document in contravention to subsection (1) shall be null and void.

(3) Notwithstanding subsection (2), a Registrar who registers a subdivision in contravention of subsection (1) commits an offence and shall be liable to a fine of two hundred thousand shillings or imprisonment for a term not exceeding one year or to both fine and term of imprisonment.

**Density**

37. (1) The size of a plot within an area shown on any structure plan, development plan, advisory plan, zoning plan or subdivision plan shall not be subdivided into smaller sub-plots than the minimum specified for the area within which the plot is situated without the consent of the Directorate.

(2) The Executive Committee Member, with the advice of the Director may increase the minimum size of the plot or sub-plot prescribed for any area if—

- (a) such minimum size is inconsistent with the amenity of the environs of any plot or portion of the area;
- (b) such increase is necessary for the proper development of the plot or sub-plot; or
- (c) the nature of the ground necessitates large plots or sub-plots to obtain good hygienic conditions.

(3) Where a scheme relates to subdivision of land within agricultural land, the Executive Committee Member, on the recommendation of the Director shall prescribe—

- (a) the minimum size of plots;
- (b) the use of such land or building; and
- (c) the maximum number and coverage of buildings to be erected per acre.

**Plot coverage**

38. The Director shall determine the plot coverage and plot ratios depending on the zoning of the urban area and the level of urban services available.

**Reduction in plot area**

39. No plot on which a building is erected shall be reduced in area so that in relation to the reduced site the area covered by the building exceeds the percentage permitted for that class of building, except where the reduction in area is caused by acquisition of land by a proper authority.

**Development permission.**

40. (1) A person shall not carry out any development without a development permission granted under this Act.

(2) A person who contravenes this section is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding subsection (2) —

- (a) a development that does not comply with this section shall be discontinued;
- (b) the Director may issue a notice to the developer to restore the land on which such development had taken place to its original condition within a period of ninety days;
- (c) if on the expiry of the ninety days' notice given to a developer under subsection (1) such restoration has not been effected, the Director shall restore the site to its original condition and recover the cost incurred from the developer.

(4) Any dealing in connection with a development in respect of which an offence is committed under this section shall be null and void.

(5) A Licensing Authority shall not grant a licence for commercial or industrial use or occupation of any building, or in respect of any premises or land, for which no development permission has been granted under this Act.

(6) For purposes of subsection (5)—

- (a) licensing Authority means any government agency responsible for issuing licenses or permits under any written law.
- (b) commercial use includes shops, offices, hotels, restaurants, bars, kiosks, markets and similar business enterprises and trade but does not include petroleum filling stations;
- (c) industrial use includes manufacturing, processing, distilling and brewing, warehousing and storage, workshops and garages, mining and quarrying and other similar industrial activities including petroleum filling stations.

(7) Any person who contravenes subsection (5), shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to an imprisonment not exceeding twelve months or to both.

**Application for Development permission.**

41. (1) A person intending to undertake any development regulated under this Act shall apply to the Director in the prescribed form and shall pay such fees as may be prescribed under this Act.

(2) An application under subsection (1) shall—

- (a) provide sufficient details describing the land where the development is proposed to be done;
- (b) be accompanied by such plans and particulars as are necessary to indicate the purposes of the development;
- (c) show the proposed use and density; and
- (d) where applicable, the land which the applicant intends to surrender for—
  - (i) purposes of principal and secondary means of access to any subdivisions within the area included in the application and to adjoining land;
  - (ii) public purposes consequent upon the proposed development.

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(3) An application for development permission shall not be considered unless it is accompanied with the certificate of title issued in respect to the parcel of land where development is intended to take place under the Land Registration Act, 2012.

(4) For the avoidance of doubt, no application or grant for development permission shall be considered or issued where the applicant provides a share certificate as prove of ownership of the parcel of land where development is intended to take place.

**Environmental Impact Assessment.**

42. Where an application is in connection to a project in which an environmental impact assessment is required to be conducted under the Environment Management and Coordination Act, such an application shall be accompanied by the environment impact assessment report approved by the National Environment Management Authority.

**Consideration of application**

43. Upon receipt of the application under section 41, the Director shall, within thirty days, consider and review the application.

(2) In considering and reviewing an application under section 41, the Director shall—

- (a) take into consideration legal and statutory provisions;
- (b) ensure that the proposed development is within the physical development plan and complies with the stipulated requirements therein;



- (c) in the case of a leasehold, have regard to any special conditions stipulated in the lease.
- (3) If the proposed development requires subdivision or change of user of agricultural land, the Director shall require the application to be referred to the County Land Management Board.
- (4) The County Land Management Board shall, within thirty days of receipt of an application under subsection (3), make a report to the Director indicating whether the application should be accepted or rejected.

**Grant of development permission**

44. (1) Where an application satisfies the conditions set under this Act, the Director shall grant the development permission in the prescribed form subject to such further conditions as the Director may state.

(2) Where an application does not satisfy the conditions set under this Act, the Director may—

- (a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within fourteen days.

(3) The applicant to whom the application is returned under subsection (2) (b) may re-submit a revised application within thirty days of the date of notification.

(4) On receipt of any revised application under subsection (3), the Director shall, within thirty days, determine the application in accordance with this Act and upon such determination, if satisfied, issue a development permission.

**Referral to the Committee**

45. (1) The Director shall refer any application for development permission, which involves matters of major public policy, to the County Spatial Planning and Coordinating Committee within fourteen days of receiving such an application, for consideration and approval.

(2) Where an application for development permission has been referred to the County Spatial Planning and Coordinating Committee under subsection (1), the provisions of this part relating to the consideration of applications development permission shall apply.

(3) The County Spatial Planning and Co-ordinating Committee shall accord an opportunity to the applicant whose application has been referred to it to appear in person or through his representative during the hearing and consideration of the application.

(4) The County Spatial Planning and Coordinating Committee shall consider and make a determination on the application within thirty days.

(5) The Director shall serve a notice of the County Spatial Planning and Coordinating Committee's decision to the applicant within seven days of such decision.

(6) Any applicant who is aggrieved by the decision of the County Spatial Planning and Co-ordinating Committee may, not later than thirty days after being notified of the committee's decision, appeal against such to the Environment and Land Court.

#### **Registration of development documents.**

**46.** (1) The Registrar shall not register any document relating to the development of land regulated under this Act unless the development permission has been granted.

(2) Any registration of a document in contravention to subsection (1) shall be null and void.

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(3) For purposes of this section, "Registrar" has the meaning assigned under the Land Registration Act, 2012.

#### **Approval of Class "A" and Class "B" Developments**

**47.** (1) The county government may approve the following classes of buildings or as the County Executive Committee Member may from time to time determine—

- (a) Class 'A' development which includes—
- (i) the deposit of refuse, scrap or waste materials on land involving a change of use thereof;
  - (ii) the use as two or more dwellings of a building previously used as one dwelling;
  - (iii) the erection of more than one dwelling or shops or of both dwelling and shop on one plot;
  - (iv) the display of any advertisement;
  - (v) the use of any buildings or land within the cartilage of a dwelling for any purpose incidental to the enjoyment of the dwelling;
- (b) class "B" development which includes—
- (i) the erection of buildings or substantial alterations;
  - (ii) works and the carrying out of building operations.

(2) The approval for Class “B” development under subsection (1) (b) may be granted provided that—

- (a) the carrying out of works for the maintenance of improvements or other alteration of or addition to any building where such alterations or additions are done do not exceed 10% of the floor area of the building;
- (b) the carrying out by a competent authority of any works required for the construction, maintenance or improvement of a road, if the works are carried out on land within the road reserves; and
- (c) the carrying out by the county government of any works for purposes of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including breaking open of any street for that purpose and the installation of services by the county government; shall not constitute development for the purposes of part.

(3) The county government and any other person carrying out works approved by the county government, shall, within seven days after completion of works carried out in this section, restore the site to conditions that would not be injurious to users and the environment.

#### **Exemption from development control**

48. A building which is not a public building or a dwelling house and is not constructed to be used for human habitation or as a place of habitual employment of any person in manufacturing, trade or business but which is constructed for use exclusively in connection agricultural estates, shall be exempt from this Part if it—

- (a) is situated not less than ten meters from any public road or road of access and not less than two meters from any building other than a building exempted under this part and from the nearest boundary of any adjoining land and premises; and
- (b) is constructed on land not being within any residential, business, commercial or industrial area or zone as determined by the County Government.

#### **Grant of permission to erect a building**

49. (1) The Director may, in writing allow for the erection of building where the materials used or the standard of construction and general appearance of the building are not regarded by the County Government as consistent with good, and satisfactory development, or which are of temporary nature or for occupancy of short duration.

(2) Any permission granted under this Part shall be upon such terms and conditions as the Director may prescribe.

### **Application for building license**

**50.** (1) A person who proposes to erect a building on any commercial land shall apply for approval to the authorized officer in the prescribed form.

(2) An application under subsection (1) shall be made in the form prescribed in the Fourth Schedule of the Physical Planning Act and shall contain written particulars relating to the following the purposes for which the building or erection will be used—

- (a) the number of dwellings or separate tenancies or occupancies to be provided in the building;
- (b) the material of which the building will be constructed;
- (c) the mode of drainage and means of disposal of waste water, soil water, roof water and other liquid;
- (d) the water supply;
- (e) in the case of public building the number of persons to be accommodated in each part thereof, the means and capacity thereof for ventilations and the provisions made for the safety of the public; and
- (f) in the case of any building other than public building, the maximum number of persons to be employed and otherwise is accommodated in each part thereof.

(3) The application under subsection (1) shall be submitted to the authorised officer in triplicate or in the case of factories in quadruplicates or upon the request of county planner such further copies.

(4) An application under subsection (1) shall be accompanied by permanent blue prints made from a tracing in permanent ink, the following plans, sections, elevations and drawings delineated in a clear and intelligible manner and signed by the applicant or a duly authorized agent—

- (a) a plan of every floor or storey;
- (b) a drawing of each elevation;
- (c) sufficient sections of the buildings from the foundations to the uppermost part of the structure to illustrate the construction thereof;
- (d) such detailed drawings as may be necessary;

- (e) a block plan of building sand site;
- (f) a key plan showing the building and the site when it is not sufficiently identifiable from the block plan or as not properly shown thereon; and
- (g) in the case of alterations and additions, sufficient drawings to show clearly the existing structure and arrangements and the proposed alterations and additions.

#### **Details of application documents**

**51.** (1) The plans, elevations and sections submitted together with an application for approval of building plans shall be to a scale of not less than one is to one hundred (1:100) or if the building is so extensive as to render a small scale necessary not less than one to two hundred (1:200), but in the latter case ample detailed drawings shall be provided to show clearly methods of construction.

(2) The block plan shall not be to a scale of not less than one is to one thousand (1:1000) except where the area of the plot is in excess of two hectares in which case the block plan may be one is to two thousand five hundred (1:2500) but in the latter case sufficient detailed plan shall be provided on other drawings to show clearly the sitting and layout of buildings and their drainage.

(3) There shall be shown—

(a) on the plans, elevations and sections—

- (i) the levels of the site of the buildings; the levels of the lowest floor of the building, the level and slope of any street adjoining the carriage of the building in relation to one another and above some known datum, provided that the relationship between the level of the lowest floor and the level and slope of the street need not be known if the building is more than six meters away from the boundary of the street;
- (ii) the position, form and dimensions of the foundations, walls, floors, roofs, chimneys and several parts of the buildings;
- (iii) the position, form and dimensions of every water- closets, urinal, pail closet, water tank, cistern to be constructed or installed in connection with the building;
- (iv) details of the proposed drainage work including the position, form and arrangement of the several part of the building to which such drainage work refers, the size, gradient materials

- and position of every drain; the size position and construction of every manhole, inspection chamber, septic tank, cess pool, storage tank, sewage filter installation or other work for the treatment, storage, reception or disposal of sewage or drainage;
- (v) the size materials of every galley, soil type, waste pipe, ventilating pipe and rain water pipe; the position of every soil fitting and waste water fitting and the position of every soil fitting and waste water fitting and the position of all windows and other openings into the building situated within a distance of six metres from the open end of every soil pipe, waste pipe and ventilation pipe; and
- (vi) The purposes of which each portion of the building will be used and the extent of each portion which will be separately occupied or tenanted.
- (b) on the block plan—
- (i) the size and position of the building and its appurtenances and the size and position of any existing buildings on the plot and the nature of their construction and use;
- (ii) the position of any buildings on any adjoining plots or sub-plot which are within fifteen meters from the plot on which the proposed building is to be erected, and the nature of their construction and use, and the building lines of the adjacent buildings;
- (iii) the name, position and width of every street adjoining the cartilage of the building;
- (iv) any established, proposed or prescribed building line;
- (v) the size and position of every yard and open space belonging to the building;
- (vi) the position of every water-closets, urinal, pail, closet, latrine, well and water tank or cistern and every out-building in connection with the building;
- (vii) the lines of drainage of the building, the size, the depth and inclination of every drain and the means to be provided for ventilation of the drain, and the position of every manhole, inspection chamber, gulley, junction, bend, intercepting trap and connection with a sewer combined drain, septic tank or other receptacle for drainage;

- (viii) the position and level of the outfall of the drain and the sewer, if any, to which the drain will be connected; and
  - (ix) the means of disposal of sewage, waste water, rain water and the liquid discharged from the building and the position of such means.
- (c) upon the detail drawings, such parts of the structure as cannot be adequately illustrated on the plans and drawings made to the scales herein specified.

(4) The Director may require an applicant to supply such additional or supplemental plans, drawings, figured dimensions, particulars and structural calculations as the county physical planner may require.

#### **Supplemental plans**

52. In the case of structural work of steel, reinforced concrete or timber, the applicant shall provide a certificate from the designer who shall be a practicing, chartered, civil or structural engineer or other person with similar qualifications acceptable to the Director that the design conforms with the relevant British Standard Codes of practice.

#### **Retention of plans**

53. One set of the plans and drawing submitted for approval shall be retained by the Director in the case of leasehold land, one set by the National Land Commission in the case of factories and one set by the Chief Inspector of factories.

#### **Restriction on development**

54. (1) A person shall not carry out development within the county without development permission from an authorised officer.

(2) Any person who contravenes sub-section (1) commits an offence and shall be liable to a fine not exceeding five hundred thousand Kenya Shillings or to imprisonment for a term not exceeding five years or to both.

#### **Payment of fees**

55. An applicant under this part shall pay to the county government such application fees as may be prescribed under this Act.

#### **Compliance with requirements**

56. (1) An application for the erection of a building shall contain the following particulars of the proposed building plan—

- (a) sitting, design and amenities;

- (b) coverage;
- (c) space about buildings, lighting and ventilation;
- (d) boundary walls or hedges;
- (e) materials;
- (f) building sites;
- (g) drainage, sewerage, septic tanks, conservancy;
- (h) fire safety precautions and emergency exit, refuse disposals;
- (i) water supply; and
- (j) advertisements and signs.

(2) The Director may require that make the applicant complies with other requirements relating to loadings, foundations, resistant to fire, damp and weather, roofs, floors, chimneys, flues, hearths, reinforced concrete and steel structures, stairs and lifts.

(3) An applicant shall ensure that the plans and building are in conformity with this part, the British Standard Specification published by the British Standard institution, for any material or the British Standard code of practice published by the British Standard institution, for any building preparation.

#### **Approval of building plans**

57. If the Director approves plans for the erection of a building, the Director shall by notice notify the decision for approval in accordance with the Physical Planning Act, Laws of Kenya.

#### **Disproval of building plans**

58. If the Director disapproves the plans for the erection of a building, the Director shall notify the applicant within thirty days of the reason for disapproval.

#### **Minor alterations and additions**

59. (1) The county physical planner may grant permission to applicant to proceed with any minor alteration or addition to a building or to the erection of any boundary wall or screen wall or fence or of a hoarding which complies generally with the intent and purpose with this Act but which may be regarded as of minor importance.

(2) The permission granted under subsection (1) shall be deemed to be the approval of the county government of the applicant's proposals and drawings.



(3) Permissions granted under subsection (1) shall lapse if it is not acted upon within six months from the date of such permission.

**Nullification of approval**

60. The approval for plans for erection of a building shall be invalid if—

- (a) the erection has not been commenced within twelve months after the date of such approval, or
- (b) the erection has been commenced but the building has not been completed within two years from the date of approval unless the Director approves an extension.

**Enforcement notice**

61. (1) The Director may issue an enforcement notice to an owner, occupier or developer of land who develops land without a development permission or in contravention of the conditions of the permission.

(2) An enforcement notice shall specify the—

- (a) development alleged to be carried out in contravention with this Act;
- (b) measures to be taken in order to comply with this Act including the restoration of land to its original condition, demolition or alteration of any building or works, discontinuance of use of the land or any part of the land or the construction of any building;
- (c) time within which the measures are to be undertaken in compliance with this Act.

**Offence of Carrying out works without development permission**

62. (1) Any person who commences to erect a building without plans having been approved or the approval plans have been having obtained the County Government's approval of the plans for the erection of a building, erect such building otherwise than in accordance with the approved plans commits an offence.

(2) An authorised officer may by notice served on a person require him or her to—

- (a) cease the erection of such buildings;
- (b) erect such buildings strictly in accordance with the approved plans;

- (c) execute such works or alterations or additions to such buildings as may be prescribed in such notice in order to render such buildings safe and sanitary and
  - (d) to remove or demolish such building.
- (3) Where a person, having been served with the enforcement notice, does not comply with the notice within the stipulated time, the Director shall, upon the expiration of the notice period, stop the continuation of the development and may demolish or remove any works erected on the land at the owner, occupier or developer's cost.

#### **Access to building plans**

**63.** (1) Any person who proceeds to erect any building the plans of which have been approved by the county government shall—

- (a) give the County Planner not less than four days' notice in writing, of the time and date when—
  - (i) the erection of the building will be commenced;
  - (ii) the concrete or other materials laid over the site, or the foundation bed, or the foundation, or the footings or the damp-proof course will be completed and ready for inspection;
  - (iii) the reinforcement of a reinforced concrete structure will be placed in a position ready for inspection;
  - (iv) the roof construction will be commenced; and
  - (v) any drainage work will be commenced;
- (b) at all reasonable times allow the County Physical Planner, Medical Officer of Health, Public Health Officer, Building Inspector, Health Inspector or any other authorised, free access to the building or work for the purpose of inspection;
- (c) permit the County Physical Planner to take such samples of the materials to be used in the construction of any building or execution of work, as may be necessary to ascertain whether such materials comply with the provisions of this Part or with the approved plans;
- (d) not to erect any building or execute work otherwise than in conformity with the plans approved by County Government and in compliance with the provisions of this Part;
- (e) if such a person has received a notice from the Authorized Officer pointing out the respect in which the work or building

- does not conform to the plans as approved by the County Government or contravenes the provisions of this Part, such a person shall alter or amend the work or building to conform to the said plans and to comply with the provisions of this Part within the time stated in such notice, and shall advise the County Planner, in writing, of the completion of the alteration or amendment;
- (f) provide sanitary conveniences for the workers employed on the works to satisfaction of the medical officer of health;
  - (g) erect such hoarding as shall be necessary for the protection of the public;
  - (h) if any concrete or other material laid over the site, or any foundation bed, or foundation, or footing or damp-proof course is covered up before the same has been inspected and approved by the County Physical Planner, the County Planner will issue a notice in writing requiring the person, within the time specified in the notice to cut into, lay open or pull down so much of the building as prevents the County Physical Planner from ascertaining whether any of the provisions of this Part have been contravened or whether the approved plans have been complied with; and
  - (i) not to permit the damage or obstruction of any drain or drainage channel within any road reserve during building operations; not dump or permit to be dumped any building materials or rubbish or erect any hoarding within any road reserve without the written consent of the County Physical Planner nor otherwise than in compliance with any conditions he may stipulate;
  - (j) on completion of the building or work—
    - (i) remove from the site or from any adjacent land all surplus building and excavated materials and all rubbish and leave such site or land clean and tidy; and
    - (ii) restore and leave in good condition all pipes, drains, roadways, kerbs, water channel, roadside drains, footways, pavements or other things which may have been damaged or through the operations and transport.
  - (k) notify the County Physical Planner, in writing, when the erection of the building or execution of the work has been completed, such notice to be given as soon as practicable after completion thereof.

**Survey beacons**

64. The owner of any plot who submitted any application to erect any building thereon shall, if required by the County Physical Planner, point out the survey beacons marking the corners of such plot or sub-plot either before the application is approved or after the application is approved and before building operations are commenced.

**Inspection of foundation bed of buildings**

65. (1) Foundation bed, foundations, footings, damp-proof course, reinforcement in reinforced concrete, roof construction or drain shall be covered up only after such works are inspected and approved by the County Planner.

(2) The County Planner shall inspect the works within three days of the receipt of a notice, in writing from the owner of the building or the builder that such works are ready for inspection.

**Qualification for approval**

66. The approval of any plans, drawings, sections, particulars or calculations of any building or structure or work or the inspection thereof shall not in any way impose or imply acceptance of any responsibility on the part of County Government for the structural stability of any such building, structure or work.

**Certificate of completion**

67. (1) Every owner who shall intend to occupy a new building or permit the same to be occupied shall furnish to the County Government with a signed certificate of completion, to the effect that the building has been completed in every respect in accordance with the approved plans and particulars thereof, and shall apply for a certificate of occupation.

(2) On receipt of such certificate, the County Physical Planner, County Fire Officer and Public Health Officer, if satisfied that the building is in conformity with such approved plans and particulars and that it is fit for occupation, shall issue a certificate of occupation.

(3) A person shall only occupy a new building or being the owner of a building allow a building to be occupied after obtaining a written permit of occupation as required under this part.

**User other than specified**

68. (1) Where any building has been erected, a person shall not except with the permission of the County Government given under the hand of the County Physical Planner and upon such terms as the County Government may prescribe, use or being the owner thereof allow to be

used such building otherwise than for the purposes specified or indicated in the approved plan in respect thereof and for which purposes the building was constructed.

(2) In this section ‘purpose’ means the particular purpose for which a building or part thereof has been erected or to which it has lawfully been altered and not solely its general purpose as a domestic building, public building or other type of building.

(3) In a domestic building only, that portion thereof which has been erected as a dwelling may be used as such.

(4) In a dwelling any habitable room therein which complies with the provisions may be used as such notwithstanding its designation on the approved plans but no apartment such as a larder, store, pantry, closet or scullery, not designated or designed as a habitable room shall be used as a habitable room.

(5) No apartment provided in connection with a domestic building for the express purpose of housing domestic servants shall be used by other than domestic servants of the occupier or occupiers of the building.

### **Public buildings**

69. All public and industrial warehouses shall be designed and constructed as to allow maximum access and facilities for the people living with disabilities such toilets, lifts and access facilities.

### **Safety and performance certificate**

70. The county government shall issue a safety and or performance certificate to all buildings periodically every five years detailing the—

- (a) planned maintenance which is the maintenance carried out as a result of fore thought, control and the issue of records to a predetermined plan;
- (b) preventive maintenance which is the maintenance carried out at predetermined intervals or corresponding to prescribed criteria and intended to reduce the probability of failure or the performance degradation of an item. An all-inclusive audit shall be conducted to ascertain all aspects of building constructed and installation; and
- (c) condition based maintenance which is the preventive maintenances initiated as a result of knowledge of the condition of the building from routine or continuous monitoring that is through periodic condition surveys.

**Performance compliance certificate**

71. (1) Safety and performance compliance certificates shall be classified into the following categories for the different types of buildings—

- (a) category 1;
  - (b) category 2; and
  - (c) category 3;
- (2) The different categories are described as follows—
- (a) category 1 which is domestic or public or industrial buildings which are sound and which do not require any immediate maintenance activities or remedial action;
  - (b) category 2 which is domestic or public or industrial buildings which are sound and but with minor defects requiring remedial action;
  - (c) category 3 which is domestic or public or industrial buildings which have deteriorated to a level where no remedial action can restore it to original designed function and is therefore condemned and must be demolished.
- (3) The buildings to which categories (2) and (3) of this Part apply are Domestic building, Industrial, factory or warehouse buildings and Public buildings with the exception of buildings of historical value as defined in the relevant Act.

**Conservation and heritage**

72. (1) For purposes of conservation and heritage, the county government shall regularly identify and list buildings of historic and heritage value.

(2) The above buildings are to be protected and conserved by the owners and shall not be demolished or altered without authority of the county government who will work in consultation with antiquities bodies or National Museums of Kenya.

(3) Incentives in the form of reduction on land taxes may be provided to the respective owners by the National Government and County Government.

(4) The buildings and their neighborhoods shall be identified and preserved as conservation sites or areas.

### **Strategic development plan**

73. (1) The County Government shall put in place zoning maps to guide developments within the County.

(2) The zoning maps shall be reviewed regularly within the review period of development strategies.

(3) The County Government shall do regular spot zoning to capture anything missed out during the regular zoning.

(4) The County Government shall put in place and operationalize a building code.

### **Offences**

74. A person who fails to comply with the provisions of this Part commits an offence and shall be liable upon conviction to a fine not exceeding fifty Thousand Kenya Shillings or to imprisonment to a term not exceeding seven months or both.

## **PART IV—BUILDING CONTROL**

### **Erection of buildings**

75. For purposes of this Part, any of the following operations shall be deemed to be the erection of a building or the carrying out of development, the—

- (a) erection of any new building;
- (b) erection of any addition to an existing building;
- (c) re-erection or alteration of any part of an existing building;
- (d) re-erection of any building or part of a building where an outer wall of that building or that part of a building has been destroyed, pulled down, burned down or damaged either wholly or partially;
- (e) roofing-over any space between walls or buildings;
- (f) changing of the use, or purpose for which a building, part of a building or appurtenances thereto are used,
- (g) increasing or reducing the number of dwellings or separate tenancies to execute any alterations or works in connection with the proposed change;
- (h) carrying out of any drainage works and water service works; or
- (i) changing of use of the land including quarrying, dumping and drying operations.

**Building Code**

76. (1) The Director shall prepare a building code that shall be adopted by the County Executive Committee and approved by the County Assembly.

(2) Any person who intends to erect a new building or premises or re-erect an existing building shall comply with the building code.

**Approval of building plan**

77. (1) Building plans shall be prepared in accordance with the building code and any other requirement prescribed by any written law.

(2) A person intending to erect a new building or re-erect an existing building shall apply to the Director for approval of the building plan in accordance with any conditions set under this Act, in the prescribed form and upon paying the prescribed fees indicating the—

- (a) purpose for which the building or erection will be used;
- (b) number of dwellings or separate tenancies or occupancies to be provided in the building;
- (c) mode of drainage and means of disposal of waste water, soil, water, roof water or other liquid;
- (d) water supply for the building or erection;
- (e) number of persons to be accommodated in each part of the building or erection;
- (f) means and capacity for ventilation; and
- (g) the provisions made for the safety of the public.

(3) The Director shall, within thirty days of an application under this section, review the building plan and if satisfied that the plan complies with the requirements of this Act, approve the plan.

(4) The Director shall reject any building plan that does not meet the conditions stipulated under section 48 and in so doing, give reasons to the applicant.

(5) An applicant whose application is rejected under subsection (4), may re-submit the application upon complying with the matters raised by the Director.

**Refusal of approval**

78. The Director may refuse to approve any new building or proposed development, or alteration or addition to any existing building if—



- (a) the proposal is not in conformity with approved development plans;
- (b) such plan contravenes this Act or any other written law;
- (c) the plans are not correctly drawn or that they omit to show information required under this Act;
- (d) the plans contravene any national or County Regulations.

#### **Deposit of plans**

79. Copies of building plans approved under this Part shall be deposited with the Director.

#### **Compliance with approved plans**

80. (1) No person shall erect or re-erect any building except in accordance with the building plans approved under this Act.

(2) A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

#### **Exemptions and partial exemptions**

81. Buildings constructed exclusively for the following purposes shall be exempt from this Part except those that require notice of the intention to erect a building to be given, submission of site and block plans, written particulars and notice of any material change of user—

- (a) poultry house, aviary, dog kennel, greenhouse or orchard house;
- (b) a fuel store other than for the storage of petroleum fuels, kerosene or alcohol;
- (c) a garden tool shed, potting shed or cycle shed;
- (d) a moveable dwelling or tent.

#### **Terminal features**

82. (1) The Director shall prescribe the siting, size, height, shape or appearance of a building where the building may be sited so as to form a terminal feature to a street.

(2) An owner, occupier or developer of a parcel of land referred under subsection (1) who fails to comply with this section commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding six months or both.

#### **Sites of public building**

83. (1) No person shall erect a public building on any site unless that site is provided for in the physical development plan for that purpose and with the approval of the Director.

(2) The Director may refuse to approve a site under subsection (1) on the grounds that the—

- (a) site is not suitable for the purpose indicated in the application;
- (b) erection on the site of any such public buildings would be contrary to public interest;
- (c) site does not sufficiently provide for the safety of persons frequenting such public building or the general public;
- (d) discharge of audiences or patrons from any such building on a site is likely to interfere with the safe conduct of traffic in the streets; or
- (e) site is so close to another public building that congestion of traffic may be possible; or car parking provision on or in the vicinity of the site is inadequate.

(3) The site of buildings accessible to the public including theatres, cinematography halls, shopping malls, music halls, social hall and concert halls shall—

- (a) have two sides as frontage to a public street; and
- (b) have a passageway of such width and direction as shall enable the persons accommodation in the premises to disperse rapidly in the event of fire or panic; and
- (c) afford facilities for the approach and use of fire appliances.

(4) Notwithstanding subsection (3), a private open and paved passageway leading to a street may be regarded as equivalent to a public street if—

- (a) it is for the exclusive use by persons visiting the premises stipulated under subsection (3); and
- (b) has a minimum width of twenty-four feet or such with as the Executive Committee Member may prescribe.

### **Building frontage**

**84.** (1) A building shall not be erected—

- (a) on any plot or sub-plot which has no proper or sufficient frontage to a street, such street, not being a sanitary lane or passage;
- (b) so as to have its principal access to or its principal frontage abutting on a service lane, alley or passage except with written permission from the Director.

(2) No means of access from a service lane for use by the public shall be permitted in any premises used for retail trade coverage.

### **Sanitation**

**85.** (1) All new buildings and all additions to existing buildings, including out-buildings, latrines, drains and sanitary apparatus of any kind shall be situated on such plot on which they may be built.

(2) The buildings referred under subsection (1) shall—

- (a) meet the best practicable hygienic and sanitary conditions;
- (b) not result to any nuisance or annoyance from the position and appearance.

### **Cartilage**

**86.** Except in the case of dwelling contained in a special block of flats or a block of flats where any building is designed, constructed or used so as to provide within the same building more than one dwelling for a single family—

- (a) each such dwelling shall be deemed to be a separate house and shall have its own separate area;
- (b) cartilage or open space shall be contiguous with such dwelling as if it were a separate building; and
- (c) the number of such dwellings shall not exceed the number permitted under this Act for the area within which the building is situated.

### **Change of class of a building**

**87.** Where the use of any building or part of that building of any one class or combination of classes is altered to that of another class or combination of classes for which a less amount of coverage is required under this Act, not less than the minimum open space required under this Act shall be provided for the class or combination of classes to which the building has been altered.

### **Building lines**

**88.** (1) The Executive Committee Member may prescribe a building line on any road to be such distance from the road reserve boundary as the Executive Committee Member may deem expedient for preserving the amenity of the road.

(2) No person shall erect any building other than a boundary wall or other fence nearer to the road beyond the prescribed building line.

(3) The building line may vary in distance from the road boundary throughout a road or part of such road.

(4) The building line shall generally be in accordance with the specification described below—

- (a) where roads range between six metres and eighteen metres in width, the building line shall be six metres;
- (b) for any road above eighteen metres in width the building line shall be nine metres.

(5) Notwithstanding the provisions of this Part regarding the minimum size of plots in any area, a plot at any street corner shall be made to adequate size to permit the establishment of satisfactory building lines where appropriate, and to provide for proper utilization of such plots within the building lines.

#### **Back-to-back dwelling**

89. (1) A person shall not erect a building in such manner as to provide any back-to-back dwelling.

(2) For purposes of this section, the expression “back-to-back” dwelling includes any dwelling the whole of the habitable portion of which is not adequately and efficiently ventilated by means of ventilating aperture communicating directly with the external walls.

#### **Access to rear of building from street**

90. Access of not less than one decimal six metres in width shall be provided from the street to the rear of buildings other than through the building where such access is not provided from a side passage or rear line.

#### **Access to dwelling and other buildings.**

91. (1) A domestic building or every part of a building which in the opinion of the Director may be from a separate tenancy or occupancy, shall have an independent access to a street, such street not being a sanitary lane or passage.

(2) Notwithstanding subsection (1), dwellings contained in a special block of flats or a block of flats or separate offices within a building may have a common access to a street.

(3) Within every plot or sub-plot upon which it is intended to be erected a domestic building there shall be laid out and constructed sufficient and suitably made footpaths of not less than one metre in width and where applicable, such vehicular ways as to provide adequate means

of passage between the building and the nearest or most convenient road to which the plot or sub-plot has a frontage.

(4) Where any roadway is laid out and constructed for the purpose of providing access from any building to any road, street or lane it shall be extended from the boundary of the plot to the edge of the carriageway within the road, street or lane and the siting of such access road shall be in accordance with the specifications of the Director.

### **Canopies and projections**

92. (1) A canopy may, with the permission of the Director be erected over a footway but such canopy shall—

- (a) not be less than three metres above the level of the footway;
- (b) not extend outwards from the building so as to be nearer the vertical plans of the kerb line of the footway than zero decimal six metres;
- (c) be impervious to moisture on the upper surface and drained in a manner which shall prevent the discharge of water there from on the footway.

(2) A canopy shall be used in conjunction with or as a means of access to any room or apartment.

(3) No person shall place or permit or cause to be placed any article or load upon any canopy.

(4) Where it is considered desirable that canopies should be erected in front of new buildings, the Director may require the owner to provide in the design of such buildings for canopies and such structures shall conform to the conditions or design and materials as the structural engineer may prescribe.

(5) The Director may require an owner of a building, when such owner erects a new building, to construct a canopy at the owner's cost.

### **Offensive sites**

93. No building shall be erected on any site which has been made up or filled up by offensive or insanitary materials on which has been used for the deposit of the refuse, excrementious materials or carcasses of dead animals or other filthy or offensive matter until such site has been dealt with to the satisfaction of the County Public Health Officer, County Chief Materials Engineer, National Environment Management Authority and the Director.

### **Space in front of buildings**

94. (1) A domestic building shall be so sited as to leave an open space immediately in front thereof, which space shall extend throughout the

whole width of the front of the building to a distance of not less than six metres measured at right angles therefrom.

(2) Where the building fronts on a street of lesser width than stipulated under subsection (1), the width of such open space may be not less the width of the street, together with one half of the difference between that width and six metres.

(3) Any part of an open space left as provided under this section which lies within the plot shall be free from erection above the level of the ground, except a fence or wall not exceeding one decimal four metres in height or a portico, porch, step or other like projection from the building or a gate.

#### **Minimum measurement of courtyard**

95. Where any building contains more than one dwelling and is designed to have an internal courtyard or open space, there shall be provided within such courtyard or open space an area free from obstruction of not less than thirty-two decimal five square metres and having no dimension less than four decimal five square metres.

#### **Secondary means of access**

96. Unless the Directorate otherwise permitted, a building shall be provided with a secondary means of access.

#### **External passage**

97. Any passage between buildings erected on the same plot or between a building and the boundaries of the plot on which such building is situated, shall have minimum dimensions of one decimal two metres in width and two decimal one in height.

#### **Service area**

98. A person erecting a building shall provide to the satisfaction of the Director, a service area for the security serving that building, loading and unloading of vehicles, dustbins, and such other purposes as the Director may require, and the means of the access thereto shall be of a width not less than three meters.

#### **Permitted advertisements**

99. The owner of a building may display the following illustrated advertisements without the prior approval by the Director—

- (a) in the case of shops, the name and occupation of the occupier, provided that the letters are not greater than zero decimal three meters in depth and contains not more than six words;

- (b) in the case of offices, a notice board displayed at the ground floor entrance to the premises not exceeding zero decimal three square metres total for all occupiers;
- (c) any advertisement displayed within a building or on land or building not visible from a street;
- (d) notices in connection with religious events or residential plots.

### **Hanging sign**

**100.** The owner or occupier of any premises may display hanging advertisements with the consent of the Directorate provided that they do not exceed one decimal eight by zero decimal six meters and the bottom of the sign is two decimal four minimum height from the pavement.

### **Advertisements requiring permission.**

**101.** (1) The display of advertisements not mentioned in section 72 shall require permission from the Director.

(2) The grant of permission under subsection (1) shall depend on—

- (a) the location, size and colours of the billboard;
- (b) the traffic and pedestrian safety;
- (c) the religious, cultural and moral character of the advertisements;
- (d) the preservation of the natural environment;
- (e) the scenic beauty;
- (f) the preservation of natural monuments and archaeological sites;
- (g) the general amenity; and
- (h) any other factor that the Director may consider necessary.

### **Removal of unauthorized advertisements**

**102.** The Director may by a written notice, require any person who displays an advertisement under section 101 without permission to remove such advertisement within the time specified in the notice.

### **Register of development plans**

**103.** The Director shall maintain a digitized register containing the following information—

- (a) the physical development plan and all zoning regulations issued therein;
- (b) particulars of any application for permission to develop made to it in respect of any land, including—

- (i) the land reference number of the property;
- (ii) the road, sub-county and town in which it is situated;
- (iii) the name and address of the applicant and registered number and;
- (iv) the date of receipt of the application and brief particulars of the development forming the subject of the application;
- (c) particulars of any direction given under the Act in respect of the application;
- (d) the decision of the Director or County Spatial Planning and Coordinating Committee in respect of the application and the date of such decision;
- (e) the date and effect of any decision of the County Spatial Planning and Coordinating Committee in respect of any application referred to it under this Act;
- (f) the date and effect of any determination or order of the County Spatial Planning and Coordinating Committee in respect of an appeal against a decision of the application;
- (g) the date and effect of any decision of the High Court in respect of an appeal against the determination of the Directorate or County Spatial Planning and Coordinating Committee.

**Index to register**

104. A register may contain an index in the form of cards and each card shall contain the—

- (a) reference number of the property which is the subject of the application;
- (b) road, district or town in which it is situated;
- (c) name and address of the applicant; and
- (d) registered number of the application.

**Entry into register**

105. 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.

**Inspection of register**

106. The register shall be kept at the offices of the Director and made available for inspection by the public during normal working hours.



### **Access to records**

107. (1) The Director may demand the production of, and make extracts from, all registers or other records or any deeds or instruments belonging to, or in the custody of any public officer or any person in which are contained particulars of any land or property affected by any physical development plan.

(2) The Director shall—

- (a) regard any information obtained under subsection (1) as confidential and shall not divulge it to any person except as may be prescribed by any written law or by an order of a court; and
- (b) ensure that the physical development plan and the list of all development permissions granted under this Act are accessible to any person subject to the prescribed procedures.

### **Right of entry**

108. (1) The Director, an officer of the Directorate or any person authorized by the Director in writing may enter any land or premises for purposes of enforcing this Act.

(2) A person shall not have the right to enter upon any land or premises until after the expiration of forty-eight hours after a notice of entry has been served on the owner or occupier of the land or premises.

(3) The owner or occupier of any land or premises affected by the exercise of a right of entry under subsection (1) may apply for compensation for any damage caused by the person entering upon the land or premises, provided that nothing done by any duly authorized person in the bona fide execution or purported execution of the functions under this section shall make such person personally liable for any claim.

(4) Any person who hinders or obstructs the authorized person in the exercise of any of the powers conferred by subsection (1) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both.

### **Preservation of special value buildings**

#### **No. 6 of 2006**

109. (1) Subject to the provisions of the National Museums and Heritage Act, the Director may, after consultation with the Executive Committee Member responsible for museums, serve on the owner or occupier of a building which in the opinion of the Director is of special architectural value or historic interest, an order prohibiting the demolition, alteration or extension of such building.

(2) The Director shall not make an order under subsection (1) in respect of any building declared under the National Museums and Heritage Act to be a monument.

(3) The physical development plan shall take into account and record all heritage declared or deemed to have been declared under the National Museums and Heritage Act or county law governing museums.

### **False information**

**110.** Any person who knowingly makes any false statement in or in connection with any application or appeal under this Act commits an offence and shall be liable to a fine not exceeding twenty thousand shillings or to a term of imprisonment not exceeding six months or to both.

### **Development audit**

**111.** The Director shall audit all physical developments undertaken prior to the commencement of this Act to ascertain their compliance with the Act.

### **Authentication and validity of notices and orders**

**112.** (1) Any notice, order or other document from the Directorate made under this Act may be signed by an officer authorized in that behalf by the Director.

(2) Any notice, order or other document from the County Spatial Planning and Coordinating Committee made and issued under this Act shall be signed by the chairperson of the County Spatial Planning and Coordinating Committee.

(3) No notice, order or other document duly authenticated in accordance with this Act shall be invalid by reason only of a defect in the form thereof

### **Exemption from liability**

**113.** The approval of any drawings, particulars or calculations of any building or structure or work shall not in any way impose or imply acceptance of any responsibility on the part of the County for the stability of any such building structure or work.

## **PART V—MISCELLANEOUS**

### **Regulations**

**114.** (1) The Executive Committee Member may make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may prescribe—

- (a) the fees and charges payable under this Act;
- (b) the forms applicable under this Act;
- (c) the procedures for accessing records under this Act;
- (d) procedure for making applications to the County Spatial Planning and Coordinating Committee; and
- (e) the conduct of business and affairs of the County Spatial Planning and Coordinating Committee.

### **Savings**

#### **Cap 286**

115. (1) All approvals lawfully and duly undertaken and registered under the Physical Planning Act prior to the commencement of this Act, shall be deemed to have been conducted under this Act.

(2) Any matter or proceeding commenced under the Physical Planning Act and pending or in progress immediately before the commencement of this Act, may be continued, completed and enforced under this Act

### **Transition**

#### **Cap 286**

116. (1) The owner, occupier or developer of land or building developed prior to this Act in contravention to the Physical Planning Act shall within six months comply with this Act.

(2) A person who contravenes this section commits an offence and shall be liable to a fine of three hundred thousand shillings.

**FIRST SCHEDULE****MATTERS WHICH MAY BE DEALT WITHIN SPATIAL PLAN**

1. The spatial plan, shall have for its general-purpose orderly, coordinated, harmonious and progressive development of the area to which it relates in order to promote health, safety, order, amenity, convenience and general welfare of all its inhabitants, efficiency and economy in the process of development and improvement of communications.

2. The classification of the plan area for residential, commercial, industrial and other purposes, including the provision of special areas for factories, or industries generally, or for shops, warehouses, stores, stables and other buildings used for commercial and industrial purposes and fixing the sites for buildings required for any of the purposes mentioned in paragraph (1) and for open spaces, public and private, and prohibiting the carrying on of any trade or manufacture, or the erection of any building, in a particular part of the area otherwise than in accordance with the provisions of the plan.

3. The basis for disposing of land acquired, or to be acquired under the plan by the county or relevant authority.

4. The re-planning and reconstruction of the plan area, or any part thereof, including any provisions necessary for—

- (a) the pooling of the lands of several owners, (or any lands, roads, streets, or rights-of-way adjacent or near thereto); and apportionment of planning fees, and other expenses of preparing the plan among the owners concerned;
- (b) the re-division of such land among such owners;
- (c) providing for or making new roads, streets, or right-of-way;
- (d) adjusting and altering the boundaries, areas, shapes, and positions of any such land, road, street, or right-of-way;
- (e) effecting such exchanges of land or cancellation of existing subdivisions as may be necessary or convenient for the purposes mentioned above in this section;
- (f) adjustment of rights between owners or other persons interested in such lands, roads, streets, or right-of-way;
- (g) the vesting of such lands, roads, streets, or right- of-way, subject to any rights or trust, and any other provisions necessary for giving effect to the purpose mentioned above in this paragraph.

5. Determining the type and density of development generally or in any particular locality.
6. Conservation of the natural beauty of the area, including any inland waters, banks of rivers, foreshore of harbours, and other parts of the sea, hill slopes and summits and valleys.
7. The preservation and enhancement of historic buildings and objects of architectural, archaeological, historical or scientific interest.
8. Probable routes for railways and canals, probable sites for bridges, docks, harbours, piers, quarries, power lines, telecommunication, water drainage and sewerage; or any other work or undertaking of public utility.
9. Works ancillary to or consequent on the plan.
10. The closure or variation of any right-of-way or easement, public or private or of any restrictive covenants affecting land.
11. Power of entry and inspection.
12. Basis for the county to acquire land or buildings or make any agreement or proposal in respect thereto.
13. Basis for the county to declare any land referred to in the plan as land reserved for streets to be public streets.
14. Basis for the county to execute street works on land referred to in the plan as land reserved for streets and incidental works upon adjacent land.
15. Power of the county and subject to such of the provisions of the Public Roads and Roads of Access Act (Cap. 399), and the Street Adoption Act (Cap. 406) as are applicable to land reserved for streets by the plan, be reserved for streets.
16. Basis for the Directorate to fix the building lines not shown on the map illustrating the plan.
17. Power of the Directorate to permit buildings in advance of building lines fixed by the plan.
18. Basis for the Directorate to fix improvement lines for existing streets and building.
19. The area to which the plan is to apply.
20. The recovery of expenses incurred in giving effect to the plan, and the time and manner of payment of such expenses.
21. The carrying out and completion of the plan generally, and particularly the time and manner in which, and the person and authorities

by whom or by which the plan, or any part thereof, shall be carried out and completed and its observance ensured.

**22.** The limitation of time for the operation of the plan, or of any parts of the plan, for the renovation of any works which are to be executed as part of the plan.

**23.** Where any group of plots or holdings of land are compulsorily pooled and redistributed or where the boundaries, areas, shapes or positions of any plots or buildings or land are compulsorily readjusted by a plan approved under this Act the provisions of the Land Registration Act, 2012 shall take effect.

**24.** Any matter necessary or incidental to local physical development plan.

**SECOND SCHEDULE**  
**LONG-TERM, SHORT-TERM, RENEWAL AND RE-**  
**DEVELOPMENT PLANS**

**A—LONG-TERM PLAN**

**Purpose**

1. The purpose of long-term plans includes—

- (a) interpreting regional or zonal physical development policies in terms appropriate to the local area;
- (b) articulating the aims of the county government for the area together with strategies, policies and general proposals which are intended to achieve those aims;
- (c) providing a framework for detailed policies and proposals for subsequent short-term plans for the area;
- (d) indicating the action area for immediate development or redevelopment;
- (e) providing a coordinated basis upon which various implementing agencies can develop their individual programmes of work for which they have executive responsibility, for example, housing, transportation, water supply, electricity supply, sewerage developments, etc.;
- (f) showing the amount of land sufficient to accommodate the growth of the county over a period of twenty to thirty years; and
- (g) outlining the transportation and communication networks to serve the area over a period of twenty to thirty years.

**Content of the Plans**

2. (1) A statement of problems and objectives which include the—

- (a) main problems of the local area for example, housing, unemployment, traffic congestion, pollution, land tenure, lack of services, bad terrain or soils, etc., all based on a preliminary reconnaissance of the local area;
- (b) opportunities of the local area, for example, tourism, fishing, manufacturing; and
- (c) main objectives of the plan to alleviate the local area problems and maximize utility of any specific opportunities.

(2) Physical analysis which include the—

- (a) general statements on the terrain, soils and climate together with illustrations using maps and charts to show what areas are physically suitable for development;
  - (b) existing land uses and development potential pattern of development, land tenure system and cadastral outlay of all development.
- (3) The population and economic base include the—
- (a) population growth, migration, density, and distribution, age and sex structure, household sizes and rates of house hold formation;
  - (b) employment and incomes including where people go to work and what trend and problems there are in relation to services;
  - (c) agricultural potential of the urban region showing various agricultural activities and the process as well as problems of transforming the agricultural land into urban use;
  - (d) peri-urban slum settlements and problems they pose;
  - (e) potential, distribution and size of service centres within and outside the urban boundary together with evaluation of urban boundary extension;
  - (f) evaluation of the importance of such factors as commerce and tourism within extended areas of the township administration;
  - (g) housing occupancy rates, accommodation density, housing requirements, type of residential areas and industrial locations; other social aspects including education, recreation areas and other public purpose land uses
- (4) Communication and services which include—
- (a) historical pattern and condition of communications networks such as roads, footpaths, cycle ways, railway lines, depots, water ways; and
  - (b) historical patterns and conditions of water and sewerage networks including plan programmes.
- (5) Power and telephone lines which must be analyzed with respect to their way leaves requirements.
- (6) Land use projection tables which include a master table showing the relationship of existing population and land uses to realistic projections.
- (7) Maps and development models which include the—



- (a) existing situation and sieve maps of the physical constraints or thresholds to development;
- (b) existing land use maps;
- (c) development model map showing land use designation and distribution alongside a clear transport and communication network.

**B—SHORT-TERM PLANS**

3. (1) Short-term plans are of the following types—

- (a) Action area plans, for comprehensive planning of areas selected for intensive development, which is to commence within a specified period.
- (b) Subject Plans, for detailed treatment of a particular planning aspect, for example, residential, transportation, water supply, sewerage, in part or all of a long-term plan.
- (c) Advisory or zoning plans, indicating permitted subdivision, use and density of development.
- (d) Part developments plans, indicating precise sites for immediate implementation of specific projects including land alienation purposes.
- (e) 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.

(2) The important considerations in the preparation of the plans above shall be—

- (a) an assessment of immediate land requirement to accommodate specific population needs as they arise for a period of three to five years;
- (b) 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
- (c) 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

Directorate, all such plans must have a seal of approval of the Directorate before their implementation.

#### **C—RENEWAL OR REDEVELOPMENT PLANS**

4. (1) The purpose of renewal or redevelopment plans include—

- (a) providing a broad land use framework illustrating a coordinated policy of renewal and guiding public and private redevelopment activities;
- (b) providing a road pattern and traffic networks designed to improve vehicular access and parking space and to facilitate segregation of vehicles and pedestrians;
- (c) providing a basis for determining development applications on extensions of leases, extension of users and change of users.

(2) The form and content of renewal plans include a set of written statements and land use maps whose details include—

##### **Land use pattern analysis:**

- (a) The analysis must deal with policy statements and land use proposals to facilitate—
  - (i) conservation of areas whose historic, architectural, or commercial values are relatively high;
  - (ii) improvement of general up-grading of areas whose existing conditions are desirable; and
  - (iii) comprehensive cumulative redevelopment of areas whose conditions are undesirable.

(b) Traffic systems:

This analysis should comprise a policy statement and land use proposals for—

- (i) safe pedestrian movement;
- (ii) easy access to buildings;
- (iii) efficient circulation of traffic with business;
- (iv) convenient and ample public car parks; and
- (v) efficient road links, among other things.

**THIRD SCHEDULE—LAND AND DEVELOPMENT FEES AND CHARGES**

<b>A. BUILDING PLANS</b>				
1.	Application fee	1,500	1,000	500
2.	Building inspection fee	5,000	2000	1000
3.	Annual safety inspection and compliance per go-downs and other production and manufacturing areas and building	5,000	5,000	5,000
4.	Transfer (lease hold)	10,000	10,000	5,000
5.	Survey fees	0	0	0
6.	Boundary dispute resolution per dispute	5,000	5,000	5,000
7.	Title deed issuance/ registration	2,000	2,000	2,000
8.	Plot transfer	10,000	10,000	5,000
9.	Application for Extension of lease	20,000	20,000	10,000
10.	Change of user	40,000	40,000	4,000
11.	Extension for change of user	20,000	20,000	10,000
12.	Extension of lease/User	20,000	20,000	4,000
13.	Sub lease per unit per lease	10,000	6000	1,500
14.	Change of density of a building/land (per property/land)	30,000	20,000	5,000
15.	Closure of a street per street	50,000	50,000	5,000
16.	Sub-division per plot	15,000	15,000	1,500
17.	Perimeter fencing per 1/8-acre plot	2,000	1,000	0
18.	Boundary wall -1/4 Acre and below	4,000	2,000	0
19.	Boundary wall (More than 1/4 to 2 acres	6,000	3,000	0
20.	Boundary wall above 2 Acres	10,000	4,000	0
21.	Holding of scrap metal p.a	15,000	15,000	2,500
22.	Placement of unbranded kiosk/containers p.a	5,000	5,000	1,000
23.	Placement of branded kiosk/containers p.a	10,000	10,000	5,000
24.	Application fees for borehole drilling	1,000	1,000	1,000
25.	Drilling of borehole per site	21,000	21,000	21,000
26.	Amalgamation of plots per two plots	20,000	15,000	5,000
27.	Development of agricultural structures (per sq metre)	100	100	50
<b>B. PAYMENT OF COMMUNICATION MAST</b>				
1.	per mast p.a	300,000	300,000	300,000
2.	Application for approval of mast site	40,000	40,000	40,000
<b>C. APPROVAL OF BUILDING PLANS PER PLAN</b>				
1.	Per sq foot	10	10	0
2.	Up to 500ftsq.	1000	1000	500
3.	501-2000ftsq	2,000	1500	1000
4.	2001-4000ftsq	8,500	6,000	2,500
5.	4001-500ftsq	9,000	7,500	3,500
6.	For every additional 1000ftsq	300	200	150
<b>D. STRUCTURAL DRAWING APPROVAL</b>				
1.	0- 45m <sup>2</sup>	1500	1500	5/= per sq.ft
2.	46m <sup>2</sup> -96m <sup>2</sup>	1800	1800	5/= per sq.ft
3.	96m <sup>2</sup> -140m <sup>2</sup>	2000	2000	5/= per sq.ft

4.	186m <sup>2</sup> -240m <sup>2</sup>	2500	2500	5/= per sq.ft
5.	240m <sup>2</sup> -294m <sup>2</sup>	3000	3000	5/= per sq.ft
6.	294m <sup>2</sup> -350m <sup>2</sup>	4000	4000	5/= per sq.ft
7.	350m <sup>2</sup> -400m <sup>2</sup>	5000	5000	5/= per sq.ft
8.	400m <sup>2</sup> -465m <sup>2</sup>	6000	6000	5/= per sq.ft
9.	465m <sup>2</sup> -530m <sup>2</sup>	7000	7000	5/= per sq.ft
10.	530m <sup>2</sup> -595m <sup>2</sup>	8000	8000	5/= per sq.ft
11.	595m <sup>2</sup> -660m <sup>2</sup>	9000	9000	5/= per sq.ft
12.	660m <sup>2</sup> -725m <sup>2</sup>	10000	10000	5/= per sq.ft
13.	725m <sup>2</sup> -790m <sup>2</sup>	11000	11000	5/= per sq.ft
14.	790m <sup>2</sup> -855m <sup>2</sup>	12000	12000	5/= per sq.ft
15.	855m <sup>2</sup> -930m <sup>2</sup>	13000	13000	5/= per sq.ft
16.	For every additional 93m <sup>2</sup>	630	630	5/= per sq.ft
17.	Beacon search per beacon	2000	2,000	500
18.	Renewal of building plan-	50% of Approval fee	50% of Approval fee	25 % of Approval fee
19.	Application for renewal of building plan	1,000	1,000	1,000
20.	Penalty for building without approval	5% of the total cost of building plans	5% of the total cost of the building plans	5% of the total cost of the building plans
<b>E. ALTERATIONS/RENOVATIONS OF PLANS &amp; BUILDING</b>				
	Application	2,000	2,000	500
1.	Commercial	10,000	8,000	2,500
2.	Residential	7000	5000	1,500
3.	Extended markets/areas P.A.	10,000	8,000	2,500
4.	Inspection of building files	5000	4,000	1,000
5.	Charges/Mortgage	3500	3500	1,750
6.	Certificate of occupation per unit	6,000	6,000	3,000
7.	Supervision fee	2,000	2,000	1,000
8.	Plan submission fee	2500	2500	1,250
9.	Boundaries inspection	2,000	1,000	500
10.	Hording fee	15000	15000	2,500
11.	Structural plan approval fee	1,500	1,500	750
12.	Way leave	5,000	5,000	500
<b>F. WAY LEAVE LICENSE APPLICATION FEES</b>				
1.	1-2 km long annual	1,500	1,500	1,500
2.	2-6 km long annual	3,500	3,500	3,500
3.	Annual way leave space (Road reserve) Fiber, fuel pipeline			
4.	Length of way leave on carriage way per meter	150	150	150
5.	Fiber optic cable per meter p.a (on power infrastructure)	30	30	30
6.	SGR line per meter p.a	90	90	90
7.	Annual rent for electricity posts/ poles	150	150	150
8.	Annual permit per booster for radio and TV stations	55,000	55,000	55,000
9.	Electric power pole each per Annual			

10.	Electric power line or cable per meter annually either (underground or overhead) Penalty for payment after 31 <sup>st</sup> March of each successive year will be charged at 25% of the amounts due	40	40	40
11.	Electric power transformer each (Annual)	3,600	3,600	3,600
12.	Petroleum pipeline per meter per Annum	400	400	400
13.	length of way leave on footpath per meter	50	50	50
<b>G. BOOTH AND STANDS</b>				
1.	Telephone booths on road reserves.	1,500	1,500	1,500
2.	KPLC Boxes (Turrets) on road reserve.	1300	1,300	1300
3.	Sweepstake stands.	800	800	800
4.	Power sub stations per unit (Annual)	22,000	22,000	22,000
5.	Independent power station (Each)	870,000	870,000	870,000
6.	Production of Electricity per KWH	1.00	1.00	1.00
7.	Kamburu Dam power House (Tarda)Ken Gen	80,000,000	80,000,000	80,000,000
8.	Masinga Dam power House (Tarda)Ken Gen	185,000,000	185,000,000	185,000,000
9.	Gitaru Dam power house (Ken Gen)Tarda	83,000,000	83,000,000	83,000,000
10.	Kindaruma Dam power house (Ken Gen)TARDA	82,000,000	82,000,000	82,000,000
<b>H. ROAD CUTTING FEES (9 METRE ROAD)</b>				
1.	Micro tunneling for power infrastructure	2,500	2,500	2,500
2.	Bitumen for power infrastructure	3,000	3,000	3,000
3.	Earth for power infrastructure	1,500	1,500	1,500
4.	Murram for power infrastructure	2,000	2,000	2,000
5.	Road cutting/opening inspection fees payable with wayleaves fees for power infrastructure	6,000	6,000	6,000
6.	Castro/concrete paved for power infrastructure	3,000	3,000	3,000
7.	Special lighting platform (project)	300,000	300,000	300,000
8.	Plot Registration fees	5,000	5,000	2,500
<b>J. Boundary wall</b>				
1.	Below 2 mtrs	3,000	3,000	1,500
2.	Above 2 mtrs	5000	5000	2,500
3.	Search fee	2500	2500	1,250
4.	Regularization of development per application	100,000	100,000	50,000
5.	Below 2 mtrs	1,500	1,500	750
6.	Above 2mtrs	2,500	2,500	1,250
7.	Search fee	1250	1,250	625
8.	Regularization of development per application	100,000	100,000	50,000

9.	Clearance certificate		6,500	6,500	3,000
<b>L. ROAD CUTTING &amp; ASSOCIATED WORKS</b>					
1.	Gravel per metre		10000 or cost of refilling whichever is higher	10000 or cost of refilling whichever is higher	10000 or cost of refilling whichever is higher
2.	Earth road per metre		10000 or cost of refilling whichever is higher	10000 or cost of refilling whichever is higher	10000 or cost of refilling whichever is higher
3.	Micro tunneling		6000 or the assessed reinstatement costs	6000 or the assessed reinstatement costs	6000 or the assessed reinstatement costs
4.	Road cutting on Tarmac		50,000 or cost of refilling whichever is higher	50,000	50,000
5.	Road cutting on Murram		10,000 or cost of refilling whichever is higher	10,000	10,000
6.	Site office		10,000 or cost of refilling whichever is higher	10,000	10,000

**MEMORANDUM OF OBJECTS AND REASONS**

Firstly, This Bill aims at implementing section 8 of Part 2 of the Fourth Schedule to the Constitution of Kenya, Part XI of County Governments Act, 2012 and Urban Areas and Cities Act, 2012 in regard to spatial planning.

Secondly, this Bill provides a legal framework for developing and implementing the county spatial plan as well as regulating the developments on land.

**PART I** of the Bill provides for preliminary matters such as the purpose of the Bill which include coordination of spatial planning and development in the county, promotion of organized planning and development of physical infrastructure as well as enhancing regulation of physical development and land use among others.

**PART II** of the Bill provides for administration matters. It provides for the establishment of the Directorate of spatial planning, the appointment of the Director responsible for spatial planning and the respective powers and functions. It also establishes the County Spatial Planning Coordinating Committee, which consists of county and national government officers responsible for matters related to spatial planning.

**PART III** of the Bill provides for spatial plan development process, content and requirements as well as approval process.

**PART IV** of the Bill provides for control of development on land. It empowers the Directorate to control development on land as well as land use. It provides for regulation of matters such as subdivision of land, development control and building control among others.

**PART V** of the Bill provides for miscellaneous matters such as power of the Executive Committee Member to make Regulations and savings and transition.

Dated the 29th April, 2023.

DANIEL NDWIKI,  
*Member of County Assembly.*

