

SPECIAL ISSUE

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REPUBLIC OF KENYA

**KERICHO COUNTY GAZETTE
SUPPLEMENT**

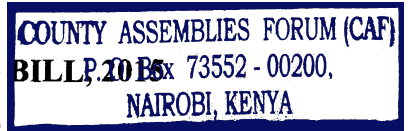
BILLS, 2015

NAIROBI, 20th March, 2015

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KERICHO COUNTY SPATIAL PLANNING BILL, 2015

A Bill for

AN ACT of County Assembly of Kericho to provide for preparation of the County Spatial Plan and related physical development plans, and for connected purposes.

ENACTED by the County Assembly of Kericho, as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Kericho County Spatial Planning Act, 2015.

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 the purpose of the advertisement of proprietary articles and without prejudice to the foregoing includes any hoarding or similar structure used or adapted for use for the display of advertisement, and references to the display of advertisements shall be construed accordingly:

Provided that any advertisement displayed inside a building shall not be included;

“building” means any structure or erection and any part of any structure or erection of any kind whatsoever whether permanent, temporary or movable, and whether completed or uncompleted;

“building operations” include rebuilding operations, structural alterations or additions to buildings and other similar operations 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;

“building or works” include waste materials, refuse and other matters deposited on land and reference to the erection or construction of building or works shall be construed accordingly;

“chief officer” means the chief officer for the time being responsible for land;

“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 Member” means the county executive member for the time being responsible for 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.

Purpose of Act.

No. 17 of 2012.

No. 13 of 2011.

3. The purpose of this Act is to provide for a legal framework for 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 in order to—

- (a) coordinate spatial planning and development;
- (b) promote organized planning and development of physical infrastructure;
- (c) enhance regulation of physical development and land use;
- (d) promote effective and transparent physical planning process;
- (e) promote sustainable social economic development.

PART II—ADMINISTRATION

Directorate of Spatial Planning.

4. There is established in the County the Directorate of Spatial Planning which shall be an office in the County Public Service.

Functions of the Directorate.

5. The Directorate shall be responsible for —

- (a) co-ordinating implementation of this Act;
- (b) preparing spatial plan for the County, Sub-Counties and for each town or urban area;
- (c) ensuring compliance with any physical development plan developed under this Act;
- (d) receiving review 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 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 member on 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) providing liaison with National Government on any matter related to this Act;
- (i) Advising the executive member generally on any policy to be adopted or matter necessary to effective achievement of the objectives;
- (j) Carrying out any other function for effective realization of objectives under this Act or as may be assigned by the executive member.

6. Director of Spatial Planning.

- (1) There shall be a Director responsible for spatial planning who shall head the Directorate.
- (2) The Director shall be appointed by the County Public Service Board.

Powers of the Director.

- 7. (1) The Director shall have powers to—

- (a) cause to be prepared the county spatial plan and development and
- (b) approve any building plan or building operations or works;
- (c) issue orders related to the implementation of this Act;
- (d) make, supervise or direct any physical planning;
- (e) inspect, examine any document 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 his powers under this Act generally or specially to any officer appointed under section 8.

Officers.

8. The County Public Service Board shall appoint such number of officers to serve in the Directorate for effective carrying out of its functions under this Act.

Indemnity.

9. The Director or any officer appointed under section 8 or a member of the county Coordinating committee shall not be personally liable to any action or other proceeding for or in respect of any act done or omitted to be done without negligence and in good faith in the exercise or purported exercise of any of the functions conferred by or under this Act.

Co-ordinating Committee.

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

(2) The Coordinating Committee shall consist of-

- (a) the Chief Officer responsible for land who shall be the Chairperson;
- (b) the director responsible for spatial planning who shall be the secretary;
- (c) the officer responsible for coordination of National Government functions in the County;
- (d) officers appointed under County Public Service to head the following County departments –
 - (i) survey;

- (ii) water;
 - (iii) land;
 - (iv) agriculture;
 - (v) education;
 - (vi) public health;
 - (vii) development and planning;
 - (viii) environment;
 - (ix) architectural.
- (e) the secretary to County Land Management Board;
- (f) one officer representing the National Environment Management Authority;
- (g) an officer of National Government responsible for roads in the county;
- (h) a registered physical planner in private practice and in good professional standing duly appointed by the Executive Member; and
- (i) any person that may be co-opted.
- (3) The functions of the Coordinating Committee shall be to—
- (a) inquire into and determine complaints made against the Directorate or Director in the exercise of functions under this Act;
 - (b) enquire into and determine conflicting claims made in respect of applications for development permission;
 - (c) 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;
 - (d) determine development applications relating to industrial location, dumping sites or sewerage treatment which may have injurious impact on the environment as well as applications in respect of land adjoining or within a reasonable vicinity of safeguarding areas;
 - (e) review and determine matters referred to it by the Directorate.

Procedure of Coordinating Committee.

11. (1) At every meeting of the Coordinating Committee one half of the members (excluding the co-opted members) shall constitute a quorum and all decisions of the committee shall be taken by a vote of the majority of the members (excluding co-opted members) present and voting, and in the case of an equality of votes the chairman or the member acting as chairman shall have a casting vote in addition to his deliberative vote.

(2) The Coordinating Committee shall meet at least once every month.

(3) No member of the Coordinating committee shall take part in the deliberation of any matter of which he is directly interested or concerned with.

Record of proceedings.

12. The record of proceedings of Coordinating Committee shall be kept and filed in the office of the secretary to the committee and may be inspected and copies thereof obtained upon payment of such fees as the executive member may from time to time prescribe.

Appeals to the Coordinating Committee.

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

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

(3) When a decision is reversed by the Coordinating Committee it shall, before making any order under subsection (2), afford the Director an opportunity of making representations as to any conditions or requirements which in his opinion ought to be included in the order, and shall also afford the appellant an opportunity to replying to such representations.

Appeals to Court.

14. Any person aggrieved by a decision of the Co-ordinating Committee may, within sixty days of receipt by him of the notice of such a decision appeal to the Environment and Land Court against such decision.

PART III—SPATIAL PLANNING

Preparation of spatial plan.

No. 17 of 2012.

15. (1) The Directorate shall in collaboration with other County and National Government departments prepare a ten year or a longer term county Spatial Plan with reference to any public land, community land or private land within town, urban area and trading or marketing center.

(2) The Spatial Plan shall be prepared for the purpose of guiding and coordinating development of infrastructural facilities and services for an area under subsection (1), and for the specific control of the use and development of land or for provision of any land in such area for public purposes.

(3) The spatial plan may —

- (a) provide for long term or short term physical development for the purposes set out in the Second Schedule in relation to each type of plan;
- (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.

16. Contents of the spatial plan.

The 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 member may prescribe.

Objections.

17. (1) The Directorate 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 widest circulation in the Kenya to the effect that the plan is open for inspection at the place and the times specified in the notice.

(2) The notice shall request any interested person who desires to make any representations against, or objections 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 in his discretion accommodate or decline to accommodate such representations or objections to the plan, and in either case, shall within thirty days of his decision, notify the petitioner in writing accordingly, and shall give reasons in the case of decline.

(4) If the petitioner is aggrieved by the decision of the Director he may appeal against such decision to the 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 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 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 it in which case it may 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 County Executive Committee shall, within thirty days of adopting the spatial plan transmit it to the County Assembly for consideration and approval.

Publication.

19. The Executive 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 widest circulation in the Kenya to the effect that the plan has been approved and may be inspected in such a place and at such times as stipulated in the notice.

Amendments to spatial plan.

20. (1) The Director, may from time to time and in such manner as may be prescribed, submit to the executive member proposals for the revocation or modification of the spatial plan on either or both of the following grounds—

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

(2) The Executive 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 to him under subsection (2), the Director shall submit the proposed modification or revocation of the plan to the Executive 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 proposed revocation or modification has been approved under subsection (5), the Executive Member shall not later than sixty days after the approval, publish in the Gazette a notice of such revocation or modification of the plan.

21. Special Planning area.

(1) The Executive 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 the purpose of preparation of a spatial plan.

(2) Subject to subsection (3), the executive member may by notice in the Gazette, suspend for a period of not more than two years, any development he deems 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 by for development in the 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 the Spatial Plan;
- (b) ensure maximum 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 the Act;
- (b) measures taken by the directorate to facilitate implementation and compliance with the Act;
- (c) challenges faced in seeking comprehensive implementation and compliance with the Act;
- (d) any other information that the Executive Member may require.

PART IV—CONTROL OF DEVELOPMENT

Compliance with the plan

24. No development shall take place on any land unless it is in conformity with Spatial Plan.

Powers and duties of the Directorate

25. The Directorate shall have powers to—

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

Subdivision of land

Subdivision 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 effected 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 Directorate 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 Directorate shall within thirty days consider and review the application.

29. Subdivision with impact on contiguous land.

(1) Where in the opinion of the Directorate an application in respect of development, change of user or subdivision has important impact on contiguous land or does not conform to any conditions registered against the title deed of property, the Directorate shall, at the expense of the applicant, publish the notice of the application in the Gazette or in such other manner as it deems expedient, and shall serve copies 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 Directorate may deem fit.

(2) If the Directorate receives any objection to, or representation in connection with, an application made under subsection (1) the Directorate 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.

30. Grant of permission.

(1) Where the Directorate is satisfied with the application, it shall grant the permission for subdivision in prescribed form subject to such conditions as the Directorate may stipulate.

(2) Where the Directorate is not satisfied with the application, it 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), Directorate shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a permission for subdivision.

31. Preparation Subdivision plan.

(1) The subdivision and land use plans in relation to any private land shall be prepared by a registered physical planner and such plans shall be subject to the approval of the Directorate upon payment of the prescribed fees.

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

32. Format of subdivision plan.

A subdivision plan shall be prepared in accordance to the following conditions—

- (a) a minimum of twelve copies of all plans, together with a letter of consent to subdivide from the County Land Management Board and certificate of official/postal search or any other evidence from the respective Land Registrar, shall be submitted to the Directorate;
- (b) the scale of any such plan shall be in the series of 500's for example 1:500, 1:1000, 1:1500 etc.;
- (c) the plan shall show –
 - (i) correctly plotted to scale;
 - (ii) the existing plot boundaries and their dimensions;
 - (iii) the areas of the plot, the location;
 - (iv) the land reference number or registered number of the plot and of such contiguous plot;
 - (v) the contiguous boundaries of all adjacent plots and road system (existing and approved);
 - (vi) lanes (pedestrian and sanitary), and their widths.;
 - (vii) the true north which shall be indicated by a pointer and the names of all existing streets shall be indicated with their widths;
- (d)
 - (i) the proposed scheme of subdivision;
 - (ii) the boundaries in red;
 - (iii) the approximate dimensions of sub-plots;
 - (iv) the proposed means of access, road or lane system (if any) with the widths of such streets, roads or lanes clearly indicated appropriately in blue on each plan;
 - (v) other colours to be used in the subdivision plan shall be blue for surrender and yellow for demolition;
- (e) all existing buildings of any nature whatsoever, shall be correctly plotted and the relationship to the proposed boundaries of the plots or sub-plots clearly indicated;

- (f) building lines shall be shown on the plan whenever necessary;
- (g) the proposed use of each sub-plot shall be stated;
- (h) every sub-plot shall be separately numbered or lettered;
- (i) every plan shall have clearly shown on it the line of every or any right-of way road or access or way leaves over the plot or sub-plot;
- (j) all plans shall be signed by the owner or his duly authorised agent and the physical planning officer preparing the plans shall sign and date the plans.

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 wayleaves or otherwise as may be expedient and suitable shall be provided and such reserves and wayleaves shall not in any case be less than three metres in width;
- (c) wayleaves 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.

Sub-division 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 in the County.

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 of land subdivided.

Registration of 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.

Density.

37. (1) The size of plot within the 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 Member with the advise of the Directorate may increase minimum size of the plot or sub-plot prescribed for any area to a satisfactory extent -

- (a) if such minimum size is inconsistent with the amenity of the environs of any plot or portion of the area; or
- (b) if such increase is necessary for the proper development of the plot or sub-plot; and
- (c) if 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 the agricultural land, the Executive Member on recommendation of the Directorate 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 per acre to be erected.

Plot coverage.

38. The Directorate 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 proper authority.

Development Control

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 shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

(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 the developer such restoration has not been effected, the Directorate 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 the 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 Directorate in the prescribed form and upon payment of the prescribed fees.

(2) The application shall—

- (a) provide sufficient details describing the land where development is proposed to take place;
- (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 sub-divisions within the area included in the application and to adjoining land;
 - (ii) public purposes consequent upon the proposed development.

No 3 of 2012.

(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 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. (1) Upon receipt of the application under section 41, the Directorate shall within thirty days consider and review the application.

(2) The Directorate shall when considering and reviewing the application –

(a) consult with the following officers or Authorities –

- (i) the County Director of Survey;
- (ii) the National Land Commission;
- (iii) the County Chief Engineer responsible for roads;
- (iv) the County Public Health Officer;
- (v) the County Director of Agriculture;
- (vi) the County Director of Water Services;
- (vii) the County Director of Livestock Development;
- (viii) the County Director of Urban Development;
- (ix) the County Architect;
- (x) the Director of Forests; and
- (xi) such other relevant authorities as the Directorate deems appropriate.

(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 Directorate shall require the application to be referred to the County Land Management Board.

(4) The County Land Management Board shall within thirty days make a report within thirty days to the Directorate indicating whether the application should be accepted or rejected.

Grant of permission.

44. (1) Where the Directorate is satisfied with the application, it shall grant the development permission in prescribed form subject to such conditions as the Directorate may stipulate.

(2) Where the Directorate is not satisfied with the application, it 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), Directorate shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a development permission.

Referral to Coordinating Committee.

45. (1) The Directorate shall refer any application for development permission, which in its opinion involves matters of major public policy, to the 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 Coordinating Committee under subsection (1), the provisions of this part relating to the consideration of applications development permission shall apply.

(3) The Coordinating 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 Coordinating Committee shall consider and make a determination on the application within thirty days.

(5) The Directorate shall serve a notice of the Coordinating Committee's decision to the applicant within seven days of such decision.

(6) A person aggrieved by the decision of the Coordinating Committee may, not later than thirty days after he has been notified of the committee's decision, appeal against such to the Environment and Land Court.

Registration of 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.

No. 3 of 2012.

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

Carrying out works without development permission.

47. (1) Where after the commencement of this Act a person carries out any development of land without development permission or in contravention to any conditions of the permission, the Directorate may issue an enforcement notice to the owner, occupier or developer of the land.

(2) The enforcement notice shall specify—

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

(3) Where a person having been served with the enforcement notice, does not comply with the notice within the stipulated time, the Directorate shall upon 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.

Building Control

Erection of buildings.

48. For the 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—

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

Building Code.

49. (1) The Directorate shall prepare a building code that shall be adopted by the county executive committee and approved by the county assembly.

(2) Any person intending to erect a new building or premises or re erect an exiting building shall comply with the requirements of the building code.

Approval of building plan.

50. (1) All 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 Directorate for approval of the building plan in the prescribed form and upon paying the prescribed fees indicating—

- (a) the purpose or purposes for which the building or erection will be used;
- (b) the number of dwellings or separate tenancies or occupancies to be provided in the building;
- (c) the mode of drainage and means of disposal of waste water, soil, water, roof water or other liquid;
- (d) the water supply;
- (e) the number of persons to be accommodated in each part thereof;
- (f) the means and capacity thereof for ventilation and the provisions made for the safety of the public
- (g) plans of all floors, ground and street levels and elevations sections and drainage shall be to a scale of not less than 1 cm. 1 m. (1"; 8ft.) block plans indicating the site of the building and adjoining buildings to a scale of not less than 1":40 and details where required by the Directorate to a scale of 0.5 cm.: 4 ft. (0.5": 1 ft.).

(3) The Directorate 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) Where the Directorate is not satisfied with the building plan on conditions stipulated under section 27 it shall reject it and give reasons to the applicant.

(5) An applicant whose application has been rejected under subsection (4), may re submit the application upon complying with the matters raised by the Directorate.

Refusal of approval.

51. The Directorate may refuse to recommend 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 discloses a contravention of this Act or the provisions of any written law;
- (c) the plans are not correctly drawn or omit to show information required under this Act;

- (d) on such being required, a separate application accompanied by sets of plans has not been lodged in respect of buildings on separate plots or sub-plots;
- (e) the land or the proposed building or structure is to be used for any purpose or purposes which might be calculated to depreciate the value of the neighbouring property or interfere with the convenience or comfort of neighbouring occupants;
- (f) the proposed building or land use is unsuitable, injurious to amenities or detrimental in respect of appearance or dignity or fails to comply with physical planning requirements in regard to siting, design, height, elevation, size shape, structure or appearance;
- (g) the building is likely to become objectionable on any environmental grounds;
- (h) roads of access, parking bays, vehicular and pedestrian circulation spaces or other services to the plot or premises are inadequate;
- (i) the building is not sited in a satisfactory position;
- (j) the site on which it is proposed to build is unfit or unsuitable for the erection thereon of the building proposed to be erected;
- (k) the system of drainage including soil, waste and surface water of the plot or sub-plot upon which the building is to or stands, is not satisfactory; and
- (l) provision has not been made for adequate natural light and ventilation; or any other physical planning issue.

Deposit of plans.

52. Copies of building plans approved under this Part shall be deposited with the Directorate.

Compliance with approved plans

53. (1) No person shall erect or authorize to be erected any building except in accordance with the building plans submitted to and approved under this Act

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

Exemptions and partial exemptions.

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

- (a) 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 boat house (not intended for the accommodation of a motorboat);
- (d) a garden tool shed, potting shed or cycle shed;
- (e) a moveable dwelling or tent;

Provided that such building shall not remain erected or be used for a period exceeding twenty-eight days and that it is not more than 700 cubic feet and is wholly detached from other buildings.

Terminal features.

55. (1) The Directorate 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) The owner, occupier or developer of the parcel of land referred under subsection (1) who fails to comply with the provision this section commits an offence and shall be liable to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding six months.

Sites of public building.

56. (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 recommendation or approval of the Directorate.

(2) The Directorate may refuse to recommend or approve the site mentioned in subsection (1) on the grounds that-

- (a) the site is not suitable for the purpose;
- (b) the erection on the site of any such public buildings would be contrary to the public interest;
- (c) the site does not sufficiently provide for the safety of persons frequenting such public building or the general public;

- (d) the 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;
- (e) the site is so close to another public building that congestion of traffic may be possible; or
- (f) car parking provision on or in the vicinity of the site is, in the opinion of the Directorate, inadequate.

(3) The site of buildings accessible to the public such as theatre, cinematography halls, shopping malls, music halls, social hall and concert halls—

- (a) shall have two sides as frontage to a public street; and
- (b) the street shall be of such width and direction;

as shall enable the persons accommodation in the premises to disperse rapidly in the event of fire or panic and as will afford facilities for the approach and use of fire appliances.

(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 member may prescribe.

Building frontage.

57. (1) A building shall not be erected—

- (a) on any plot or sub-plot which has no proper and sufficient frontage to a street, such street, not being a sanitary lane or passage;
- (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 Directorate.

(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.

58. (1) All new buildings and all additions to existing buildings, particularly out-buildings, latrines and all 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) result to any nuisance or annoyance from the position and appearance.

Cartilage.

59. Except in the case of dwellings 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.

Alteration of building (change of class).

60. Where the use of any building or part thereof 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.

61. (1) The executive member may prescribe a building line on any road to be such distance from the road reserve boundary as the executive 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.

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

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

- (a) where roads range between six metres—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 establishment of satisfactory building lines (whenever appropriate) and to provide for proper utilization of such plots within the building lines.

Back to back dwelling.

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

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

Access to rear of building from street.

63. 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.

64. (1) A domestic building or every part of a building which in the opinion of the Directorate may be from a separate tenancy or occupancy, shall have 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 Directorate.

Canopies and projections.

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

- (a) shall not be less than three metres above the level of the footway;
- (b) shall not extend outwards from the building so as to be nearer the vertical plans of the kerb line of the footway than zero decimal six metres ;
- (c) shall be impervious to moisture on the upper surface and drained in a manner which shall prevent the discharge of water therefrom 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 Directorate may require the owner to provide in the design of such buildings for canopies and such structures shall conform to the conditions or design and

materials as the structural engineer may prescribe.

(5) On being so required, the owner shall at his own cost, when he erects the new building construct such canopy and execute the requisite canopy agreement.

Offensive sites.

66. 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 Directorate.

Space in front of buildings.

67. (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.

68. 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.

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

External passage.

70. 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.

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

Permitted advertisements.

72. The owner of a building may display the following illustrated advertisements without the prior consent of the Directorate—

- (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.

73. 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.

74. (1) The display of advertisements not mentioned in section 48 shall require permission from the Directorate.

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

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

Removal of unauthorized advertisements.

75. The Directorate may by notice in writing, require any person who displays an advertisement under section 70 without permission to remove such advertisement within the time specified in the notice.

Register.

76. The Directorate 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) 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 Directorate or Coordinating Committee in respect of the application and the date of such decision;
- (e) the date and effect of any decision of the 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 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 Coordinating Committee.

Index to register.

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

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

and shall be filed in numerical sequence according to the land reference number.

Entry in register.

78. 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.

79. The register shall be kept at the offices of the Directorate and made available for inspection by the public during normal hours of official business.

Access to records.

80. (1) The Directorate has powers to 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 Directorate shall—

- (a) regard any information obtained under subsection (1) as confidential and shall not divulge it to any person 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 accessible to any person subject to the prescribed procedures.

Right of entry.

81. (1) The Director, an officer of the Directorate or any person authorized by the Director in writing may enter any land or premises for the 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) shall be entitled to 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 his 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 not exceeding six years or to both.

Preservation of special value buildings.**No. 6 of 2006.**

82. (1) Subject to the provisions of the National Museums and Heritage Act, the Directorate may, after consultation with the Executive Member responsible for museums serve on the owner or occupier of a building which in the opinion of the Directorate is of

special architectural value or historic interest, an order prohibiting the demolition, alteration or extension of such building.

(2) The Directorate 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.

83. Any person who knowingly—

- (a) makes any false statement in or in connection with any application or appeal under this Act; or
- (b) gives any false information 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 an imprisonment not exceeding six months or to both.

Development audit.

84. The Directorate shall conduct audit of 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.

85. (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 Coordinating Committee made and issued under this Act shall be signed by the chairperson of the 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.

86. 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.**

87. (1) The executive 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 coordinating committee; and
- (e) the conduct of business and affairs of the coordinating committee.

Savings.**Cap 286.**

88. (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.**

89. (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.

(3) Subsection (2) shall be without prejudice to any other action being taken in accordance with this Act.

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, as well as efficiency and economy in the process of development and improvement of communications.

2. 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 section 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 subdivision 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 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. 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 include—
 - (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 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 amount of land sufficient to accommodate 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) Statement of problems and objectives which include —
 - (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—

- (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) Population and economic base which include —

- (a) population growth, migration, density, and distribution, age and sex structure, household sizes and rates of household 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 wayleaves 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—

- (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. 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.

However, the most important considerations in their preparation 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 proposals 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 both public and private redevelopment activities;
- (b) providing a road pattern and traffic networks designed to improve vehicular access and parking space and also 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 are outlined below—

Content of Renewal Plans

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 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.

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 Member to make Regulations and savings and transition.

BERNARD MUTAI,
Chairman, Committee of Land Housing and Planning.