



LAWS OF KENYA

The Physical Planning Act

CHAPTER 286

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CHAPTER 286

THE PHYSICAL PLANNING ACT, 1996

L.N. 40/1999,
6 of 2006,
2 of 2007.

Commencement: 29th October, 1998

An Act of Parliament to provide for the preparation and implementation of physical development plans and for connected purposes

ENACTED by the Parliament of Kenya as follows:—

Short title.

1. This Act may be cited as the Physical Planning Act, 1996.

Application.

2. The provisions of this Act shall apply to all parts of the country except such areas as the Minister may by notice in the Gazette specify.

Interpretation.
2 of 2007, 5th Sch.

3. 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 article 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;

“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;

“development” means—

- (a) the making of any material change in the use or density of any buildings or land or the subdivision of any land which for the purpose of this Act is classified as Class “A” development; and
- (b) the erection of such buildings or works and the carrying out of such building operations, as the Minister may from time to time determine, which for the purposes of this Act is classified as Class “B” development:

Provided that—

- (i) the carrying out of works for the maintenance of improvement or other alteration, of or addition to, any building where such alteration or addition does not exceed 10 per cent of the floor area of the building measured on the date this Act becomes applicable to the area in which that building or land is situated;
- (ii) 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;
- (iii) the carrying out by any local authority or statutory body of any works for the purpose 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 such local authority or statutory body;

shall not constitute development for the purposes of this Act:

Provided further that any local authority or statutory body shall within seven days, after completion of works carried out as in subparagraph (iii), restore the site to conditions that would not be injurious to users and the environment;

For the avoidance of doubt, it is hereby declared that, for the purposes of this Act—

- (a) the deposit of refuse, scrap or waste materials on land involves a change of use thereof;

- (b) the use as two or more dwellings of a building previously used as one dwelling constitutes Class “A” development;
- (c) the erection of more than one dwelling or shop or of both dwelling and shop on one plot constitutes Class “A” development;
- (d) the display of any advertisement constitutes Class “A” development;
- (e) the use of any buildings or land within the curtilage of a dwelling for any purpose incidental to the enjoyment of the dwelling constitutes Class “A” development;

“development application” means an application made under section 31 for permission to develop land;

“development permission” means a development permission granted under section 33 by a local authority to an applicant to develop land;

“Director” means the Director of Physical Planning appointed under section 4;

“dwelling” means a building or any part or portion of a building, used or constructed, adapted or designed to be used for human habitation, as a separate tenancy or by one family only, whether detached, semi-detached, or separated by party walls or floors from adjoining buildings or part or portion of the same building together with such out-buildings as are reasonably required to be used or enjoyed therewith;

“enforcement notice” means a notice served by a local authority under section 38 on the owner, occupier or developer of the land requiring that owner, occupier or developer to comply with provisions of that section;

“existing building” or “existing works” means, respectively, a building or works erected, constructed or carried out before the date this Act becomes applicable to the area in which the building or works are situated, and includes a building or works, as the case may be, commenced before, but completed after such date;

“existing use” means in relation to any building or land the use of that building or land for any purpose of the same character as that for which it was used before the date this Act becomes applicable to the area in which the building or land is situated;

Provided that where an existing use of land is, after such date, extended onto, under or over adjoining land, whether such adjoining land is held under the same title or not, such extension shall not be an existing use for the purposes of this Act;

“function” includes power and duties;

“land” includes any land covered with water, and any buildings or other things attached to land, and any interest or right of easement in, to or over land;

“Land Control Board” means as Land Control Board established under section 5 of the Land Control Act; Cap. 302.

“local authority” has the meaning assigned to it in the Local Government Act; Cap. 265.

“local physical development plan” means a plan for the area or part thereof of a city, municipal, town or urban council and includes a plan with reference to any trading or marketing centre;

“Minister” means the Minister for the time being responsible for physical planning;

“owner”, in the case of freehold land means the person owning such land, and in the case of any land held under a lease for a period of not less than ten years, or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely, or for periods which together with the first period thereof amount in all to not less than ten years, and includes any agent who receives rents or profits from any such persons and also any superintendent, overseer, or manager or any such owner of the freehold or lessee in respect of the holding on which he resides as such superintendent, overseer or manager;

“Permanent Secretary” means the Permanent Secretary for the time being responsible for physical planning;

“Physical Planning Liaison Committee” means the National Physical Planning Liaison Committee, the Nairobi Physical Planning Liaison Committee, the District Physical Planning Liaison Committee, or as the case may be, the Municipal Physical Planning Liaison Committee established under section 7 and any reference to the Liaison Committee shall be construed accordingly.

“private land” means leasehold or freehold as defined in the Government Lands Act, or the Registered Land Act; Cap. 280.
Cap. 300.

“regional physical development plan” means a plan for the area or part thereof of a county council;

“registered physical planner” means a person who is holding a certificate as a registered physical planner under section 7 of the Physical Planners Registration Act, 1996.

“road” means any road whether public or private and includes any street, square, court, alley, bridge, footway, path, passage or highway whether a thoroughfare or not;

“safeguarding area” means any area adjoining any land owned or occupied by the armed forces of the Republic and which is declared by the Minister by notice in the Gazette to be a safeguarding area for the purposes of this Act;

“short-term plan” means a local physical development plan which elaborates in detail policies and proposals in relation to precise areas of land, and which provides the basis for both positive and regulatory planning to be realised within a specified period of time not exceeding 10 years and includes—

- (a) an action plan for comprehensive planning of areas selected for intensive change, which is to commence within a specified period, by improvement, re-development or new development, restoration and re-use of derelict land;
- (b) an advisory plan indicating permitted subdivision and use of land specified in such plan;
- (c) a subject plan for detailed treatment of a particular aspect of planning in relation to a part or the whole of a local physical development plan;
- (d) a part development plan indicating precise sites for immediate implementation of specific projects or for alienation purposes;

“special planning area” means an area that cuts across the boundaries of two or more local authorities and which has spatial or physical development problems and declared as such under section 23;

“subdivision” in relation to land means the division of any land, other than buildings held under single ownership, into two or more parts whether the subdivision is by conveyance, transfer or partition or for the purpose of sale, gift, lease or any other purpose;

“the Kenya National Highways Authority” means the Authority of that name established under the Kenya Roads Act, 2007;

“the Kenya Rural Roads Authority” means the Authority of that name established under the Kenya Roads Act, 2007;

“the Kenya Urban Roads Authority” means the Authority of that name established under the Kenya Roads Act, 2007.

“unalienated Government land” means Government land which is not for the time being leased to any person, or in respect of which the Commissioner of Lands has not issued any letter of allotment or reservation.

PART II—ADMINISTRATION

4. (1) There shall be appointed by the Public Service Commission a Director of Physical Planning and such other officers, who shall be public officers, as may be deemed necessary for the purposes of this Act. Director of Physical Planning, and other officers.

(2) The Director shall be the chief Government adviser on all matters relating to physical planning and shall in addition perform such functions as are conferred upon him by or under this Act.

(3) The principal office of the Director shall be at Nairobi but there may be established such other offices at such places as the Director may from time to time determine.

5. (1) The Director shall—

- (a) formulate national, regional and local physical development policies, guidelines and strategies;
- (b) be responsible for the preparation of all regional and local physical development plans;
- (c) from time to time initiate, undertake or direct studies and research into matters concerning physical planning;
- (d) advise the Commissioner of Lands on matters concerning alienation of land under the Government Lands Act and the Trust Land Act respectively;
- (e) advise the Commissioner of Lands and local authorities on the most appropriate use of land including land management

Functions of the Director.

Cap. 280.
Cap. 288.

such as change of user, extension of user, extension of leases, subdivision of land and amalgamation of land; and

(f) require local authorities to ensure the proper execution of physical development control and preservation orders.

(2) The Director may delegate in writing any of his functions under this Act, either generally or specially to any officer appointed under section 4 (1) and may at any time revoke or vary such delegation:

Provided that no such delegation shall be deemed to have divested the Director of all or any of his functions, and he may, if he thinks fit, perform such functions notwithstanding that he had delegated those functions.

Indemnity for
Director and officers.

6. The Director or any officer appointed under section 4 (1) 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.

PART III—ESTABLISHMENT AND COMPOSITION OF PHYSICAL PLANNING LIAISON COMMITTEES

Establishment of
Physical Planning
Liaison Committees.

7. There shall be established the Physical Planning Liaison Committees in accordance with the provisions of section 8.

Composition of
Physical Planning
Liaison Committee.
2 of 2007, 5th Sch.

8. (1) The National Physical Planning Liaison Committee (hereinafter in this Act referred to as “the National Liaison-Committee”) shall consist of the following members—

- (a) the Permanent Secretary, who shall be the Chairman;
- (b) the Director who shall be the secretary;
- (c) the Permanent Secretary for the time being in charge of the Provincial Administration;
- (d) the Commissioner of Lands;
- (e) the Director of Medical Services;
- (f) the Director of Surveys;
- (g) the Director of National Environmental Secretariat;
- (h) The Director of Urban Development;

- (i) the Director of Housing;
- (j) the Director of Agriculture;
- (k) the Director of Industry;
- (l) the Director of Education;
- (m) the Director of Water Development;
- (n) the Chief Engineer (Roads), Ministry of Public Works and Housing;
- (na) the Director-General of the Kenya National Highways Authority;
- (nb) the Director General of the Kenya Rural Roads Authority;
- (nc) the Director-General of the Kenya Urban Roads Authority;
- (o) the Chief Architect, Ministry of Public Works and Housing;
and
- (p) a Registered Physical Planner in private practice duly appointed by the Minister on the advice of the Physical Planners Registration Board.

(2) The Nairobi Physical Planning Liaison Committee shall consist of the following members—

- (a) the Provincial Commissioner of Nairobi, who shall be the Chairman;
- (b) the Director of City Planning and Architecture, who shall be the secretary;
- (c) the Director;
- (d) the Commissioner of Lands;
- (e) the Director of Housing;
- (f) the Director of Agriculture;

- (g) the Director of Urban Development;
- (h) the Director of Surveys;
- (i) the Director of Medical Services;
- (j) the Director, National Environment Secretariat;
- (k) the Director-General of the Kenya Urban Roads Authority;
- (l) the General Manager, Water Sewerage Department, Nairobi City Council;
- (m) the Director of City Education;
- (n) the Director of Water Development;
- (o) the Chief Architect, Ministry of Public Works and Housing;
- (p) the Town Clerk, Nairobi City Council; and
- (q) a registered physical planner in private practice duly appointed by the Minister on the advice of the Physical Planners Registration Board.

(3) Each District Physical Planning Liaison Committee shall consist of the following members—

- (a) the District Commissioner who shall be the chairman;
- (b) the District Physical Planning Officer who shall be the secretary;
- (c) the Clerk of the County Council;
- (d) the District Lands Officer;
- (e) the District Surveyor;
- (f) a representative of the Kenya Rural Roads Authority;
- (g) the District Education Officer;
- (h) the District Agricultural Officer;

- (i) the District Water Engineer;
- (j) the District Community Development Officer;
- (k) the District Public Health Officer;
- (l) the Clerks of all Urban and Town Councils within the respective districts;
- (m) the Chairmen of Town Planning and Works Committees of all local authorities in the respective districts;
- (n) the District Environment Officer;
- (o) the District Social Development Officer;
- (p) the District Architect; and
- (q) a registered physical planner in private practice duly appointed by the Minister on the advice of the Physical Planners Registration Board.

(4) Each Municipal Physical Planning Liaison Committee shall consist of the following members—

- (a) the District Commissioner who shall be the chairman;
- (b) the District Physical Planning Officer who shall be the secretary;
- (c) the Town Clerk;
- (d) the District Land Officer;
- (e) the District Water Engineer;
- (f) a representative of the Kenya Urban Roads Authority;
- (g) the Chairman of the Municipal Town Planning and Works Committee;
- (h) the District Environment Officer;
- (i) the District Surveyor;
- (j) the Municipal Architect;

(k) the Director of Social Services of the Municipal Council concerned; and

(l) a registered physical planner in private practice duly appointed by the Minister on the advice of the Physical Planning Registration Board.

Co-opted members of liaison committees.

9. Notwithstanding the provisions of section 8, a liaison committee may co-opt such other persons as it deems fit to assist the committee in its deliberations.

Functions of Liaison Committees.

10. (1) The functions of the National Physical Planning Liaison Committee shall be—

(a) to hear and determine appeals lodged by a person or local authority aggrieved by the decision of any other liaison committee;

(b) to determine and resolve physical planning matters referred to it by any of the other liaison committees;

(c) to advise the Minister on broad physical planning policies, planning standards and economic viability of any proposed subdivision of urban or agricultural land; and

(d) to study and give guidance and recommendations on issues relating to physical planning which transcend more than one local authority for purposes of co-ordination and integration of physical development.

(2) The functions of other liaison committees shall be—

(a) to inquire into and determine complaints made against the Director in the exercise of his functions under this Act or local authorities in the exercise of his functions under this Act or local authorities in the exercise of their functions under this Act;

(b) to enquire into and determine conflicting claims made in respect of applications for development permission;

(c) to 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) to 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; and

(e) to hear appeals lodged by persons aggrieved by decisions made by the Director or local authorities under this Act.

11. (1) At every meeting of a liaison 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.

Procedure of liaison committees.

(2) A liaison committee shall meet at least once every month.

(3) The secretary to a liaison committee shall prepare the agenda for, and circulate minutes of, every meeting.

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

12. The record of proceedings of a liaison 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 Minister may from time to time prescribe.

Record of proceedings of liaison 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 respective liaison committee in writing against the decision in such manner as may be prescribed.

Appeals to liaison committees.

(2) Subject to subsection (3), the liaison 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 liaison 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.

Protection of the members of liaison committees.

14. No member of a liaison committee shall be liable to any action, suit or proceedings for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of the functions conferred under this Act.

Appeals to the National liaison Committee and to High Court.

15. (1) Any person aggrieved by a decision of a liaison committee may, within sixty days of receipt by him of the notice of such a decision, appeal to the National Liaison Committee in writing against the decision in the manner prescribed.

(2) The National Liaison Committee may reverse, confirm or vary the decision appealed against.

(3) The provisions of this Act relating to the determination by the Director or local authority of objections to physical development plans or development applications, as the case may be, or the determination of an appeal under section 13, shall apply *mutatis mutandis* to the determination of appeals by the National Liaison Committee under this section.

(4) Any person aggrieved by a decision of the National Liaison Committee under this section may appeal to the High Court against such decision in accordance with the rules of procedure for the time being applicable to the High Court.

PART IV—PHYSICAL DEVELOPMENT PLANS

A—Regional Physical Development Plans

Purpose of regional physical development plans.

16. (1) A regional physical development plan may be prepared by the Director with reference to any Government land, trust land or private land within the area of authority of a county council 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.

(2) For the purposes of subsection (1), a regional physical development plan may provide for planning, replanning, or reconstructing the whole or part of the area comprised in the plan, and for controlling the order, nature and direction of development in such area.

Contents of regional physical development plan.

17. (1) A regional physical development plan, in relation to an area, shall consist of—

- (a) a technical report on the conditions, resources and facilities in the area;
- (b) a statement of policies and proposals with regard to the allocation of resources and the locations for development within the area;
- (c) 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;
- (d) relevant studies and reports concerning physical development of the area;
- (e) maps and plans showing present and future land uses and development in the area; and
- (f) such other information as the Director may deem necessary.

(2) The Director shall, in addition to the provisions of subsection (1), take into account those matters specified in the First Schedule when preparing a regional physical development plan.

18. Without prejudice to section 17 special provisions shall be included in a regional physical development plan

Special provisions to be inserted in regional physical development plan.

- (a) defining the scope of the plans; and
- (b) defining the area to which the plan relates.

19. (1) The Director shall, not later than thirty days after the preparation of a regional physical development plan, notify in writing to the local authority whose area is affected by the plan to make representation in respect of the plan and publish a notice in the Gazette and in such other manner as he deems expedient to the effect that the plan is open for inspection at the place or places and the times specified in the notice.

Objections.

(2) The notice shall request any interested person who desires to make any representations against, or objections to the plan, shall write to the Director not later than sixty 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 to the relevant liaison committee under section 13 against such decision and to the National Liaison Committee under section 15 if he is aggrieved by the decision of the respective liaison committee.

(5) A person who is aggrieved by a decision of the National Liaison Committee may appeal against such decision to the High Court in accordance with the rules of procedure for the time being applicable in the High Court.

Approval of regional physical development plan.

20. (1) If after the expiration of the sixty days no representations against, or objections to, the plan have been made to the Director, the Director shall certify the plan in triplicate and submit the certified plans to the Minister for his approval.

(2) The Minister may approve any regional physical development plan either without, or subject to, such conditions or modifications as he may consider necessary or may refuse approval in which case he may require the Director to prepare a new plan for his approval taking into account the proposed modifications or the grounds for his refusal.

(3) Any regional physical development plan submitted to the Minister under subsection (1) for his approval may be approved by him within sixty days from the date the plan is submitted to him unless he refuses such approval within that period.

Publication of approved regional physical development plan.

21. The Minister shall within fourteen days after he has approved the regional physical development plan, cause to be published in the Gazette, by the Director, a notice to the effect that the plan has been approved with or without modifications and may be inspected at the places and times specified in the notice during normal working hours.

(2) An approved regional physical development plan published under subsection (1), shall have full force and effect in the area to which it relates, and every person shall comply with the requirements of the approved plan.

(3) On the approval of the regional physical development plan no development shall take place on any land unless it is in conformity with the approved plan.

Amendments of approved regional physical development plan.

22. (1) Subject to the provisions of this section, the Director, may from time to time and in such a manner as may be prescribed, submit to the Minister proposals for the revocation or modification of an approved regional physical development 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 Director shall publish in the Gazette a notice of the proposed revocation or modification of the approved 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 approved plan to the Minister for his approval.

(4) The Minister may approve or refuse to approve the proposed revocation or modification of the approved plan.

(5) When the proposed revocation or modification has been approved by the Minister the Director shall, not later than sixty days after the approval, publish in the Gazette a notice of such revocation or modification of the approved plan.

23. (1) The Director may, by notice in the Gazette, declare an area with unique development potential or problems as a special planning area for the purpose of preparation of a physical development plan irrespective of whether such an area lies within or outside the area of a local authority.

Special planning area.

(2) Subject to subsection (3), the Director 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 physical development plan in respect of such area has been approved by the Minister.

(3) Where, before the declaration of a special planning area under subsection (1), a development permission has been granted by a local authority 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.

B—Local Physical Development Plan

Preparation of local physical development plan.

24. (1) The Director may prepare with reference to any Government land, trust land or private land within the area of authority of a city, municipal, town or urban council or with reference to any trading or marketing centre, a local physical development plan.

(2) A local physical development plan may be a long-term or short-term physical development or for a renewal or redevelopment and for the purpose set out in the Third Schedule in relation to each type of plan.

(3) The Director may prepare a local physical development plan for the general purpose of guiding and co-ordinating development of infrastructural facilities and services for an area referred to in subsection (1), and for the specific control of the use and development of land or for the provision of any land in such area for public purposes.

(4) The Director may include in a local physical development plan any or all of the matters specified in the Second Schedule.

Content of local physical development plan.

25. A local physical development plan shall consist of—

- (a) a survey in respect of the area to which the plan relates carried out in such manner as may be prescribed; and
- (b) such maps and description as may be necessary to indicate the manner in which the land in the area may be used having regard to the requirements set out in the Third Schedule in relation to each type of local physical development plan.

Objections.

26. (1) The Director shall later than thirty days after the preparation of a local physical development plan, publish a notice in the Gazette and in such other manner as he deems expedient to the effect that the plan is open for inspection at the place or places and at the times specified in the notice.

(2) The provisions of Sub-Part “A” relating to the making of representations or objections to the Director concerning regional physical development plans and to the consideration by the Director of such representations or objections and to appeals shall apply *mutatis mutandis* to this section.

Approval of local physical development plan.

27. (1) The provisions of Sub-Part “A” relating to the approval or disapproval of a regional physical development plan shall apply *mutatis mutandis* to the approval or disapproval of a local physical development plan by the Minister under this section.

(2) A local physical development plan approved under subsection (1) shall not be altered in any manner without the prior written authorization of the Director.

28. The Minister shall within fourteen days after he has approved a local physical development plan cause to be published in the Gazette, by an officer authorized by him, a notice to the effect that the plan has been approved with or without modification and may be inspected at the place or places and times specified in the notice during normal working hours.

Publication of approved local physical development plan.

PART V—CONTROL OF DEVELOPMENT

29. Subject to the provisions of this Act, each local authority shall have the power—

Powers of local authorities.

- (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 formulate by-laws 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.

30. (1) No person shall carry out development within the area of a local authority without a development permission granted by the local authority under section 33.

Development permission.

(2) Any person who contravenes subsection (1) 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 five years or to both.

(3) Any dealing in connection with any development in respect

of which an offence is committed under this section shall be null and void and such development shall be discontinued.

(4) Notwithstanding the provisions of subsection (2)—

- (a) the local authority concerned shall require the developer to restore the land on which such development has taken place to its original condition within a period of not more than ninety days;
- (b) if on the expiry of the ninety days notice given to the developer such restoration has not been effected, the concerned local authority shall restore the site to its original condition and recover the cost incurred thereto from the developer.

(5) Subject to subsection (7) no licensing authority shall grant, under any written law, 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 had been granted by the respective local authority.

(6) For the purposes of subsection (5)—

- (a) commercial use includes shops, offices, hotels, restaurants, bars, kiosks, markets and similar business enterprises and trade but does not include petroleum filling stations;
- (b) 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) No local authority shall grant a development permission for any of the purposes mentioned in subsection (5) without a certificate of compliance issued to the applicant by the Director or an officer authorized by him in that behalf.

(8) Any person who contravenes subsection (5) or (7) 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.

31. Any person requiring a development permission shall make an application in the form prescribed in the Fourth Schedule, to the clerk of the local authority responsible for the area in which the land concerned is situated.

Development
application.

(2) The application shall be accompanied by such plans and particulars as are necessary to indicate the purposes of the development, and in particular shall show the proposed use and density, and the land which the applicant intends to surrender for—

- (a) purposes of principal and secondary means of access to any subdivisions within the area included in the application and to adjoining land;
- (b) public purposes consequent upon the proposed development.

32. (1) A local authority to which a development application has been made under section 31 shall, not later than thirty days after the receipt of the application, refer it to the Director for his comments.

Development applications to be referred to the Director.

(2) The Local Authority may, when considering a development application submitted to it under subsection (1), consult with any or all of the following officers or authorities—

- (a) the Director of Survey;
- (b) the Commissioner of Lands;
- (c) the Chief Engineer (Roads), Ministry of Public Works and Housing;
- (d) the Chief Public Health Officer of the Ministry of Health;
- (e) the Director of Agriculture;
- (f) the Director of Water Development;
- (g) the Director of Livestock Development;
- (h) the Director of Urban Development;
- (i) the Chief Architect, Ministry of Public Works and Housing;
- (j) the Director of Forests; and
- (k) such other relevant authorities as the Local Authority deems appropriate;

(3) The Local Authority shall, when considering a development

application submitted to it under subsection (1)—

- (a) be bound by any relevant regional or local physical development plan approved by the Minister;
- (b) have regard to the health, amenities and conveniences of the community generally and to the proper planning and density of development and land use in the area;
- (c) have regard to any comments received from the Director, officers or authorities referred to in subsections (1) and (2);
- (d) in the case of a leasehold, have regard to any special conditions stipulated in the lease.

(4) If any development application requires subdivision or the change of user of any agricultural land, the Local Authority shall require the application to be referred to the relevant Land Control Board.

(5) The relevant Land Control Board shall recommend to the Local Authority to accept or reject the application for subdivision or change of user and shall give reasons for its recommendations to the Local Authority within thirty days;

Approval of
development
application

33. (1) Subject to such comments as the Director may make on a development application referred to him under section 32, a local authority may in respect of such development application—

- (a) grant the applicant a development permission in the form prescribed in the Fifth Schedule, with or without conditions;
or
- (b) refuse to grant the applicant such development permission stating the grounds of refusal.

(2) The local authority shall notify the applicant in writing of its decision within thirty days of the decision being made by it and shall specify the conditions, if any, attached to the development permission granted, or in the case of refusal to grant the permission, the grounds for refusal.

(3) Any person who is aggrieved by the decision of the local authority refusing his application for development permission may appeal against such decision to the relevant liaison committee under section 13.

(4) Any person who is aggrieved by a decision of the liaison committee may appeal against such decision to the National Liaison Committee under section 15.

(5) An appeal against a decision of the National Liaison Committee may be made to the High Court in accordance with the rules of procedure for the time being applicable to the High Court.

34. A local authority may, if it deems it expedient, by notice of deferment served on the applicant in the manner prescribed defer consideration of development application for such period and for such reasons as may be specified in the notice.

Deferment of development application.

35. (1) A local authority shall refer any development application, which in its opinion involves matters of major public policy, to the relevant liaison committee.

Certain development applications to be referred to relevant liaison committee.

(2) Where a development application has been referred to the relevant liaison committee under subsection (1) for determination, the provisions of this part relating to the consideration of development applications by local authorities shall apply *mutatis mutandis* to this section:

Provided that before determining any such development application the liaison committee, if so requested by either the applicant or the Director, afford each of them an opportunity to make representations in writing to the committee for its consideration.

(3) A person aggrieved by the decision of the liaison committee may, not later than thirty days after he has been notified of the committee's decision, appeal against such decision in writing to the National Liaison Committee.

(4) Any person aggrieved by the decision of the National Liaison Committee may appeal to the Resident Magistrate's Court in accordance with the rules of procedure for the time being applicable to the Senior Resident Magistrate's Court.

36. If in connection with a development application a local authority is of the opinion that proposals for industrial location, dumping sites, sewerage treatment, quarries or any other development activity will have injurious impact on the environment, the applicant shall be required to submit together with the application an environmental impact assessment report.

Environmental impact assessment.

37. (1) The Registrar shall refuse to register a document relating to the development of land unless a development permission has been

Registration of documents.

granted as required under this Act in respect of such development or unless the appropriate conditions relating to such development permission have been complied with.

Cap. 280.
Cap. 281.
Cap. 300.
Cap. 282.

(2) For the purposes of subsection (1) “Registrar” has the same meaning respectively assigned to it in section 2 of the Government Lands Act, section 2 of the Registration of Titles Act, section 3 of the Registered Land Act and in relation to land to which part II of Land Titles Act applies means the Principal Registrar or any registrar appointed for the purposes of that part.

Enforcement notice.

38. (1) When it comes to the notice of a local authority that the development of land has been or is being carried out after the commencement of this Act without the required development permission having been obtained, or that any of the conditions of a development permission granted under this Act has not been complied with, the local authority may serve an enforcement notice on the owner, occupier or developer of the land.

(2) An enforcement notice shall specify the development alleged to have been carried out without development permission, or the conditions of the development permission alleged to have been contravened and such measures as may be required to be taken within the period specified in the notice to restore the land to its original condition before the development took place, or for securing compliance with those conditions, as the case may be, and in particular such enforcement notice may require the demolition or alteration of any building or works or the discontinuance of any use of land or the construction of any building or the carrying out of any other activities.

(3) Unless an appeal has been lodged under subsection (4) an enforcement notice shall take effect after the expiration of such period as may be specified in the notice.

(4) If a person on whom an enforcement notice has been served under subsection (1) is aggrieved by the notice he may within the period specified in the notice appeal to the relevant liaison committee under section 13.

(5) Any person who is aggrieved by a decision of the liaison committee may appeal against such decision to the National Liaison Committee under section 15.

(6) An appeal against a decision of the National Liaison Committee may be made to the High Court in accordance with the rules of procedure for the time being applicable to the High Court.

(7) Any development affecting any land to which an enforcement notice relates shall be discontinued and execution of the enforcement notice shall be stayed pending determination of an appeal made under subsection (4), (5) or (6).

39. (1) If, within the period specified in the enforcement notice or within such further period as the local authority may determine any measures required to be taken (other than discontinuance of any use of land) have not been taken, the local authority may enter on the land and take those measures and may, without prejudice to any penalties that may be imposed or any other action that may be taken under this Act, recover from the person on whom the enforcement notice is served, any expenses reasonably incurred by it in connection with the taking of those measures.

Supplementary provisions as to enforcement.

(2) If such person has not lodged an appeal under section 38 he shall not be entitled to question the validity of any action taken by the local authority under subsection (1) upon any grounds, that could have been raised in such appeal.

(3) Where a local authority has taken action under subsection (1) any material removed by it from the land in pursuance of such action shall, unless the owner claims and removes such material within thirty days, be sold and the proceeds thereof, after deduction of any expenses reasonably incurred by the local authority in connection with such action and sale, be paid to the owner.

(4) Any person who obstructs, or otherwise interferes with, a local authority in the execution of its functions under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to an imprisonment not exceeding two years or to both.

40. The Minister may, in writing, direct a local authority to take such action as he considers appropriate in order to ensure that the provisions of this Part are complied with without undue delay on the part of any person.

Power of Minister as to enforcement.

PART VI—MISCELLANEOUS

41. (1) No private land within the area of authority of a local authority may be subdivided except in accordance with the requirements of a local physical development plan approved in relation to that area under this Act and upon application made in the form prescribed in the Fourth Schedule to the local authority.

Subdivision of land.

(2) 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 Director.

(3) Where in the opinion of a local authority 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 local authority 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 local authority may deem fit.

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

(5) A local authority may approve with or without such modifications and subject to such conditions as it may deem fit, or refuse to approve, an application made under subsection (1).

(6) Any person aggrieved by a decision of the local authority under subsection (5) may appeal against such decision to the respective liaison committee:

Provided that if such person is aggrieved by a decision of the liaison committee he may appeal against such decision to the National Liaison Committee in writing stating the grounds of his appeal: Provided further that the appeal against a decision of the National Liaison Committee may be made to the High Court in accordance with the rules of procedure for the time being applicable to the High Court.

Disposal of land,
extension of lease,
etc.
Cap. 280.
Cap. 282.

42. (1) Subject to the provisions of the Government Lands Act, the Trust Land Act and any other written law relating to the administration of land, no subdivision, consolidation, lease or renewal of lease of an unalienated Government Land or Trust Land or of a private land shall be effected without due regard being had to the requirements of the relevant physical development plan.

Access to records.

43. It shall be lawful for the Director, an officer or a local authority 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 or possession of, any public officer or any person and in which are contained particulars of any land or property affected by any physical development plan.

44. Any information obtained by the Director, an officer or a local authority under section 43 shall be treated in confidence and shall not be divulged to any other person except by an order of a court in connection with any legal proceedings, and the provisions of Official Secrets Act shall apply to this section for that purpose.

Secrecy.

Cap. 187.

45. Any notice or order under this Act shall be made in writing and any notice or order shall be served or given to any person or his agent or shall be sufficiently served if is left at the last known postal, residential or business address of the person to be served or if it is so sent by registered post addressed to the person, and in the latter case the notice or order shall be deemed to have been received by the person in the ordinary course of post.

Service of notice.

46. (1) Subject to subsections (2) and (3) and to section 43, any person authorized in writing by the Director or a local authority shall have the right to enter upon any land or premises at all reasonable times with such men, vehicles, materials and instruments and to do all such acts thereon as are necessary for or incidental to the exercise of the powers conferred, or the performance of the duties imposed, by this Act.

Right of entry.

(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 twenty thousand shillings or to imprisonment not exceeding two years or to both.

47. (1) Subject to the provisions of National Museums and Heritage Act, the Director may, after consultation with the Board of National 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.

Preservation of buildings of Special Architectural value or historic interest. 6 of 2006, s. 76.

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

(3) All regional and development plans shall take into account and record all heritage declared or deemed to have been declared by the Minister under the National Museums and Heritage Act.

False statement.

48. 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,

shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand shillings or to an imprisonment not exceeding two years or to both.

Regulations.

49. (1) The Minister may make regulations for carrying into effect the purposes of this Act.

(2) Without prejudice to subsection (1) such regulations may provide—

- (a) for the forms to be used and fees to be charged under this Act;
- (b) for the procedure for making applications to the liaison committees and local authorities; and
- (c) for making appeals to the Minister and liaison committees.

Amendment of Schedules.

50. The Minister may by notice published in the Gazette amend or revoke any of the Schedules.

Government to be bound.

51. Except where otherwise exempted or in respect of development by or on behalf of the armed forces of the Republic the Government shall be bound by the provision of this Act.

Publication of notice in newspapers.

52. Every notice published in the gazette under any of the provisions of this Act, except the notices published under sections 49 and 50, shall be simultaneously published in at least two local dailies, one in English and one in Kiswahili and be displayed at the offices of the Chiefs.

53. The Town Planning Act and the Land Planning Act are hereby repealed.

Repeals.
Cap. 134.
Cap. 303.

54. (1) Any approval for development granted under any building by-laws, given under the provisions of any written law, in force immediately prior to the commencement of this Act, shall be deemed to be a development permission granted under this Act:

Transitional provisions.

Provided that such approval shall cease to have effect unless the development in respect of which approval was given has been commenced within twenty four months prior to the commencement of this Act.

(2) The functions previously exercised by the Central Authority under the Land Planning Act shall stand transferred to the Physical Planning Liaison Committees under this Act.

Cap. 303.

(3) An application for permission to develop land made to the Commissioner of Lands or any local authority before the commencement of this Act, being an application that has not been determined before such commencement shall, for the purposes of this Act, be deemed to be an application for development permission made under this Act.

(4) An application for permission to develop land made to the Commissioner of Lands before the commencement of this Act; being an application that has not been determined by the Commissioner of Lands before such commencement shall for the purposes of this Act, be deemed to be a development application made to the local authority for the area in which the land is situated, and shall be deemed to have been made on the commencement of this Act.

FIRST SCHEDULE

(s. 17 (2))

MATTERS WHICH MAY BE DEALT WITH IN REGIONAL PHYSICAL DEVELOPMENT PLAN

PART I—ANALYSIS

1. Population growth, projections, distribution and movement.
2. Land potential including distribution of agricultural land potentials, their relative values, population and land imbalance, land tenure and other natural resource endowments.
3. Employment and incomes including characteristics of

employment, income distribution, the labour force, potential of the informal sector and their locations.

4. Human settlements including distribution of existing services, growth and pattern of urbanization, cause of primacy, and rural-urban migration.

PART II—POLICY

5. Alternative development patterns including rural development, urban development and interrelations between urban and rural development.

6. Strategies for human settlements in the area including development of service centres, growth centres, transport and communication network and rural development.

PART III—IMPLEMENTATION

These include sectoral approach to development and measures for implementation and co-ordination in these sectors, namely industrial development, housing, transportation, health services, education, water supply, sewerage and electricity supply.

SECOND SCHEDULE

(s. 24 (2))

MATTERS WHICH MAY BE DEALT WITH IN LOCAL PHYSICAL DEVELOPMENT PLAN

1. Every local physical development plan, shall have for its general purpose orderly, co-ordinated, 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 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 a local authority or relevant authority.

4. The replanning 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 redivision 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 paragraph;
- (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 lakes and other 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, archeological, historical or scientific interest.

8. Probable routes for railways and canals, probable sites for bridges, docks, harbours, piers, quarries, powerlines, 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 local authority to acquire land or buildings or make any agreement or proposal in respect thereto.

13. Basis for the local authority to remove, alter or demolish and to prohibit, regulate and control the maintenance, alteration and reconstruction of any building which obstructs the observance or carrying out of the plan.

14. Basis for the local authority to declare any land referred to in the plan as land reserved for streets to be public streets.

15. Basis for the local authority to execute street works on land referred to in the plan as land reserved for streets and incidental works upon adjacent land.

16. Power of the local authority, subject to the approval of the Minister and subject to such of the provisions of the Public Roads and Roads of Access Act, and the Street Adoption Act as are applicable to land reserved for streets by the plan, be reserved for streets.

17. Basis for the local authority to fix the building lines not shown on the map illustrating the plan.

18. Power of the local authority to permit buildings in advance of building lines fixed by the plan.

19. Basis for the local authority to fix improvement lines for existing streets and building.

20. The area to which the plan is to apply.

21. The recovery of expenses incurred in giving effect to the plan, and the time and manner of payment of such expenses.

22. 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.

23. 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

Cap. 399.
Cap. 406.

as part of the plan.

24. 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 Registered Land Act shall take effect. Cap. 300.

25. Any matter necessary or incidental to local physical development plan.

The mention of particular matters in this Schedule shall not prejudice or affect the generality of any other matter.

THIRD SCHEDULE (s. 24 (21))

LONG-TERM, SHORT-TERM, RENEWAL AND RE-DEVELOPMENT PLANS

A—LONG-TERM PLAN

Purpose

The purpose of long-term plans include—

- (i) interpreting regional physical development policies in terms appropriate to the local area;
- (ii) articulating the aims of the Government and local authority for the area together with strategies, policies and general proposals which are intended to achieve those aims;
- (iii) providing a framework for detailed policies and proposals for subsequent short-term plans for the area;
- (iv) indicating action area for immediate development or re-development;
- (v) providing a co-ordinated 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.,
- (vi) showing amount of land sufficient to accommodate growth of the local area over a period of 20 to 30 years; and

- (vii) outlining the transportation and communication networks to serve the area over a period of 20 to 30 years.

Content of Long-Term Plans

(a) Statement of problems and objectives:

These include—

- (i) main problem 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;
- (ii) opportunities of the local area, for example, tourism, fishing, manufacturing, etc.; and
- (iii) main objectives of the plan to alleviate the local area problems and maximize utility of any specific opportunities.

(b) Physical analysis:

These include—

- (i) general statements on the terrain, soils and climate together with illustrations using maps and charts to show what areas are physically suitable for development;
- (ii) existing land uses and development potential pattern of development, land tenure system and cadastral outlay of all development.

(c) Population and economic base:

These include—

- (i) population growth, migration, density, and distribution, age and sex structure, household sizes and rates of household formation;
- (ii) employment and incomes including where people go to work and what trend and problems there are in relation to services;
- (iii) 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;

- (iv) peri-urban slum settlements and problems they pose;
- (v) potential, distribution and size of service centres within and outside the urban boundary together with evaluation of urban boundary extension;
- (vi) evaluation of the importance of such factors as commerce and tourism within extended areas of the township administration.
- (vii) housing occupancy rates, accommodation density, housing requirements, type of residential areas and industrial locations;
- (viii) other social aspects including education, recreation areas and other public purpose land uses.

(d) Communication and services:

These include—

- (i) historical pattern and condition of communications networks such as roads, footpaths, cycle ways, railway lines, depots, water ways, docks, etc.; and
- (ii) historical patterns and conditions of water and sewerage networks including plan programmes.

(e) Power and telephone lines:

These must be analyzed with respect to their way leaves requirements.

(f) Land Use Projection Tables:

These include a master table showing the relationship of existing population and land uses to realistic projections.

(g) Maps and Developments Models:

These include—

- (i) existing situation and sieve maps of the physical constraints or thresholds to development;

- (ii) existing land use maps;
- (iii) development model map showing land use designation and distribution alongside a clear transport and communication network.

B—SHORT-TERM PLANS

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, etc., 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.

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

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

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

C—RENEWAL OR REDEVELOPMENT PLANS

The purpose of renewal or redevelopment plans include—

- (a) providing a broad land use framework illustrating a co-ordinated 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.

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

- (a) Land use pattern analysis:

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.

Note.—Preparation of renewal plans can be done by Director or registered planners as in short-term plans.

FOURTH SCHEDULE (s. 31 (1))

Form P.P.A.1 Registered Number
of Application

APPLICATION FOR DEVELOPMENT PERMISSION

(To be submitted in TRIPLICATE in respect of each transaction and sent to or left at appropriate office of the Local Authority).

To the
(Insert Name and address of the appropriate Local Authority Office)

I/We hereby apply for permission to develop the land and/or building as described in this application and on the attached plans and drawings.

Date Signature of Applicant or Agent

If signed by Agent state:

Name

Address

Profession.....

SECTION A—GENERAL INFORMATION

1. Owner’s name and address
2. Applicant’s name and address
3. If applicant is not the owner, state interest in the land e.g. leasee, prospective purchaser, etc. and whether the consent of the owner to this application has been obtained.
4. (a) L.R. or parcel No.
(b) Road, District and Town

(c) Acreage

5. If an application has been previously been submitted state the registered number of the application

SECTION B—SUBDIVISION

6. Describe briefly the proposed subdivision including the purposes for which land and/or buildings are to be used

7. State the purpose for which land and/or buildings are now used. If not now used, the purpose for which and the date on which they were last used

8. State whether the construction of a new or an alternative of an existing means of access to or from a road is involved

9. State method of:

(a) Water supply

(b) Sewerage disposal

(c) Surface water disposal

(d) Refuse disposal

10. Give details of any relevant easements affecting the proposed subdivision.....

SECTION C—EXTENSION OF LEASE OR USER OR CHANGE OF USER

11. State whether subdivision is involved and if so whether permission has been applied for and if so give registered number of the application

12. Describe briefly the proposed development including the purpose for which land and/or buildings are to be used

13. State the purpose for which land and/or buildings are now used. If

not now used, the purpose for which and date on which they were last used

.....

.....

14. State whether the construction of a new or alternative of an existing means of access to or from a road is involved

.....

15. If the proposed development consists only of a change of user and does not involve building operations state the exact nature of such change

.....

16. If the site abuts on road junction, give details and height of any proposed walls, fence, etc., fronting thereon

.....

.....

17. State method of:

(a) Water supply

(b) Sewerage disposal

(c) Surface water disposal

(d) Refuse disposal

18. Give details of any relevant easements affecting the proposals

.....

19. State the:

(a) Area of land affected

(b) Area covered by buildings

(c) Percentage of site covered

(i) by existing buildings

(ii) by proposed buildings

Note.—Drawing and specifications must be prepared and signed by a registered physical planner.

FIFTH SCHEDULE

(s. 33 (1) (a))

Form P.P.A.2

Registered Number
of Application

NOTIFICATION OF APPROVAL/REFUSAL/DEFERMENT OF
DEVELOPMENT PERMISSION

To:
.....
.....

Your application number as above, submitted on
for permission to on
L.R. a Parcel No. situate in
road has been
on (date) by the
for the following reasons/subject to the following conditions:

- (a)
- (b)
- (c)
- (d)
- (e)

Date Signed
for Local Authority

- c.c. The Commissioner of Lands, Nairobi.
- The Land Registrar.
- The Town/County Clerk.
- The Director of Physical Planning, Nairobi.
- The Director of Surveys, Nairobi.

[Subsidiary]

SUBSIDIARY LEGISLATIONL.N. 135/1998. **THE PHYSICAL PLANNING (BUILDING AND DEVELOPMENT)
(CONTROL) RULES, 1998**

PART I—PRELIMINARY

Short title. 1. These Rules may be cited as the Physical Planning (Building and Development) (Control) Rules, 1998.

Interpretation. 2. In these rules, unless the context otherwise requires—

“applicant” means the owner, lessee or occupier, of land or premises and includes his duly authorized agent or representative;

“building” has the meaning assigned to it by section 3 of the Act;

“building line” means a line drawn across a plot such that no building or permanent structure, except a wall of approved design enclosing the plot, may be within the area contained between that line and the nearest road on which the plot has frontage;

“business or commercial area” means any area or zone wherein the building will be permitted of business and commercial premises and such other building as the Director of Physical Planning may approve and includes land used as open space or other public place;

“business premises” means a building or part of a building used or designed to be used for the purpose of carrying on retail trade or business (not being a petroleum filling station) and includes any office, store and workroom or stockroom on the same premises as and incidental to the conduct of such retail trade or business;

“caretaker’s quarters” means a building or part of a building designed for use as caretaker’s residential quarters and having a total area not exceeding 37 sq. m. (400 sq. ft.);

“commercial premises” means a building or part of a building used or designed for use as an office or for the conduct in such building or any business but does not include a petroleum filling station or an industrial building;

“coverage” as applied to a building means the portion of the horizontal area of the site of the building permitted to be built on under the provisions of these Rules at each floor level;

“development” has the meaning assigned to it by section 3 of the Act;

“development plan” has the meaning assigned to it by section 3 of the Act;

[Subsidiary]

“Director of Physical Planning” has the meaning assigned to it by section 3 of the Physical Planning Act;

“domestic building” means a building used, constructed or adapted to be used in whole or in part for human habitation or any combination thereof or any other building not being a public building or a building of the warehouse class;

“double dwelling” means a building or a maximum of two storeys designed to contain exclusively two self-contained dwellings together with such out-buildings as are ordinarily used therewith;

“dwelling” means a building or any part or portion of a building used or constructed, adapted or designed to be used for human habitation as a separate tenancy or by one family only, whether detached, semi detached or separated by walls or by floors from adjoining buildings, together with such out-buildings as are reasonably required to be used and enjoyed therewith, and shall include any residential flat or apartment;

“dwelling house” means a building designed for use exclusively as one self contained dwelling by a single family, together with such out-buildings as are ordinarily used therewith;

“external wall” means an outer wall or vertical enclosure of a building not being a partywall even though adjoining a wall of another building;

“guest house” means a dwelling or a residence, not being a main dwelling and not leased as a separate self-contained dwelling, within the boundaries of a plot or sub-plot, which shall comprise not more than one room, one water closet, one bathroom and one verandah, and the total plinth area shall not exceed 37 sq. m.(400 sq. ft.);

“habitable room” means a room designed or used for human habitation and includes any living room, office, workroom or any room designed or adapted or used for the purpose of sleeping, eating or cooking of food therein, or as a place for the habitual employment of any person;

“industrial building” is a building used for carrying on such trades or processes as in the opinion of the Director of Physical Planning, require the building to be cited within the industrial zone in accordance with the provisions of any development plan or zone plan or structure plan;

“industrial area or zone” means any area or zone restricted for use for industrial purposes and includes land or buildings to be reserved for or used for public purposes;

“internal open space” means a space which is surrounded or is liable to become surrounded with buildings or erections of any description either wholly or to such extent that the free passage of air into and throughout such space is or may be insufficiently provided for;

[Subsidiary]

“latrine” or “latrine accommodation” means a receptacle for human excreta of both solid or liquid character, together with the structure containing and including such receptacle and the fittings and apparatus connected therewith and includes a water closet, pail closet and pit closet;

Cap. 242. “medical officer of health” has the meaning assigned to it by section 2 of the Public Health Act;

“movable dwelling” includes any tent, van or other conveyance whether on wheels or not, any sectional hitting shed or similar structure, being a tent, conveyance or structure which is used either regularly, or at certain seasons only, or intermittently for human habitation;

“noxious industrial building” means an industrial building or part of an industrial building used or designed to be used for the carrying on of such trade or process;

“occupier” means any person in actual lawful occupation of land or premises;

“owner” has the meaning assigned to it by section 3 of the Act;

“pail closet” means latrine accommodation and includes a movable receptacle for the reception of human excreta;

“partywall” means—

- (a) a wall forming part of building and used or constructed to be used in any part of its height or length for—
 - (i) the separation of adjoining buildings;
 - (ii) the separation of semi detached building;
 - (iii) the separation of residential flats, shops and/or offices into separate occupancies or limited groups or such occupancies;
- (b) a wall forming part of a building and standing in any part of its length to a greater extent than the projection of the footings on land of different owners;

“person” shall include any company or association or body of persons corporate or incorporate;

“petroleum filling station” is a building or part of a building used or designed for use for that purpose and includes provision for the servicing of vehicles;

“pit closet” means latrine accommodation when the receptacle for reception and retention of human excreta is formed by a pit or tank beneath the structure, and includes aqua privy;

“plinth area” means the sum total of the floor area contained in all the storeys of a building, the measurements for which shall be taken from the external faces of the enclosing walls or other boundaries of such buildings;

“plot or sub-plot” means any portion of land which is the subject of a separate registered conveyance, or sub-lease or any portion of a plot the position and boundaries of which are delineated on a plan or plan of subdivision prepared by the Director of Physical Planning or other competent authority;

“plot ratio” means the factor by which the area of a plot is multiplied to determine the maximum plinth area of a building permitted on that plot;

“public building” means a building used or constructed or adapted to be used ordinarily or occasionally as a place of public worship or as a hospital, college, school (not being a dwelling house so used), theatre (including a private theatre), an institution for persons admitted by ticket or otherwise or used or adapted to be used for any other public office or public purpose;

“quarrying” means the extraction of stone, sand or other minerals from the ground by manual or mechanical means;

“residential area” or “residential zone” means any area or zone restricted for use exclusively for residential purposes and includes land reserved for open spaces, sports grounds or land reserved for public purposes;

“residential building” means a building (other than a dwelling house, double dwelling, terrace houses, special block of flats, block of flats or apartment house) designed and used for residential purposes, a residential club, boarding house, lodging house or hostel;

“road” means any street, highway or sanitary lane or any land reserved for a street, highway or sanitary lane and includes any bridge, footway, public area park, square, court, alley or passage whether a thoroughfare or not;

“servant quarter” means any building or part of a building used, designed or updated for use as a dwelling for occupation by domestic servants employed by the owner or occupier of any dwelling of which the quarters are deemed to form a part of one of the out-buildings ordinarily used therewith; such quarters shall comprise living or sleeping rooms, cooking, ablution and latrine accommodation;

“service industrial building” means a building or part of a building designed for use and includes the following classes, the total floor area of which should not exceed an area equal to one hundred and fifty percent of the site area—

(a) printing and book binding works;

(b) bakery and confectionary;

[Subsidiary]

- (c) dairy;
- (d) tailoring and dress making;
- (e) instrument making;
- (f) sign writing;
- (g) dry cleaning;
- (h) retail grindery;
- (i) minor electrical repairs;
- (j) plumbing and painting works,

or such other similar uses and includes storage of goods;

“special block of flats” means a two or more storey building designed in part to contain two or more self-contained dwellings, together with out-buildings as are ordinarily used therewith; the ground floor of the building not being used as a dwelling;

“store” means a building which is used or intended or designed to be used for the storage of any kind of materials including foodstuffs;

“tenement” or “apartment house” means a building not necessarily of two or more storeys, wholly or partially containing rooms or suites of rooms having a common entrance or common entrances and occupies or intended to be occupied as dwellings;

“terrace house” means a building designed to contain more than two self-contained dwellings arranged in a row or otherwise attached to one another and with such out-buildings as are ordinarily used;

“use and density zone map” means the map or maps prepared by the Director of Physical Planning and deposited in the office of the Local Authority and accordingly adopted by the local authority as relative to these Rules and on which is indicated the use and/or density zones for the whole or parts of the urban area;

“use” or “purposes” or “purpose” means the particular use or 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 and in a domestic building only that portion thereof which has been erected as a dwelling may be uses as such;

“water closet” means any latrine accommodation used or adapted or intended to be used in a water carriage system and comprising provisions for the flushing of the receptacle by means of a water supply;

[Subsidiary]

“width” as it applies to a road, means the distance between the two sides of the space used or intended to be used or laid out or planned so as to admit of being used as a road, measured at right angles to the direction of the road.

PART II—SITINGS, AMENITIES DENSITY AND USE ZONING RULES

3. (1) Any person intending to erect a new building or re-erect an existing building shall comply with the provisions of the existing building code, local authority by-laws and the physical planning requirements and such conditions as may be imposed by the approving authority regarding the siting, size, height, shape and appearance of such building in order to safeguard, maintain or impose the dignity or preserve the amenity and general appearance of street, square, or public place or have effect on the complemented appearance of such street, square or public place.

Vetting of building plans.

(2) All new buildings and all additions to existing buildings, particularly out-buildings, latrines and all drains and sanitary apparatus of any kind pertaining thereto shall be situated on such plot, sub-plot or other piece of land on which they may be built, as to ensure the best practicable hygienic and sanitary conditions and avoid as much as possible any nuisance or annoyance from the position and appearance of such latrines or buildings or from noise caused by the occupants of such out-buildings or from any other cause whatsoever.

4. A person owning a plot upon which a building may be so sited as to form a terminal feature to a street or which may otherwise be prominently displayed shall site such building in such position as the local authority in consultation with the Director of Physical Planning may decide and that person shall comply with such stipulations as may be imposed with regard to siting, size, height, shape and appearance of such building.

Terminal features.

5. (1) No person shall erect a public building on any site unless that site has been recommended by the Director of Physical Planning through the preparation of relevant part development plan or an advisory plan as the case may be and the same has been approved by the Minister, or by the relevant local authority.

Sites of public building.

(2) The Director of Physical Planning may refuse to recommend 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

[Subsidiary]

traffic may be possible; or

(f) car parking provision on or in the vicinity of the site is, in the opinion of the Director of Physical Planning, inadequate.

(3) In the case of a theatre, cinematography halls, music halls and concert halls, the sites of these buildings shall have two sides as frontage to a public street and 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:

Provided that, where the local authority in consultation with the Director of Physical Planning so decides, a private open and paved passage way for the exclusive use of the audience of such theatre or hall leading to a street and having a minimum width of 7 meters (24 feet) may be regarded as equivalent to a public street.

Front frontage.

6. (1) No building shall be erected 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.

(2) No building shall, except with the prior written permission of the Director of Physical Planning, be so erected as to have its principal access to or its principal frontage abutting on a service lane, alley or passage.

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

Density.

7. (1) The size of plot within the area shown on any structure plan, development plan, advisory plan, zoning plan, subdivision plan approved by the Minister and adopted by the local authority shall not be subdivided into smaller sub-plots than the minimum specified thereon for the area within which the plot is situated without the consent of the Director.

(2) The minimum size of the plot or sub-plot prescribed for any area may be increased to a satisfactory extent if such minimum size is inconsistent with the amenity of the environs of any plot or portion of the area or if such increase is necessary for the proper development of the plot or sub-plot and if the nature of the ground necessitates large plots or sub-plots to obtain good hygienic conditions.

Plot coverage.

8. Each local authority shall in consultation with the Director determine the plot coverage and plot ratios depending on the zoning of the urban area and the level of urban services available.

Cartilage.

9. Except in the case of dwellings contained in a special block of flats or a block of flats where any building is designed or constructed or used so as to provide within the same building more than one dwelling for a single family, each such dwelling shall be deemed to be separate house and shall have its own separate area, cartilage or open space which shall be contiguous with such dwelling as if it were separate building and the number of such dwellings shall

[Subsidiary]

not exceed the number permitted under these Rules for the area within which building is situated.

10. 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.

Reduction in plot area.

11. Where the use of any building or part thereof of any one class or combination of classes be altered to that of another class or combination of classes for which a less amount of coverage is required under these rules not less than the minimum open space required under these Rules shall be provided for the class or combination of classes to which the building has been altered.

Alteration of building (change of class).

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

Building Lines.

(2) No person shall erect any building other than a boundary wall or other fence nearer to the road than such building line may be so prescribed:

Provided that at the discretion of the Director of Physical Planning such building line may vary in distance from the road boundary throughout a road or part thereof: Such building line shall generally be in accordance with the specification described below—

(a) where roads range between 6 m.—18 m. in width the building line shall be 6 m;

(b) for any road above 18 m. in width the building line shall be 9 m.

13. (1) No person shall erect a building in such manner as to provide any back-to-back dwelling.

Back to Back Dwelling.

(2) 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.

14. Access of not less than 1.6 m. (5ft.) 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 rear of building from street.

15. (1) Every domestic building, every part of a building which in the opinion of the Local Authority may be from a separate tenancy or occupancy, shall have independent access to a street, such street not being a sanitary lane or passage:

Access to dwelling and other buildings.

Provided that—

(a) dwellings contained in a special block of flats or a block of flats;
or

[Subsidiary]

(b) separate offices within a building may have a common access to a street.

(2) Within every plot or sub-plot upon which it is intended to erect a domestic building there shall be laid out and constructed sufficient and suitably made footpaths of not less than 3 ft. (1m.) 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.

(3) 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 local authority.

Canopies and projections.

16. (1) A canopy may, with the permission of the local authority in consultation with the Director of Physical Planning, be erected over a footway but such canopy—

(a) shall not be less than 3 m. (10 ft.) 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 0.6 m. (2 ft.);

(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) No 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 local authority 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.

17. No building shall be erected on any site which has been made up or filled up by offensive or in sanitary 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 dealt with to the satisfaction of the Medical Officer of Health, Chief Materials Engineer, Environment Officer and the Director.

18. (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 6 m. (20 ft.) measured at right angles therefrom:

[Subsidiary]
Space in front of
buildings.

Provided that, if the building fronts on a street of lesser width, 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 6 m. (20 ft.).

(2) Any part of an open space left as aforesaid which lies within the plot shall be free from erection above the level of the ground, except a fence or wall not exceeding 1.4 m. (4.6 ft.) in height or a portico, porch, step or other like projection from the building or a gate.

19. 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 32.5 sq. m (350 sq. ft.) and having no dimension less than 4.5 m. (15 ft.).

Minimum
measurement of
courtyard.

20. Unless the council otherwise agrees, a building shall be provided with a secondary means of access.

Secondary means of
access.

21. 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 1.2 m. (4 ft.) in width and 2.1 m. (7 ft.) in height.

External passage.

23. A person erecting a building shall provide to the satisfaction of the local authority in consultation with the Director, a service area for the security serving that building, loading and unloading of vehicles, dustbins, and such other purposes as the Director of Physical Planning may require, and the means of the access thereto shall be of a width not less than 3 m. (10 ft.).

Service area.

24. The owner of a building may display the following illustrated advertisements without the prior consent of the local authority—

Permitted
advertisements.

(a) in the case of shops, the name and occupation of the occupier provided that the letters are not greater than 0.3 m. (12 inches) in depth and contains not more than 6 words;

(b) in the case of offices, a notice board displayed at the ground floor entrance to the premises not exceeding 0.3 sq. m. (3 sq. ft.) 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.

25. The owner or occupier of any premises may display hanging advertisements with the consent of the local authority in consultation with the Director provided that they do not exceed 1.8 m. x 0.6 m. (6 ft. x 2 ft.) and the

Hanging sign.

[Subsidiary]

bottom of the sign is 2.4 m. (8 ft.) minimum height from the pavement.

Advertisements requiring permission. 26. (1) The display of advertisements not mentioned in rule 24 shall require permission from the local authority and the Director.

(2) The grant of permission under subrule (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 local authority and the Director may consider necessary.

Removal of unauthorized advertisements. 27. A local authority may by notice in writing, require any person who displays an advertisement under Rule 26 without permission to remove such advertisement within the time specified in the notice.

Appeals. 28. Any person aggrieved by the decision of the local authority under the foregoing rules may appeal to the respective liaison committee.

PART III—APPLICATION, NOTICES APPROVAL, ETC.

Authentication and validity of notices and orders. 29. (1) Any notice, order or other document from the Director of Physical Planning made and issued by virtue of the provisions of these Rules may be signed by an officer authorized in that behalf by the Director.

(2) Any notice, order or other document from the liaison committee made and issued by virtue of the provisions of these Rules shall be signed by the chairman of the liaison committee.

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

What constitutes erection of buildings. 30. For the purposes of these Rules 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;

[Subsidiary]

- (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 purposed 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.

31. Buildings constructed exclusively for the purposes listed below shall be exempt from the operation of these Rules 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—

Exemptions and partial exemptions.

- (a) a poultry house, aviary, dog kennel, greenhouse or orchard house;
- (b) a fuel store (other than for the storage of a 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 (28) days and that it is not more than 700 cubic feet and is wholly detached from other buildings.

32. (1) Any person who proposes to erect a building or to carry out any development to which these Rules relate shall lodge with the local authority an application for approval together with the plans relative thereto, indicating—

Application for approval of building.

- (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;

[Subsidiary]

- (d) the water supply;
- (e) the number of persons to be accommodated in each part thereof, the means and capacity thereof for ventilation and the provisions made for the safety of the public.

(2) The plans submitted under this rule shall be duly signed by the applicant and shall illustrate the proposal in a clear and intelligible manner, to wit: 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 local authority to a scale of 0.5 cm: 4 ft. (0.5": 1 ft.).

Planning grounds for refusal of building plans.

33. The Director of Physical Planning shall 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 these Rules or the provisions of any written law;
- (c) the plans are not correctly drawn or omit to show information required under these Rules;
- (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;

[Subsidiary]

(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;

(m) provision has not been made for adequate natural light and ventilation; or

(n) any other physical planning issue.

34. (1) The decision of the local authority in respect of an application submitted in accordance with Rule 33 shall be communicated to the applicant within a period of ninety (90) days. Approval of building plans.

(2) Copies of plans approved under this Rule shall be deposited with the Director.

35. No person shall erect or authorise to be erected any building except in accordance with the plans submitted to and approved by the local authority in consultation with the Director of Physical Planning. Compliance with approved building plans.

36. (1) Where a person commences work upon any alterations or additions to any existing building, or carries out developments before receiving the approval of the local authority in consultation with the Director of Physical Planning, the local authority shall serve that the person with a notice requiring him to cease such work or development. Disregard of approval of building plans.

(2) A person who fails to comply with the requirements of a notice served under sub-rule (1), commits an offence and is liable to the penalty provided for in section 38 (1) of the Act.

37. (1) A person who obtains the approval of the local authority in consultations with the Director of Physical Planning for the erection of any proposed building, shall erect such building in accordance with the approved plans, sections, elevations, descriptions and particulars relating to such building. Disregard of approved building plans.

(2) A person who erects a building contrary to sub-rule (1) commits an offence and is liable to a penalty as provided for in section 38 (1).

(3) The Director of Physical Planning may advise the local authority to serve upon the owner of a building a notice requiring the owner—

(a) to erect such building strictly in accordance with the approved plans and particulars; or

(b) to execute such work or alterations upon or additions to such building or any part thereof as may be prescribed in such notice in order to render such building safe and sanitary or otherwise to conform to the requirements of these Rules; or

(c) to remove or demolish such building or any part thereof.

[Subsidiary]

Owners
responsibility.

38. 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 local authority for the stability of any such building structure or work.

Offences and
penalties-general.

39. A person who contravenes the provisions of any of these Rules, commits an offence and is liable to the penalty provided for in sections 38 and 39 of the Physical Planning Act.

L.N. 136/1998,
L.N. 50/2000,
L.N. 118/2007.

**THE PHYSICAL PLANNING (PLANNING AND ENDORSEMENT
FEES) REGULATIONS, 1998**

Short title.

1. These Regulations may be cited as the Physical Planning (Planning and Endorsement Fees) Regulations, 1998.

Interpretation.

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

“advisory plan” means a plan indicating permitted use of land;

“comprehensive scheme” means anything other than the ordinary scheme;

“Director” has the meaning assigned to it by section 3 of the Act;

“Minister” means the Minister for the time being responsible for physical planning;

“ordinary scheme” means development that shall not exert demands on the existing infrastructure, shall have not more than 10 units and shall have one user;

“part development plan” has the meaning assigned to it by section 3 of the Act;

“subdivision” has the meaning assigned to it by section 3 of the Act.

Planning fees.
L.N. 118/2007.

3. The following fees shall be payable in respect of advisory plans or part development plans or subdivision plans prepared by the Director:

(1) For preparation of a part development plan designating land for private alienation where stand premium is payable, 3 per cent of stand premium.

(2) For preparation of subdivision/advisory plans for agriculture/public purpose/recreational use, fifty shillings for each portion subdivided.

(3) For preparation of subdivision/advisory plans for residential use—

(a) where land is to be subdivided into two portions only, KSh. 1,000 per portion;

[Subsidiary]

- (b) where land is to be subdivided into three or more portions but not exceeding ten, KSh. 1,000 per portion for the first two and KSh. 450 per portion for the additional eight portions;
- (c) where land is to be subdivided into eleven or more portions 3 (a) and 3 (b) above apply, and KSh. 400 per portion for the additional portions.
- (4) For preparation of subdivision/advisory plan for commercial use—
- (a) where land is to be subdivided into two portions only, KSh. 1,100 per portion.
- (b) where land is to be subdivided into three or more portions but not exceeding ten, KSh. 1,100 per portion for the first two and KSh. 500 per portion for the additional eight portions.
- (c) where land is to be subdivided into eleven or more portions 4 (a) and 4 (b) above apply, and KSh. 450 per portion for the additional portions.
- (5) For preparation of subdivision/advisory plans for industrial use, two hundred shillings for each portion subdivided.
4. For inspection of property/site, the charges shall be three hundred shillings. Inspection fees.
L.N. 118/2007.
5. For building plans charges shall be one hundred shillings. Building plans fees.
L.N. 118/2007.
6. For acquisition of certificate of compliance under the provisions of section 30 (7) of the Act, the fees shall be as follows— Certificate fees.
L.N. 50/2000.
- | | <i>KSh.</i> |
|-------------------------------------|-------------|
| (a) Nairobi and Mombasa | 2,000 |
| (b) all other municipalities | 1,000 |
| (c) all other townships and centres | 500 |
7. (1) For scrutiny of the minute book maintained by the secretary of the liaison committees, KSh. 200. Checking fees.
- (2) Procurement of copies, under sub-regulation (1) KSh. 300 for first page and KSh. 20 per page of additional copies.
- (3) For scrutiny of subdivisions referred to the Director—
- (a) where the subdivision comprise 2-10 sub-plots, KSh. 200 per resultant sub-plot;
- (b) where the subdivisions comprise 11-20 sub-plots, (a) above shall apply and KSh. 150 per remaining sub-plots;

[Subsidiary]

(c) where the subdivisions comprise 21-50 sub-plots (a) and (b) above shall apply and KSh. 100 per remaining sub-plots;

(d) where the subdivisions comprise 51 sub-plots and above (a), (b) and (c) above shall apply and KSh. 80 per remaining sub-plots.

Exemption. 8. Fees under subregulation 7 (3) of these Regulations shall not be payable where the plan has been prepared by the Director.

Appeal fees. 9. For lodging an appeal under provisions of section 13 (1) by an applicant to the Municipal of District Liaison Committee, KSh. 1,000 and for lodging an appeal under the provisions of section 15 (1) by an applicant to the National Liaison Committee, KSh. 2,000.

L.N. 137/1998.

**THE PHYSICAL PLANNING (DEVELOPMENT PLANS)
REGULATIONS, 1998**

Short title. 1. These Regulations may be cited as the Physical Planning (Development Plans) Regulations, 1998.

Application. 2. These Regulations shall apply to all Physical Development Plans submitted to the Minister under the provisions of Part IV of the Act.

Procedures for preparation, submission and approval of development plans. 3. (1) The Director shall notify the respective local authority of his decision to prepare a development plan in respect thereof, the purpose of the plan and the extent of the area covered.

(2) The Director may in the course of preparing the development plan call a meeting or a series of meetings in which all stakeholders will be allowed to participate and give their views and suggestions.

(3) Where a development plan is prepared by the Director he shall immediately give public notice of the preparation in form P. P. A. 3 set out in the First Schedule hereto.

Notice of submission of development plan. 4. (1) Any plan prepared by a commissioned registered Physical Planner shall be submitted to the Director for scrutiny and authentication.

(2) A plan published by the Director in accordance with Regulation 3 shall be the property of the Director.

Resolution to prepare a development plan. 5. Where the Minister approves a development plan submitted to him in accordance with these Regulations he shall certify them in triplicate and return two certified copies to the Director who shall immediately give public notice of the approval in the form P.P.A. 4 set out in the Second Schedule hereto.

FIRST SCHEDULE**THE PHYSICAL PLANNING ACT**

(Cap. 286)

FORM P.P.A. 3

r. 3. (3)

NOTICE OF COMPLETION OF DEVELOPMENT PLAN

Title of Development Plan

NOTICE is hereby given that preparation of the above Development Plan was on day of completed.

The Development Plan relates to land situated within

A copy of the Development Plan as prepared has been deposited for public inspection at the office of the at

The copy so deposited is available for inspection free of charge by all persons interested at the above mentioned address between the hours of and

Any interested person who wishes to make any representation in connection with or objection to the above Development Plan may send such representations or objections in writing to be received by the Director of Physical Planning, P.O. Box not later than day of and any such representation or objection shall state the grounds on which it is made.

Dated the, 1998.

*Director of Physical Planning.***SECOND SCHEDULE****THE PHYSICAL PLANNING ACT**

(Cap. 286)

FORM P.P.A. 4

r. 5

NOTICE OF APPROVAL OF DEVELOPMENT PLAN

Title of Development Plan

Approved Development Plan No.

NOTICE is hereby given that on the day of the minister of approved the above Development Plan.

A certified copy of the Development Plan as approved has been deposited at the offices of the at

The copy of the Development Plan so deposited will be open for inspection free of charge by an interested person between the hours of

Any person wishing to purchase copies of the plan and the written document may do so on application to the Director.

Dated this day of

Signed

*Director of Physical Planning.***NOTES:**

Insert the name and address of the local authority affected by the Development Plan.

[Subsidiary]

L. N. 138/1998.

THE PHYSICAL PLANNING (APPLICATION FOR DEVELOPMENT PERMISSION) REGULATIONS, 1998

- Short title. 1. These Regulations may be cited as the Physical Planning (Application for Development Permission) Regulations, 1998.
- Application. 2. These Regulations shall apply to all land to which section 2 of the Act applies.
- Interpretation. 3. In these Regulations, unless the context otherwise requires—
- “Act” means the Physical Planning Act;
- “development” has the meaning assigned to it by section 3 of the Act and “develop” shall be construed accordingly;
- “land” has the meaning assigned to it by section 3 of the Act;
- “liaison committee” means a committee established under provisions of section 7 of the Act;
- Cap. 265. “local authority” has the meaning assigned to it in the Local Government Act;
- “Minister” means the Minister for the time being responsible for Physical Planning;
- “subdivision” has the meaning assigned to it by section 3 of the Act and “subdivide” shall be construed accordingly.
- Development permission. 4. (1) All applications for development permission shall be made on forms issued by the local authority or liaison committee and shall include such particulars and shall be accompanied by such plans and drawings as may be required by directions indicated thereon.
- (2) In the case of an application for determination whether any operations on land or any change of extension in the use of any land or building would constitute development of that land or building, it shall not be necessary to furnish plans and drawings other than a plan sufficient to identify the land to which the application relates in any case where the proposal is sufficiently described by the particulars together with the plan.
- (3) All applications for development permission shall be in the prescribed form and accompanied by a certificate of compliance in form P.P.A. 5 set out in the Schedule hereto, and shall be submitted to the liaison committee through the local authority having jurisdiction in the area to which the application relates and the necessary application forms may be obtained from that local authority.
- Consultations. 5. (1) Before granting permission for development in either of the following cases whether unconditionally or subject to conditions, the local authority or liaison committee, shall consult with the following authorities—

[Subsidiary]

- (a) where it appears to the local authority or liaison committee that the development is likely to affect adversely any land in the area of any other local authority, with such local authority;
- (b) where it appears to the local authority or liaison committee that the development is likely to create or attract traffic which may result in a material increase in the volume of traffic entering or leaving a main road or using a level crossing over a railway, with the appropriate highway or railway authority;
- (c) where it appears to the local authority or liaison committee that any development is likely to affect adversely adjacent airports or seaports, the appropriate airport or seaport authority.

(2) (a) The local authority or liaison committee shall give not less than thirty (30) days' notice to the authority required to be consulted that such an application is to be taken into consideration and shall not determine the application until after the expiration of the period mentioned in such notice.

(b) In deciding the application the local authority or liaison committee shall take into account any representations or objections received from the authority referred to in paragraph (a).

8. On referring any application to the liaison committee pursuant to a direction in that behalf under the provisions of section 35 of the Act, a local authority shall within seven (7) days of the receipt of the direction by the committee serve on the applicant notice of the terms given by the liaison committee for issuing the direction and such notice shall inform the applicant that the application has been referred to the liaison committee which shall, if the applicant so desires, afford the applicant or his representative an opportunity of appearing before and being heard by the committee.

Reference of application to liaison committee.

9. The local authority or liaison committee shall in every case serve notice on the applicant of its decisions in accordance with section 33 (2) of the Act.

Notification to application.

10. The local authority or liaison committee as the case may be shall keep a register containing the following information—

Register of applications other than subdivisions.

- (a) particulars of any application for permission to develop made to it in respect of any land, including the land reference number of the property, and the road, district and town in which it is situated, the name and address of the applicant and registered number and date of receipt of the application and brief particulars of the development forming the subject of the application;
- (b) particulars of any direction given under the Act in respect of the application;
- (c) the decision of the local authority or liaison committee in respect of the application and the date of such decision;

[Subsidiary]

- (d) the date and effect of any decision of the liaison committee in respect of any application referred to it under section 35 of the Act;
- (e) the date and effect of any determination or order of the liaison committee in respect of an appeal against a decision of the application;
- (f) the date and effect of any decision of the National Liaison Committee in respect of an appeal against the determination of the local liaison committee; and
- (g) the date and effect of any decision of the High Court in respect of an appeal against the determination of the National Liaison Committee.

Index to register.

11. A register may contain an index in the form of cards and each card shall contain the land reference number of the property which is the subject of the application and the road, district or town in which it is situated, the name and address of the applicant and the registered number of the application, and shall be filed in numerical sequence according to the land reference number.

Entry in register.

12. Every entry in the register shall be made within seven (7) days of the happening of the event in respect of which an entry is required to be made.

Inspection of register.

13. The register shall be kept at the offices of the local authority or the secretary to the liaison committee and made available for inspection by the public during normal hours of official business.

14. Any notice or other document to be served or given under these Regulations shall be served or given in accordance with the provisions of section 45 of the Act:

Provided that any notice of an unconditional grant of development permission which is to be served under regulation 8 may be served in accordance with the provisions of section 45 of the Act as though the word "registered" were deleted from the said section.

SCHEDULE

THE PHYSICAL PLANNING ACT

(Cap. 286)

CERTIFICATE OF COMPLIANCE

L.N. 51/2000.

FORM P.P.A. 5

r. 4 (3)

Certificate No.

Name and Address of Applicant

Type of Development (Industrial, Commercial, etc.)

On L.R./Parcel No. situated in

Road locality (Municipality, Township, etc.)

Received from (Local Authority) by

Ref. No. of

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

(a) Approved Development Plan No.

(b) Approved Subdivision Plan/Advisory Plan No.

(c) Special conditions specified in the Notification of Approval (Form P.A.A. 2) date.

with respect to Registered Application No.

Issued by (Name of Officer)

..... Signature for Director of Physical Planning

Department Seal

[Subsidiary]
L.N. 139/1998.

THE PHYSICAL PLANNING ORDER, 1998

- Short title. 1. This Order may be cited as the Physical Planning Order, 1998.
- Application. 2. This Order shall apply to all land in the country to which section 2 of the Act applies.
- Interpretation. 3. In this Order, unless the context otherwise requires—
- “Act” means the Physical Planning Act;
- “building” has the meaning assigned to it by section 3 of the Act;
- “Development” has the meaning assigned to it by section 3 of the Act;
- “erection” in relation to a building includes extension, alteration and re-erection;
- “highway authority” means a highway authority as defined in the Public roads and Roads of Access Act;
- “land” has the meaning assigned to it by section 3 of the Act;
- “liaison committee” means a committee established under provisions of section 7 of the Act;
- “local authority” has the meaning assigned to it in the Local Government Act;
- “Minister” means the Minister for the time being responsible for Physical Planning;
- “owner” has the meaning assigned to it by section 3 of the Act;
- “statutory undertaker” means statutory bodies responsible under any law within the country and any other body which the Minister may by notice in the Gazette specify.
- Grant of Permission. 4. All development in areas to which this Order applies shall require the grant of permission for the purpose of Part V of the Act.
- Permitted development. 5. (1) Subject to the provisions of this Order, development of any class specified in the Schedule to this Order is permitted and may be undertaken upon land to which this order applies with the permission of the local authority or liaison committee:
- Provided that the permission granted by this Order in respect of any such class of development shall be subject to any condition or limitation imposed in the said Schedule.
- (2) Nothing in this paragraph or in the said Schedule to this Order shall

[Subsidiary]

be deemed to permit any development which is not in accordance with any condition imposed when permission is granted or deemed to be granted under Part V of the Act otherwise than by this Order.

6. (1) If the local authority or relevant liaison committee is satisfied that it is expedient that development of any of the classes specified in the Schedule to this Order shall not be carried out in any particular development of any of the said classes unless permission is granted on application in that behalf, the local authority or the relevant liaison committee may direct that the permission granted by Part I of the Schedule shall not apply to—

Directions
restricting permitted
development.

- (a) any development of all or any of the said classes in any particular area specified in the direction; or
- (b) any particular development, specified in the direction, falling within any of the said classes.

(2) (a) A direction in respect of any particular area under paragraph (a) of subparagraph (1) of this paragraph shall be given by notice by the local authority or relevant liaison committee and shall specify the effect of the direction and the name of a place where a copy thereof and a map defining the area to which it relates may be viewed at all normal hours of official business and such direction shall come into force on the date on which notice thereof is first published.

(3) Notice of any direction specifying any particular development under subparagraph (1) (b) shall be served by the local authority on the owner of the land affected, and any such direction shall come into force on the date on which notice thereof is served on the owner.

(4) No direction given or having effect under this paragraph shall have effect in relation to the carrying out in case of emergency of any development specified in the schedule to this Order, or unless such direction specifically so provides, to the carrying out by a statutory undertaker of the following—

- (a) maintenance of bridges, buildings and railway stations;
- (b) alteration and maintenance of railway tracks and provision and maintenance of track equipment, including signal boxes, signal apparatus and other appliances and works required in connection with the movement of traffic by rail;
- (c) maintenance of harbours, quays, wharves and canals;
- (d) provision and maintenance of mechanical apparatus or appliances required for the purpose of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a harbour, quay or wharf;
- (e) any development required in connection with the improvement and maintenance or repair of water courses or drainage works, or sewers or sewage disposal works.

[Subsidiary]

Application
determination
whether permission
is required.

7. A person who proposes to carry out any developments on land or to make any change in the use of land or buildings and who wishes to have it determined whether the carrying out to those operations or the making of that change in the use of the land or buildings would constitute or involve development within the meaning of the Act and, if so, whether an application for permission in respect thereof is required under the Act having regard to this Order may apply to the local authority or liaison committee for determination.

Application for grant
of permission.

8. (1) An application to the local authority or liaison committee for any permission or decision required under this Order, shall unless otherwise provided in this Order, be made in accordance with the provisions of the Physical Planning (Application for Development Permission) Regulations.

(2) Where an applicant so desires, an application (hereinafter called "an application in principle"), may be made under subparagraph (1) of this paragraph for permission for the use of any building or land or for erection of any building, and any approval thereof shall be subject to the subsequent approval of the local authority or liaison committee with respect to any matter relating to the siting, design or external appearance of the building, or the means of access thereto, in which case particulars and plans in regard to these matters shall not be required and permission may be granted subject as aforesaid (with or without other conditions) or refused:

Provided that—

- (a) where such permission is granted it shall be expressed to be granted under this subparagraph on an application in principle and the approval of the local authority or liaison committee shall be required with respect to the matters reserved in the permission before any development is commenced;
- (b) where the local authority or liaison committee is of the opinion that in the circumstances of the case the application for permission ought not to be considered separately from the siting, design or external appearance of the building, or the means of access thereto, the local authority or liaison committee shall within thirty (30) days from the receipt of the application in principle, serve notice on the applicant that the local authority or liaison committee is unable to consider such application, specifying the matters as to which the local authority or liaison committee requires further information for the purpose of arriving at a decision in respect of the proposed development and the applicant may either furnish the information so required (in which event the application shall be treated as if it had been received on the date when such information was furnished and had included such information).

SCHEDULE

r. (6)

PART I

The development specified in the first column is permitted subject to the conditions set against in the second column:

COLUMN (1)

COLUMN (2)

*Description of Development Conditions**Class I—Development within the cartilage of dwelling-house.*

The enlargement, improvement or other alterations of a dwelling-house materially affecting the external appearance of the building so long as the cubic content of the original dwelling house (as ascertained by external measurement) is not exceeded by more than 50 cubic metres or one-tenth whichever is the greater subject to a maximum of 133 cubic metres.

1. The height of such buildings shall not exceed the height of the original dwelling-house.
2. Standard conditions Nos. 1 and 2.

Class II—Sundry minor operations

1. The erection or construction of gates, fences walls or construction of enclosure not being within the cartilage of a dwelling-house not exceeding two metres in height and the maintenance, improvement or other alterations of such gates, fences, walls or other means of enclosure, except on the road transaction.
2. The painting of the exterior of any building or work otherwise than for the purpose of advertisement.

- Standard condition Nos. 1 and 2.
- Standard condition Nos. 1, 2 and 3.

Class III—Changes of Use

Development consisting of a change of use to:

- (a) (i) Use of a light industrial building defined by the Physical Planning hand book.
- (ii) Use of a general industrial building as so defined;
- (b) Use as any type of shop except—
 - (i) a drive-in shop;
 - (ii) a fast foods shop;
 - (iii) a butcher shop;
 - (iv) a shop for the sale of pet animals or birds,
 - (v) a shop for the sale of motor vehicles from use as any type of shop.

Class IV—Temporary buildings and uses

The use of land for any purpose for not more than twenty-eight (28) days in total in any calendar year, and the erection or placing of movable on the land for the purposes of that use.

[Subsidiary]

Class V—Development for industrial purposes

The deposit by an industrial undertaker if the waste material or refuse resulting from an industrial process on any land comprised in a site which was used for such deposit otherwise than in contravention or previous planning control, on the appointed day.

Standard conditions Nos. 1 and 2.

Class VI—Repairs to roads and ways

The carrying out of works required for maintenance or improvement of roads or ways not under the control of a highway authority being works carried out on land within the existing limits of such roads or ways.

Standard conditions Nos. 1 and 2.

Class VII—Rebuilding of existing buildings and plant

The rebuilding, restoration or replacement of buildings, works or plant which were in existence on the appointed day.

1. The cubic content of the works or plant shall not be increased by more than ten per centum.

2. There shall be no material alteration from the external appearance, as on the appointed day except with the approval of the local authority or liaison committee.

Class VIII—Development of local authority

1. The erection or construction and the maintenance, improvement or other alteration by a local authority of:

3. Standard conditions Nos. 1, 2 and 3.

Standard condition Nos. 1, 2 and 3.

(i) Such buildings, works and equipment as are required on land belonging to or maintained by them for the purposes of any related and appropriate functions exercised by them on that land;

(ii) Lamp stands, fire alarms, public drinking fountains, street name plates, refuse bin or baskets, information kiosks, passenger shelters, public shelters and seats, barrier for the control of persons who are waiting to enter public vehicles and such other similar structures or works as may be required in connection with the operation of any public service.

Standard condition No. 2.

2. The deposit by a local authority of waste material or refuse on any land comprised in a site which was used for that purpose otherwise than in contravention of planning permission.

Standard condition Nos. 1 and 2.

PART II

STANDARD CONDITIONS

1. This permission shall not authorize any development which involves the formation laying out or material widening of a means of access to a main or district road as defined in the Roads and Road Traffic Act or a public street as defined in the Street Adoption Act.

2. No development shall be carried out which creates an obstruction to the view of persons using any road used by vehicular traffic at or near any bend corner, junction or intersection of any roads so as to be likely to cause danger to such persons.

3. No part of any building shall project beyond any building line laid down for the holding or plot.

PART III

This part shall apply only to areas where there is an approved development plan.

*Class IX—Conforming
Development*

Where a layout or subdivision plan has been lawfully approved and any conditions contained in such approval have been fulfilled the erection in any zone of purpose for which the permission of the local authority is not normally required by the approved written document.

1. In residential use zones for the erection of dwelling-houses only, the subdivision of land shall not be less than approved plot sizes.
2. The Minister is satisfied that adequate provision for parking, loading and unloading of vehicles in the case of industrial and commercial buildings or uses has been made.
3. The approval of the local authority to the external design appearance and materials in the case of commercial buildings and uses has been obtained.
4. If the development is likely to affect adversely any land in the area of any local authority or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving a main road or using a level crossing over a railway the provisions of regulation 7 of Development Permission shall first be complied with.

[Subsidiary]

L. N. 140/1998.

**THE PHYSICAL PLANNING (SUBDIVISION)
REGULATIONS, 1998**

- Short title. 1. These Regulations may be cited as the Physical Planning (Subdivision) Regulations, 1998.
- Application. 2. These Regulations shall apply to all land to which section 2 of the Act applies.
- Interpretation. 3. In these Regulations, unless the context otherwise requires—
- “holding” means any area of land which is shown as a parcel, plot or farm on a general plan or other land approved under the Survey Act and shall include any building erected thereon;
- “land” has the meaning assigned to it by section 3 of the Act;
- “liaison committee” means a committee established under provisions of section 7 of the Act;
- “local authority” has the meaning assigned to it in the Local Government Act;
- “Minister” means the Minister for the time being responsible for Physical Planning;
- “owner” has the meaning assigned to it by section 3 of the Act;
- “public notice” has the meaning assigned to it by section 52 of the Act.
- Grant of Permission. 4. All subdivisions in the areas to which these Regulations apply shall require the grant of permission for the purposes of Part V of the Act.
- Applications for grant of permission. 5. (1) An application to the local authority or liaison committee for any permission required under these Regulations, shall be made in accordance with the provisions of the Physical Planning (Application for Development Permission) Regulations.
- (2) On receipt of an application to subdivide made under the provisions of section 31 of the Act, the local authority may—
- (a) demand further information from the applicant; or
- (b) require that public notice be given under section 41 (3) inviting objections to the application in the manner prescribed in the First Schedule;
- (c) approve the applications subject to any of the conditions set out in the Second Schedule.

[Subsidiary]

6. On referring any application to the liaison committee pursuant to section 35 of the Act, a local authority shall within seven (7) days of the receipt of the application serve on the applicant notice to that effect giving reasons of such reference and such notice shall inform the applicant that the application has been referred to the liaison committee and shall, if the applicant so desires afford the applicant or his representative an opportunity of appearing before and being heard by the liaison committee.

Reference of application to the liaison committee.

7. (1) The local authority or liaison committee shall in every case serve notice on the applicant of its decision.

Notification to applicants.

(2) The period within which the local authority or liaison committee shall serve notice on the applicant shall be ninety (90) days from the date of receipt of the application.

(3) Every notice shall be in writing and in the case of an application for permission or approval where the local authority liaison committee decides to grant such permission or approval subject to conditions or to refuse it, it shall state the conditions, in such notice.

8. The local authority or liaison committee shall keep a separate register as set out in the Third Schedule containing the following information in respect of all applications for permission to subdivide land within which it is concerned namely—

Register of applications.

- (a) particulars of any application for permission to subdivide made in respect of any land, including the land reference number of the property and the road, district and town in which it is situated, the name and address of the applicant and brief particulars of the subdivision forming the subject of the application;
- (b) particulars of any direction given under the Act in respect of the application;
- (c) the decision of the local authority or liaison committee in respect of the application and date of such decision;
- (d) the date and effect of any decision of the liaison committee in respect of any application referred to it under section 35 of the Act;
- (e) the date and effect of any decision of the National Liaison Committee in respect of an appeal against the determination of the local liaison committee;
- (f) the date and effect of any decision of the High Court in respect of an appeal against the determination of the National Liaison committee.

9. Every register shall contain an index in the form of cards, and each

Index to Register.

[Subsidiary]

card shall contain—

- (a) the land or parcel reference number of the application;
- (b) the road, district and town in which it is situated;
- (c) the name and address of the applicant; and
- (d) the registered number of the application which must be filed by local authorities in numerical sequence according to the land reference number.

Entry in Register.

10. Every entry in the register shall be made within seven (7) days of the happening of the event in respect of which an entry is required to be made.

Inspection of Register.

11. The register shall be kept at the offices of the local authority or the secretary to the liaison committee and made available for inspection by the public during normal hours of official business.

Notices.

12. Any notice, or other document to be served or given under these Regulations shall be served or given in accordance with the provisions of section 45 of the Act:

Provided that any notice of unconditional grant of development permission which is to be served under these Regulations may be served in accordance with the provisions of section 45 of the Act as though the word “registered” were deleted from the said section.

Subdivision procedures.

13. The subdivision procedures shall be as provided in section 41 of the Act.

Format of subdivision plans.

14. Any person who submits a plan of a scheme of subdivision of any land within the area of the local authority shall comply with the following conditions—

- (a) a minimum of 12 copies of all plans, together with a letter of consent to subdivide from the land control board and certificate of official/postal search or any other evidence from the respective Land Registrar, shall be submitted to the local authority;
- (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, correctly plotted to scale, the existing plot boundaries and their dimensions, the areas of the plot, the location, the land reference number or registered number of the plot and of such contiguous plot, the contiguous boundaries of all adjacent plots and road system (existing and approved). Lanes (pedestrian and sanitary), and their widths. The true north shall be indicated by a pointer and the names of all existing streets shall be indicated with their widths;

- (d) the proposed scheme of subdivision, the boundaries in red and the approximate dimensions of sub-plots and 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. 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 wayleaves 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.

15. In any scheme of subdivision of land within the area of a local authority the following conditions shall be complied with—

Requirements when subdivision schemes are submitted.

- (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 3 metres in width;
- (c) wayleaves or reserves along any river, stream or water course shall be provided of not less than 10 metres in width on each bank, except in areas where there is an established flooding;
- (d) reserves along the ocean and lake beaches shall be provided of not less than 2 km. and 1 km. respectively;
- (e) where required by the local authority and the Director of Physical Planning, land suitable and adequate shall be reserved at no cost to the local authority for open spaces, amenities, recreational facilities, road reserves, public purpose relative to the area to be subdivided and for road widening;
- (f) streets connected at each end to other streets or which may be so connected shall be at a width required by the Director of Physical Planning;

[Subsidiary]

- (g) provision, adequate in the opinion of the Director of Physical Planning shall be made for the truncation of street corners and the widening of existing streets or lanes;
- (h) 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;
- (i) the proposal shall conform with the provisions of any structure plan, local physical development plan, advisory plan, zoning, or development plan approved by the Minister;
- (j) notwithstanding the provisions of these Rules regarding the minimum size of plots in any area, plots at street corners shall be made to adequate size to permit establishment of satisfactory building lines (whenever appropriate) and to provide for proper utilisation of such plots within the building lines;
- (k) 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 requirements of the relevant local authority.

Building Density.

16. In the case of a scheme of subdivision of land within the agricultural land the Director of Physical Planning shall at his discretion prescribe the minimum size of plots therein, the use of such land or building and the maximum number and coverage of buildings per acre to be erected thereon.

Alteration and cancellation of subdivisions.

17. A local authority may on the recommendations of the Director of Physical Planning or respective authorities cancel the whole or any scheme of division or subdivision which has not been carried into effect provided reasons thereof are given to the affected party.

Public density.

18. (1) Subject to the provisions of any written law not more than one building (other than out-building or appurtenances to the building) shall be erected within the boundaries of any one plot, sub-plot, or holding whether the buildings are erected on account of the owner or otherwise.

(2) Before the erection of additional buildings, each on a separate plot or holding as aforesaid can be authorised, a scheme of division or subdivision shall be submitted by the local authority for approval:

Provided that the Director of Physical Planning may—

- (a) prohibit the erection within a plot, sub-plot, or holding of more than one guest house or any other building or out-building or any building when such building, out building or appurtenance is intended to be used as a guest house;
- (b) waive the necessity of a scheme of division or subdivision being submitted when more than one building is necessary in connection

[Subsidiary]

with a public building, school, hospital, clinic, mission station, welfare or philanthropic institution, a Government, local authority or other housing scheme, a scheme of flats, or in connection with business or industrial premises under one management or staff housing schemes, on an undertaking being given that the building so erected shall not under any circumstances be sold separately.

19. A public building shall be erected only on plots certified by the Director of Physical Planning as being suitable for the purpose.

FIRST SCHEDULE (r. 5 (2) (b))

THE PHYSICAL PLANNING ACT
(Cap. 286)

NOTIFICATION OF INTENT TO SUBDIVIDE

FORM P.P.A. 6 s. 41 (3)

ADVERTISEMENT

NOTICE IS HEREBY GIVEN THAT
of
has applied to
for permission to subdivide land situated at (*address of property*)
.....
a plan of the site and plans and details of the proposed subdivision is
deposited and may be inspected free of
charge between the hours of and*
until the day of, 19

Any person who wishes to make any representations or objections to the proposed subdivision should serve notice of such representations or objections in writing on

P.O. Box not later than
day of, 19**
and shall at the same time submit a copy of such representations or objections by notice served on the undersigned at the address mentioned below.

Signed

Dated this day day of, 19

*Not less than fourteen (14) days from the date of the first advertisement shall be allowed for inspection of the plan.

**Not less than thirty (30) days from the date of the first advertisement shall be allowed for the submission of representations and objections.

[Subsidiary]

SECOND SCHEDULE

r. 5 (2) (c)

CONDITIONS OF APPROVAL

When considering applications for subdivisions the local authority or liaison committee may impose conditions of approval in respect of the matter enumerated below, and after implementation of such approval the conditions shall be binding upon the owner, successors and assigns:

1. The type and form of development to be carried out or permitted and the size, form and situation of holding and the conditions on which such holdings may be transferred.

2. The reservation of land for roads and public purpose or for other purposes referred to in the Act for which land may be reserved.

3. The character and type of roads and public utilities or other works, including the standard of construction and/or maintenance of a road, water supply, drainage and sewerage works which are to be undertaken and completed by the applicant for subdivision at the applicant's cost.

4. Provision as to the forms of security to be given by the applicant of any conditions imposed and provision as to the right of the local authority to carry out any such conditions at the expenses of the applicant.

5. The co-ordination of the subdivision of contiguous properties in order to ensure the proper development of such properties.

6. The transfer free of charge to Government or local authority of any land reserved in accordance with the provisions of paragraph 2 hereof may be by the applicant.

7. The registration by the applicant of any conditions imposed in the deed of the title of the property.

THIRD SCHEDULE

(r. 8)

SUBDIVISION REGISTER (SR)

SR No. Township Plot No.

District

Date

Name of Holder and Address

Particulars of any direction
given under the Act.

Decisions of Committees Date

[Subsidiary]

**THE PHYSICAL PLANNING (ENFORCEMENT NOTICES)
REGULATIONS, 1998**

L. N. 141/1998.

1. These Regulations may be cited as the Physical Planning (Enforcement Notices) Regulations, 1998. Citation.
2. These Regulations shall apply to any enforcement notice served under section 38 of the Act. Application.
3. In these Regulations, unless the context otherwise requires— Interpretation.
- “Act” means the Physical Planning Act;
- “enforcement notice” means an enforcement notice served under the provisions of section 38 of the Act;
- “liaison committee” means a committee established under the provisions of section 7 of the Act;
- “local authority” has the meaning assigned to it in the Local Government Act; Cap. 265.
- “Minister” means the Minister for the time being responsible for Physical Planning.
4. An enforcement notice shall be in the form set out in the Schedule hereto. Form of enforcement notice.
5. (1) The local authority shall keep a register containing the information in respect of every enforcement notice served by it. Register.
- (2) The register shall contain the following information:
- (a) the name and address of the person on whom the enforcement notice is served, the land reference number of the property affected and the road, district and town in which it is situated, the number of the enforcement notice, and the date of the enforcement notice by the liaison committee;
- (b) the date the enforcement notice is to take effect;
- (c) the date and effect of any determination of the local liaison committee in respect of an appeal against the enforcement notice;
- (d) the date and effect of any decision of the National Liaison Committee in respect of an appeal against the determination of the local liaison committee;
- (e) the date and effect of any decision of the High Court in respect of an appeal against the determination of the National Liaison Committee;

[Subsidiary]

(f) the date and brief particulars of any action taken by the person on whom the enforcement notice is served to satisfy the conditions therein and whether or not the person has complied with the enforcement notice.

(2) Every enforcement notice in respect of which an entry is made in the register shall be numbered and such numbers shall run consecutively.

Index to register.

6. (1) A register may contain an index in the form of cards, and each card shall contain—

- (a) the land reference number of the property affected and the road on which it is situated;
- (b) the district and town in which it is situated;
- (c) the name and address of the person on whom the enforcement notice is served.

(2) The enforcement notice shall be filed by the local authority in numerical sequence according to the land reference number.

Entry in register.

7. Every entry in the register shall be made within seven (7) days of the happening of the event in respect of which an entry is required to be made.

Inspection of register.

8. The register shall be kept at the office of the local authority and made available for inspection by the public during normal hours of official business.

SCHEDULE

**THE PHYSICAL PLANNING ACT
(Cap. 286)**

ENFORCEMENT NOTICE

FORM P.P.A. 7 (r. 3)

To:
.....
.....

1. The development/subdivision of land described hereunder has been carried out without the grant of permission and/or the following conditions required on that behalf under Part V of the Physical Planning Act.

.....
.....

Subject to which permission for the development/subdivision of land as described hereunder was granted in respect thereof under Part V of the Physical Planning Act has/have not been complied with.

[Subsidiary]

2. (Description of development or subdivision of land)

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

3. You are hereby required to (describe the steps to be taken)

.....
.....
within a period of

from the date of this notice failing which the **
(local authority) may enter on the said land and execute the requirements
as outlined hereinabove and may recover as a civil debt in any court of
competent jurisdiction from any related expenses incurred.

4. This notice shall take effect on the day of, 19

5. If you are aggrieved by this notice you may appeal to the liaison committee
or High Court as the case may be under provisions of part III of the Act
before the aforesaidday of
....., 19 in which case the
operation of this notice shall be suspended pending the final determination
or withdrawal of the appeal.

6. Any person who uses or causes or permits to be used the land to which this
notice relates or carries out or causes or permits to be carried out operations
on the said land in contravention of this notice shall be guilty of an offence
as provided for by section 30 of the Act.

Signed

Dated this day of, 19

**Delete whichever is inapplicable.*

***Insert name of the local authority.*

[Subsidiary]

L.N. 142/1998.

THE PHYSICAL PLANNING (APPEALS TO THE PHYSICAL PLANNING LIAISON COMMITTEE) REGULATIONS, 1998

Short title. 1. These Regulations may be cited as the Physical Planning (Appeals to the Physical Planning Liaison Committee) Regulations, 1998.

Interpretation. 2. In these Regulations, unless the context otherwise requires—
“committee” means a liaison committee established under provisions of section 8 of the Act;

“petitioner” means any person aggrieved by a decision of the Director of Physical Planning or a local authority concerning any physical development plan or matters connected therewith, and any person aggrieved by a decision of a liaison committee.

“secretary” means the secretary of the Committee.

Appeals procedure. 3. All appeals shall be made on forms P.P.A. 8 and P.P.A. 9 set out in the Schedule respectively and issued by the relevant liaison committee or local authority, and shall include such particulars as may be required by the directions printed on the forms.

4. The secretary to the relevant liaison committee shall within ninety days of receipt of the application in writing inform the petitioner the date on which the liaison committee shall consider the appeal.

5. The secretary shall inform the petitioner of the decision of the committee within sixty (60) days.

Where the petitioner is not satisfied with the decision of the committee the petitioner may appeal to the National Liaison Committee within thirty (30) days of receipt of the decision of the committee communicated under regulation 5.

SCHEDULE (r. 3)

**THE PHYSICAL PLANNING ACT
(Cap. 286)**

(APPEALS AGAINST DEVELOPMENT PLANNING DECISION)

PART I

FORM P.P.A. 8 Registered No. of
(To be filled in triplicate) Appeal

To:
THE SECRETARY

.....

DISTRICT/MUNICIPAL PHYSICAL PLANNING LIAISON COMMITTEE

(Delete as necessary)

I/We, of P.O. Box

appeal against the decision made by
(Director of Physical Planning/local authority) regarding development on Parcel No.(s)

[Subsidiary]

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

situated in road locality
(Municipality, Township, etc.)

My/our grounds for appeal are as follows:

.....
.....

(Please attach additional written text if space is insufficient.)

Signature of Applicant

Dated this day of year

THE PHYSICAL PLANNING ACT

(Cap. 286)

APPEALS AGAINST DEVELOPMENT PLANNING DECISION

s. 15 (1)

PART II

FORM P.P.A. 9
(To be filled in triplicate)

Registered No. of
Appeal

To:
THE SECRETARY

.....

NATIONAL PHYSICAL PLANNING LIAISON COMMITTEE

(Delete as necessary)

I/We, of P.O. Box
appeal against the decision made by
(District/Municipal Physical Planning Liaison Committee) regarding
development on Parcel
No(s):

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

My/our grounds for appeal are as follows:

.....
.....

(Please attach additional written text if space is insufficient.)

Signature of Applicant

Dated this day of year

[Subsidiary]

L.N. 109/2010.

THE PHYSICAL PLANNING (PROCUREMENT OF PHYSICAL PLANNING SERVICES) REGULATIONS, 2010

Citation.

1. These Regulations may be cited as the Physical Planning (Procurement of Physical Planning Services) Regulations, 2010.

Interpretation.

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

“consultant” means a registered physical planner in private practice contracted to provide professional physical planning services;

“procurement” means the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, assets, services or goods including livestock or any combination;

“physical planning services” includes formulation of policies, guidelines and strategies at national, regional and local levels and preparation of national, regional and local physical development plans;

“public body” means—

- (a) the Government, or any department, institution or undertaking thereof; or
- (b) a local authority; or
- (c) any authority, board, commission, committee or other body,

whether paid or unpaid, which is vested with or is performing, whether permanently or temporarily, functions of a public nature.

Project initiation.

3. (1) The Director may on his own initiative or by a proposal submitted to him by a local authority or public body, start the process of preparing a plan.

(2) The Director may, where a plan may have significant implications beyond a local authority or covers an area that transcends more than one local authority, initiate the process of preparing a plan in consultation with a local authority or public body.

Adoption.

4. A local authority or public body may, after consulting the Director, adopt the planning preparation process for a project which falls within its jurisdiction.

Contracting.

5. (1) A local authority or public body may engage a consultant where it lacks staff capacity to prepare a plan.

(2) The local authority or public body shall initiate procurement of a consultant for physical planning services in accordance with the Public Procurement and Disposal Act, 2005.

No. 3 of 2005.

[Subsidiary]

(3) The consultant, in consultation with the Director, shall, when preparing the plan, consider the purpose of the plan, the processes to be followed and extent of the area covered.

6. The Director shall provide quality control benchmarks and may require the consultant to submit periodic reports in such a format as he may prescribe. Reporting.

7. The Director shall—

- (a) give a public notice of the completion of plan in the prescribed form; Procedure for preparation and publication of plan.
- (b) present a copy of the approved plan to the procuring entity as well as the consultant;
- (c) maintain a register of all approved plans.

8. (1) A plan or report prepared and approved under these Regulations shall be the property of the Director. Ownership of professional work.

(2) The Director shall acknowledge the participation of the consultant.

