



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE PHYSICAL AND LAND USE PLANNING  
(SPECIAL PLANNING AREA) REGULATIONS**

NO. 249 OF 2021

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Kenya

Physical and Land Use Planning Act

## The Physical and Land Use Planning (Special Planning Area) Regulations

Legal Notice 249 of 2021

Legislation as at 31 December 2022

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The Physical and Land Use Planning (Special Planning Area) Regulations (Legal Notice 249 of 2021)  
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# **PHYSICAL AND LAND USE PLANNING ACT**

## **THE PHYSICAL AND LAND USE PLANNING (SPECIAL PLANNING AREA) REGULATIONS**

### **LEGAL NOTICE 249 OF 2021**

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**Commenced on 10 December 2021**

[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]

#### **1. Citation**

These Regulations may be cited as the Physical and Land Use Planning (Special Planning Area) Regulations.

#### **2. Object of the Regulations**

The object of these Regulations is to provide a framework for the declaration of special planning areas and preparation and approval of special planning area plans pursuant to sections 52 and 53 of the Act.

#### **3. Timelines**

Any action, notice, publication and any other matter provided for in the Act and these Regulations in relation to the preparation of a special physical and land use development plan shall be executed within the period specified in the Act or Regulations, subject to any extension under the Act or Regulations.

#### **4. National security**

- (1) Whenever a special physical and land use development plan touches on, relates to, borders, involves or in any way affects a safeguarding area or any aspect of national security, the National Physical and Land Use Planning Consultative Forum shall consult the National Security Council during the preparation of the plan.
- (2) The National Security Council shall give its comments in writing on the plan submitted under subregulation (1) within thirty days from the date of the request for comments from the County Executive Committee Member and shall specify the reasons for any recommendations it makes in respect of the plan.
- (3) Where necessary, any plan touching on, relating to, bordering, involving or in any way affecting a national security organ shall be subjected to any conditions that may be imposed on it by the National Security Council.
- (4) For the purposes of these Regulations, national security organs shall be exempt from the publication of special physical and land use development plans as may be required under these Regulations where the plans touch on, relate to, border, involve or in any way affect the national security organs.

#### **5. Delimitation of planning areas**

In defining the scope and geographic area of a special physical and land use development plan, the County Executive Committee Member shall delimit a planning area as may be guided by the physiographic characteristics, administrative boundaries, electoral units, agro-ecological zones and planning projections.

## 6. Declaration of special planning area

- (1) The County Executive Committee member shall publish a notice in the *Gazette* in Form PLUPA S-1 as set out in the Schedule informing the public of the—
  - (a) declaration of a special planning area;
  - (b) proposed development for which the declaration has been made; and
  - (c) commencement of the plan preparation.
- (2) A person affected by the declaration of a special planning area may make representations to the County Executive Committee Member in writing, stating reasons and the reliefs sought.
- (3) In addition to the notice under subregulation (1), the County Executive Committee Member shall conduct sensitization forums in respect of the declaration at which public views thereof shall be considered.
- (4) The County Executive Committee Member may use any method to engage various stakeholders and members of the public in respect of a declaration under this regulation, including—
  - (a) direct contact using interview guides and questionnaires;
  - (b) public notices in newspapers;
  - (c) mass media including radio and television;
  - (d) information communication platforms;
  - (e) newsletter;
  - (f) public hearings and group discussions;
  - (g) conferences, seminars or workshops, town hall meetings, public fora; and
  - (h) placement of documents at a common place that is available to the the public including noticeboards.
- (5) In considering the comments and other representations from the public regarding a declaration under this regulation, the County Executive Committee Member may—
  - (a) incorporate the comments or representations into the plan; or
  - (b) dismiss the comments or representations:

Provided that if the County Executive Committee Member dismisses the comments or representations, he or she shall specify the reasons for doing so in writing.

## 7. Review of comments

In considering the comments and representations under regulation 7(4), the County Executive Committee Member shall—

- (a) where planning permission had been granted more than six months before the declaration of the special planning area, allow the permitted developments to continue notwithstanding the declaration;
- (b) where the special planning area is declared for the purposes of national security, the developments thereon shall cease immediately upon publication of the declaration; and
- (c) give such other directions as may be appropriate in the circumstances.

## 8. Public participation

- (1) Before the completion of the preparation of the special area physical and land use development plan, the County Executive Committee Member shall hold stakeholder meetings and ensure effective participation of key stakeholders and assess their interests and potential impacts.
- (2) After completion of the preparation of the draft special area plan, the county executive committee member shall publish a notice in the *Gazette* and two newspapers of national circulation in form PLUPA S-2 as set out in the Schedule, inviting public comments.
- (3) In dealing with comments and other representations regarding the draft special area physical and land use development plan from the public, the County Executive Committee Member may—
  - (a) incorporate the comments or representations into the plan; or
  - (b) dismiss the comments or representations:

Provided that if the County Executive Committee Member dismisses the comments or representations, he or she shall specify the reasons for doing so in writing.

## 9. Appeals

- (1) A person aggrieved by a decision of the County Executive Committee Member may appeal to the County Physical and Land Use Planning Liaison Committee within sixty days from the date of the decision in Form PLUPA S-3 as set out in the Schedule stating the grounds of appeal and the reliefs sought.
- (2) When considering an appeal, the County Physical and Land Use Planning Liaison Committee may set aside, confirm or vary the decision appealed against.
- (3) The decision of the County Physical and Land Use Planning Liaison Committee shall be made in accordance with the rules of natural justice and fair administrative action.
- (4) A person dissatisfied with the decision of the County Physical and Land Use Planning Liaison Committee may lodge an appeal to the Environmental and Land Court within thirty days from the date of the decision of the Liaison Committee.

## 10. County assembly approval

- (1) Where all applications for the review of a Special Area Physical and Land Use Development Plan have been heard and determined, the County Executive Committee Member shall submit the plan to the County Physical and Land Use Planning Consultative Forum for comments within fourteen days in Form PLUPA S-4 as set out in the Schedule.
- (2) Pursuant to the provisions of sections 41 (3) and 49 (3) of the Act, the county assembly shall, on submission of the local physical and land use development plan by the Governor consider the same within thirty sitting days and thereby approve with or without any modification.

## 11. Publication

Upon approval by the county assembly, the County Executive Committee Member shall cause the notice of final approval in Form PLUPA-S-5 as set out in the Schedule to be published in the *Gazette* and two newspapers of national circulation.

## 12. Reports, etc. to be submitted to the National Land Commission

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

**SCHEDULE****Forms**

FORM PLUPA - S1

(r. 8(1))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

*(Cap. 303)*

## NOTICE OF DECLARATION OF A SPECIAL PLANNING AREA

In exercise of powers conferred by section 52 of the Physical and Land Use Planning Act (Cap. 303), the county government of .....<sup>1°</sup> declares the following area .....<sup>2°</sup> as a Special Planning Area.

The purpose of the declaration is:

.....<sup>3°</sup>

The objectives of the declaration are:

.....

.....

.....<sup>4°</sup>

The preparation of the Special Area Plan has commenced. Any development within the declared area is hereby suspended until the ..... day of ..... 20.....<sup>5°</sup>

Any development for which development permission had been sought from the relevant planning authority more than six months before this notice shall be allowed to be carried out but in strict compliance with the terms of such approval.

Members of the public are hereby invited to make representations/comments on the proposed Plan. Details on the subject area are available at.....

.....<sup>6°</sup>

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

*County Executive Committee Member*

\_\_\_\_\_  
*Notes—*

- 1\* Insert name of county.
- 2\* Define the extent of the area.
- 3\* Please attach additional written text if space is insufficient.
- 4\* Please attach additional written text if space is insufficient.
- 5\* Provide a maximum of a two-year window.
- 6\* State physical address and opening hours, postal and telephone address, website and give link.

\_\_\_\_\_  
FORM PLUPA -S2

(r. 10(2))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

*(Cap. 303)*

NOTICE OF COMPLETION OF SPECIAL AREA PLAN

Title of Development Plan.....



Pursuant to the provisions of section 52(6) of the Physical and Land Use Planning Act (Cap. 303), NOTICE is hereby given that the preparation of the above Plan was on the.....day of.....20.....completed.

A copy of the plan as prepared has been deposited for public inspection free of charge at

.....<sup>1\*</sup>

Any interested person who wishes to make any representation in connection with or objection to the above plan may send the same to .....<sup>2\*</sup> by the .....day of .....20.....<sup>3\*</sup> and such representation or objection shall state the grounds upon which they are made.

Dated the .....day of ..... 20.....

*County Executive Committee Member*

Notes—

- 1\* provide details of the place where the plans are availed to the public and if electronic, give name and link to website.
- 2\* provide details of the physical address of the receiving entity.
- 3\* Specify actual date (60 days) for receiving comments.

FORM PLUPA -S3

(r. 11(1))

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(Cap. 303)

## APPEAL AGAINST DECLARATION OF A SPECIAL PLANNING AREA

(To be filled in triplicate)

Title of Development Plan .....

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

..... County

I/We<sup>1\*</sup>, ..... of P.O. Box.....

..... appeal against the decision made by.....

..... County Executive Committee Member regarding the above Plan.

My/our grounds for appeal are as follows:

(a) .....

(b) .....

(c) ..... 2\*

The reliefs which I/We seek are:

(a) .....

(b) .....

(c) ..... 3\*

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

Signature of Applicant .....

Notes—

1\* Delete as necessary.

2\* Please attach additional written text if space is insufficient.

3\* Please attach additional written text if space is insufficient.

FORM PLUPA -S4

(r. 12)

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(Cap. 303)

MEMORANDUM FOR REVIEW OF A SPECIAL AREA PLAN BY THE  
COUNTY PHYSICAL AND LAND USE PLANNING CONSULTATIVE FORUM

To: The County Executive Committee Member County Government of.....

.....

Title of Development Plan.....

Pursuant to the provisions of section 52(6) of the Physical and Land Use Planning Act (Cap. 303), the County Physical and Land Use Planning Consultative Forum of.....County of P.O. Box ..... has reviewed the above Plan on this .....day of .....20..... and gives the following comments:

- (1) .....
- (2) .....

The plan is hereby forwarded for your consideration/action.

Dated the .....day of ....., 20.....

*Chairperson*

*Secretary*

\_\_\_\_\_

REPUBLIC OF KENYA



THE PHYSICAL AND LAND USE PLANNING ACT

(Cap. 303)

NOTICE OF APPROVAL OF A SPECIAL AREA PLAN

Title of Development Plan .....

Approved Development Plan No. ....

Pursuant to the provisions of section 52(6) of the Physical and Land Use Planning Act (Cap. 303), NOTICE is hereby given that on the ..... day of ..... 20..... the County Assembly of ..... County approved the above Plan.

A certified copy of the plan as approved has been deposited  
at .....<sup>1\*</sup>

Dated the ..... day of ....., 20.....

Signed .....

*County Executive Committee Member*

Notes—

<sup>1\*</sup> Provide physical address and if electronic, name of website and link.