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Physical and Land Use Planning Act

Physical and Land Use Planning (Advertisement) Regulations Legal Notice 242 of 2021

Legislation as at 31 December 2022

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Physical and Land Use Planning (Advertisement) Regulations (Legal Notice 242 of 2021)

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PHYSICAL AND LAND USE PLANNING ACT

PHYSICAL AND LAND USE PLANNING (ADVERTISEMENT) REGULATIONS LEGAL NOTICE 242 OF 2021

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Part I – PRELIMINARY

1. Citation

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

2. Interpretation

In these Regulations, unless the content otherwise requires—

"amenity" means physical attributes in a neighborhood which contribute to the quality of the environment and to its better enjoyment for any permitted use and includes the effect upon visual and aural amenity in the immediate neighborhood of displaying the advertisement

"animated billboard" means an advertisement that displays, at any one time, one or more advertisements consisting of visual moving pictures or that are otherwise able to move or change color due to the use of electrical, mechanical or other sources of power;

"balloon advertisement" means an advertisement that is inflated, tethered to and suspended above any building or structure, water surface, earth surface and is conspicuously visible from any street or building;

"banner" means a long strip of cloth bearing a slogan or design hung in a public place or carried in a demonstration or procession;

"beam advertisement" means advertising using illumination derived from any portion of the electromagnetic band width and includes a beam, laser and includes similar sources of illumination that produces a beam of light skywards to produce an image in the atmosphere;

"billboard" means a large sign for advertisement that is next to a road or side of a building or any other location agreed upon;

"construction site hoarding advertisements" means advertisement on the temporary fence of a construction site;

"election advertisement" means an advertisement designed to influence the outcome of an election called by a public body Flyers and leaflets;

"guardrail avert panel" means a strong metal bar along the side of a road or steep places that prevent vehicles and people from falling or on surface of door, wall or ceiling;

"illuminate" means to extend an internal or external artificial source of light, directly or by reflection, to any advertisement, billboard, directional sign, signboard or sky sign;

"illuminated advertisement" means an advertisement illuminated artificially by an electric current either directly or indirectly or made of luminous material and includes a visible notice or representation caused by directing a beam into the air;

"Light Emitting Diodes (LED)" means an advertisement sign made of a solid-state device that emits light when current is passed through it;

"non-illuminated advertisement" means an advertisement that is not artificially illuminated;

"outdoor advertisement" means any word, letter, devise, model, sign, placard, board, notice or representation, whether illuminated or not that is displayed in a place and manner where the public can view it;

"sign board" means a board displaying the name or description of a business or institution or product for purposes of indicating direction or promotion of the business;

"sky signs" means any advertising structure that is displayed—

- (a) on or above the roof, parapet or eaves of a building or extends above the roof line of a building, and is conspicuously visible from any street or building below; and

- (b) containing only particulars, including any logo or symbol, of the name or owner of the building to which it is affixed;

"temporary notice" means a sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display aimed at directing the public to a meeting;

"wall branding" means the placing of a name, logo, slogan or design of a product or service on a wall of a building or structure for purposes of marketing; and

"wall wrap" means an advertisement placed on a building or any other terrestrial structure;

3. Object of the Regulations

The object of these Regulations is to give effect to Part IV and to provide for the process of application and approval of development permission for advertisements.

Part II – PROCESSING OF ADVERTISEMENT APPLICATIONS

4. Permitted advertisements

- (1) The owner of a building or land may display the following illustrated advertisements without the prior consent of the planning authority—
 - (a) notices or signs to be displayed on any premises for the purpose of advertising the fact that a person, partnership or company is carrying on a profession, business or trade at those premises provided that the letters are not greater than 0.3 m. (12 inches) in depth and contains not more than 10 words# but if there is more than one entrance to the premises on different road frontages, two advertisements of 0.3m. (12 inches) in depth of a square meter each may be displayed (on a separate frontage);
 - (b) in the case of offices, a notice board displayed at the entrance of each floor 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 an enclosed land or building not visible from a street, notices in connection with medical, recreational, educational, religious, cultural hostel, guest house block of flats, provided that the advertisement is displayed at the premises and does not exceed 1.5 square meters in area; however, if there is more than one entrance to the premises on different road frontages, two advertisements of 1.2 square meters each may be displayed (each on a separate frontage).
- (2) An advertisement for hawkers once a permit has been issued in terms of the relevant by-laws which is limited to two signs per hawker and the hawker must remove daily at close of business of such hawker.
- (3) Poster-boards which are being used to screen building or construction sites while the work is being carried out on site for a maximum period of twenty-four months, must be displayed not more than one month before works commence, more than fifty square meters in surface area and more than four meters above the ground and should in addition be non-reflective such that they do not flash or cause glare to pedestrians, cyclists and motorists.
- (4) The advertiser shall submit written notification to the planning authority of intention to display such an advertisement at least fourteen days before the display starts, and display an onsite notice measuring one hundred and twenty centimeters by seventy centimeters and a height of one hundred and seventy centimeters from the ground of the planning permission.
- (5) An onsite captive balloon advertisement may be displayed if it is—
 - (a) not more than thirty meters above the ground;
 - (b) not displayed for more than fifteen days in any calendar year;

- (c) not displayed in a conversation area, world heritage site, *gazetted* national monument.
- (6) Temporary directional signs intended to direct pedestrians, motorists, and other passersby to an assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, medical or other similar non-profit organization.
- (7) Temporary directional signs may be displayed no more than 48 hours before the event and no more than twenty-four hours afterward.

5. Consent to display

An advertisement shall not be displayed on public or private land without written consent of the owner of land.

6. Exceptions

The following advertisements shall be exempted from payment of fee charges for approval—

- (a) a sign identifying the functions or property of a government department, public authority or county government but not a promotion sign displayed at the direction of any of these offices;
- (b) advertisements communicating matters of national importance including education and public health awareness;
- (c) national and county governments' projects construction site boards;
- (d) traffic sign and signage on a public road, railway, tramway, or in the airport or airstrips;
- (e) a sign at a hospital that gives direction to emergency facilities;
- (f) a sign inside a building and enclosed spaces which shall not be illuminated or displayed within one meter of any window or other external opening through which they can be seen from outside the building;
- (g) a directional signage which gives direction or guidance about a tourist attraction, historical sites, religious sites or events and other places of interest to road users;
- (h) a sign required by statute or regulation;

Provided it is strictly in accordance with the requirement:

- (i) a sign at a railway station, ports and airports or airstrips for the information of people using the facilities and for purposes of operational signs;
- (j) a sign on a showground, on a motor racing track or on a major sports and recreation facility;
- (k) an advertisement which is an integral part of a building fabric but does not include an advertisement fixed to, or painted on, a building; and
- (l) An advertisement of not more than zero-point-three square meters inside buildings and which is not visible from a street.

7. Siting of advertisements

- (1) An advertisement shall be sited in a manner that does not—
 - (a) obstruct a driver's, pedestrian's or cyclist's view, of the road;
 - (b) obstruct a driver's, cyclist's or pedestrian's view—
 - (i) to a road hazard;
 - (ii) to an intersection;

- (iii) to a traffic control devices and road signage
 - (iv) to an emergency vehicle access point;
 - (c) distract a driver from or reduce the visibility and effectiveness of traffic control devices and road signage;
 - (d) obscure or hinder interpretation of an aid to navigation by water or air;
 - (e) hinder the operation of any device used for the purpose of security or surveillance;
 - (f) obscure information about the road alignment;
 - (g) interfere with stopping sight distance for the road's design speed or the effectiveness of a traffic control device
 - (h) distract a driver's attention away from the road environment for an extended length of time
 - (i) cause the driver's or cyclist's head to turn away from the road and the components of the traffic stream in order to view its display or message;
 - (j) creates headlight reflections in the driver's, cyclist's or pedestrian's line of sight# or
 - (k) create a physical obstruction or hazard such as—
 - (i) obstructing the movement of pedestrians or bicycle riders;
 - (ii) protruding below a bridge or other structure so it could be hit by trucks or other high bodied vehicles; or
 - (iii) protruding laterally into the transport corridor.
- (2) An advertisement shall not be located—
 - (a) less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves;
 - (b) less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycle way facility or hazard within the road environment;
 - (c) in a manner that may be dangerous to any person who may use any road, railway, waterway, harbor, dock, jetty, or airfield;
 - (d) in a manner that is not out of scale, out of place or unduly dominant;
 - (e) on medians, traffic islands, pedestrians' crossings and where carriage ways diverge including footpaths and pedestrian walkways;
 - (f) within seventy meters of traffic control lights and not less than one hundred meters from the outer width of a roundabout;
 - (g) on an interchange and roundabout;
 - (h) in a manner that causes obstruction of lighting or ventilation or reduce quality of air and ventilation;
 - (i) in a manner that obstruct fire safety access points;
 - (j) in a manner that obscures any other advertisement approved by the planning authority; and
 - (k) in a manner that obscures or is incompatible with any feature which has natural, cultural, architectural, historical or heritage significance;
- (3) All forms of advertisements on national trunk roads shall be erected in accordance to the provisions of the Kenya Roads Act (Cap. 408).

8. Siting of billboards

- (1) Billboards along classes S, A and B roads and within one kilometer radius of the boundary of a municipality, town or market center irrespective of the classification of the road, shall be erected at a minimum distance of two hundred and fifty meters from each other.
- (2) Billboards along urban trunk road corridors shall be erected at a minimum distance of hundred meters from each other.
- (3) Billboards shall not be permitted in residential areas, rooftops or recreational areas.

9. Safety of advertisement signs

- (1) An advertisement sign that forms part of a communal electrical installation shall—
 - (a) be subject to periodic inspection, testing and certification as determined by the relevant authority that deals with electrical installations;
 - (b) be maintained in a clean, tidy and safe condition including painting it with colors permitted by the planning authority; and
 - (c) not be illuminated or decorated by means of flickering, flashing or running lights except with written approval of the agencies established under Kenya Roads Act (Cap. 408).
- (2) All lighting associated with a billboard shall—
 - (a) be shielded to ensure the external light sources are not directed to approaching pedestrians, cyclists and motorists; and
 - (b) be designed in a manner to ensure that external light shall point downward and not upward and focused directly on the sign to prevent or minimize escape of light beyond the sign.

10. Consideration of applications

In considering an application, the County Executive Committee Member shall, in addition to provisions of an approved physical and land use development plan, any other relevant factor, comments from the relevant road agencies established under the Kenya Roads Act (Cap. 408), relevant legislation, national or county specific policy, have due regard to the following—

- (a) the compatibility of the proposed advertisement with the amenity of the immediate neighborhood;
- (b) any planning condition specified in a certificate of title, a physical and land use development plan, national standards and norms and requirements of any relevant national law;
- (c) the requirements of the National Building Code;
- (d) whether the proposed advertisement will—
 - (i) have a negative visual impact on any development zoned or used for specified purposes under any physical and land use development plan;
 - (ii) cause danger to any development, motorists, cyclist or pedestrians or obstruct vehicular or pedestrian traffic;
 - (iii) in any way impair visibility of road traffic signs;
 - (iv) obscure any existing and approved erected advertisements;
 - (v) obscure any important natural, architectural, historical or heritage feature; or
 - (vi) be unsightly, objectionable or have detrimental impact on the architectural design of any building on the subject parcel including any adjacent property.

11. Applications for billboards, sky signs and wall wraps

- (1) An application for a billboard, beam advertisement, sky-sign or wall wrap shall be made to the County Director on behalf of the County Executive Committee Member in Form PLUPA DC 16 as set out in the Schedule.
- (2) The application shall be accompanied by—
 - (a) a planning report prepared by a registered physical planner;
 - (b) the location plan of the site;
 - (c) architectural plans prepared by a registered architect, where applicable;
 - (d) structural designs with calculations prepared by a registered structural engineer and accompanied by a duly filled indemnity form, where applicable;
 - (e) geotechnical survey where applicable prepared by a registered geologist or its equivalent to ascertain the structural integrity of the foundation and in the case of wall wraps and sky--signs the integrity of the building, where applicable;
 - (f) payment of stipulated fees;
 - (g) a copy of certificate of lease or certificate of title or any other ownership document, where applicable;
 - (h) recommendation to site a billboard on a road reserve from the relevant road authority or agency;
 - (i) for a beam advertisement, the applicant shall submit an environmental and social assessment license; and
 - (j) any other supportive document as may be required by the County Director.

12. Application for directional signs and signage, wall branding

- (1) An application for a directional sign, signage or wall branding shall be made to the County Director on behalf of the County Executive Committee Member in Form PLUPA DC 16 as set out in the Schedule.
- (2) The application shall be accompanied by—
 - (a) the location plan;
 - (b) a sample of the advertisement;
 - (c) a photograph of the building if it is being advertised on the building; and
 - (d) the relevant fee.

13. Other applications

- (1) All forms of advertisements other than the advertisements specified in the Act and these Regulations including posters, banners and teardrops shall be made to the County Director on behalf of County Executive Committee in Form PLUPA 16 as set out in the Schedule.
- (2) The applications shall be accompanied by—
 - (a) the design of the advertisement; and
 - (b) the relevant fees.
- (3) All applications received shall be entered in a register.

- (4) Where the information requested by the County Director in order to process a signage application is not provided within a two-month period from the date of the application, the application shall be regarded withdrawn.

14. Circulation for advertisement

- (1) Upon receipt of an application for advertisement the County Director shall undertake pre-vetting exercise to ensure that the application meets thresholds set out in Form PLUPA DC-16 in the, any other policies and approved Physical and Land Use Plans.
- (2) The County Director shall issue submission certificate in Form PLUPA/DC/5 set out in the Schedule to the applicant acknowledging receipt of the application and where the application is unsatisfactory, the County Director on behalf of the County Executive Committee Member shall raise issues and require the applicant to address them.
- (3) An application for billboards, sky signs and wall wraps shall be circulated, where applicable, by the County Director to the Kenya Rural Roads Authority, Kenya National Highways Authority, Kenya Urban Roads Authority, National Museums of Kenya, Kenya Airports Authority, Kenya Civil Aviation Authority, Communication Authority of Kenya and any other relevant agencies.
- (4) The relevant agencies referred to in paragraph (3) shall give their comments within fourteen working days in accordance with section 60 (2) of the Act.

15. Approvals, refusals and rejections

- (1) Upon receipt of comments in accordance with regulation 14(4), the County Director shall consider the application and issue approval in Form PLUPA DC-17 as set out in the Schedule and may impose such conditions thereon as may be necessary in the circumstances.
- (2) An approval granted under paragraph (1) shall lapse where an approved advertising sign is not erected within three months from the date of approval or within a time specified in the approval.
- (3) An approval granted under paragraph (1) shall be for the period specified in the approval:
Provided that the approval shall cease to be in force after five years from the date the approval is granted.

16. Cancellations and amendments

- (1) The County Director on behalf of the County Executive Committee Member may, at any time, withdraw an approval granted or amend any condition or impose a further condition in respect of such approval, if in the opinion of the County Executive Committee Member an advertising sign—
 - (a) has become detrimental to the environment or the amenity of the neighborhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (b) constitutes or becomes a danger to the public or the safety of pedestrians;
 - (c) obstructs existing signs, natural features, architectural features or visual lines of civic or historical interest;
 - (d) if the advertisement obscures pedestrian infrastructure;
 - (e) contravenes Article 66 (1) of the Constitution; or
 - (f) any other reason the approving authority may consider compelling.
- (2) A person aggrieved by the decision of the County Executive Committee Member may appeal to the respective liaison committee.

Part III – GENERAL PROVISIONS

17. Restoration to original state

- (1) For functional advertisement such as political campaigns, social or cultural functions, religious functions, entertainment, business promotions among others that have been approved, the applicant shall within fourteen days of ending of the function be required to remove and clean all material to the satisfaction of the approving authority.
- (2) The applicant shall sign a commitment in Form PLUPA DC 18 set out in the Schedule
- (3) Failure to comply with these regulations is an offence under section 67 of the Act.

18. Appeals

- (1) Any person aggrieved by a decision by the county executive committee member for failure to allow a permitted advertisement may within fourteen days of receiving the decision lodge an appeal in the county physical and land use planning liaison committee.
- (2) Notwithstanding subregulation (1), an applicant has no right of appeal if the county executive committee member informs the applicant that the planning authority treated the application as withdrawn because it is similar, in all relevant respects to one on the same site which has been refused by the county physical and land use planning liaison committee on appeal within the preceding one year.

19. Advertisement that is integral to a building

An advertisement which is an integral part of a building fabric, but does not include an advertisement fixed to, or painted on, a building is not to be regarded as incorporated in its fabric.

20. Election advertisements

- (1) Election advertisements with a maximum surface area of six square meters may be placed on undeveloped land, streets and sidewalks, except on classes S, A, B and C road reserves.
- (2) The candidate shall ensure that election signs are removed within fourteen days of the date elections are held.

21. Standard conditions

The following conditions shall apply to all advertisements—

- (a) any advertisement displayed and any site used for display of advertisement, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the planning authority#
- (b) any structure or hoarding erected or used principally for the purpose of displaying advertisements, shall be maintained in a safe condition;
- (c) no advertisement is to be displayed without permission of the owner of the site; and
- (d) introduction of illumination is a material change and requires permission.

SCHEDULE FORMS

FORM PLUPA-DC-16

(r. 8, 9, 10)

APPLICATION FOR OUTDOOR ADVERTISEMENTS

Applicant detail

Name of the applicant

Postal Address

Physical Address

Telephone Number

Email

I/We submit herewith an advertisement in a manner prescribed
by the Building Code and PLUPA and any other written law

Type of advertisement/activity

Inside/Adjacent to LR. No.

Name/ Area

Estate

Name of the Road/Nearest road

Coordinates

Advertisement Sizes (m)

Advertisement Sides

Others

If a renewal previous license/ approval number

Sign Owner

Date

Director County Roads

County Director of Environment

NEMA

County Director of Trade

County Director of Energy

FORM PLUPA-DC-17

(r. 12(1))

APPROVAL OF ADVERTISEMENT

Reference is made to your application Ref. No. dated on the above-mentioned subject matter and your subsequent payment of Kshs. in fees.

Authority is hereby granted to carry out the undermentioned advertisement on the reference plot/Road subject to you having received consent from the current owner/approval from the relevant authority, subject to the following conditions

.....

.....

However, you are required to ensure safety for the people and properties around the advertisement. You are required to indemnify the County Government of (having duly completed the indemnity form) against any claims that may arise from your negligence or acts of omission during the above works.

This letter granting permission to undertake the advertisement does not authorize alterations or additions to the structure and the plans.

This letter does not grant authority to change of use of the premises or interfere with any tenancy agreement between or among parties to the premises.

The county takes this opportunity to advise you that any deviation from the provision of this authority shall be an offence under this Act.

Name

Designation

Signature

Date

COUNTY EXECUTIVE COMMITTEE MEMBER

FORM PLUPA-DC-18

(r. 14(2))

**REMOVAL AND CLEANING OF ADVERTISEMENT MATERIAL AFTER
EXPIRY APPLICATION FOR FUNCTIONAL ADVERTISEMENTS**

(1) Applicants Details

Name of the applicant

Postal Address

Physical Address

Telephone Number

Email

- (2) In reference to your approval of advertisement issued under PLUPA DC- 17 on the day
of 20

I/We commit to remove and clean advertisement material used
during by the Day of..... 20 to the satisfaction of
the approval authority as per the set conditions

Sign (Applicant)

Date