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NAIROBI CITY COUNTY BILLS, 2025

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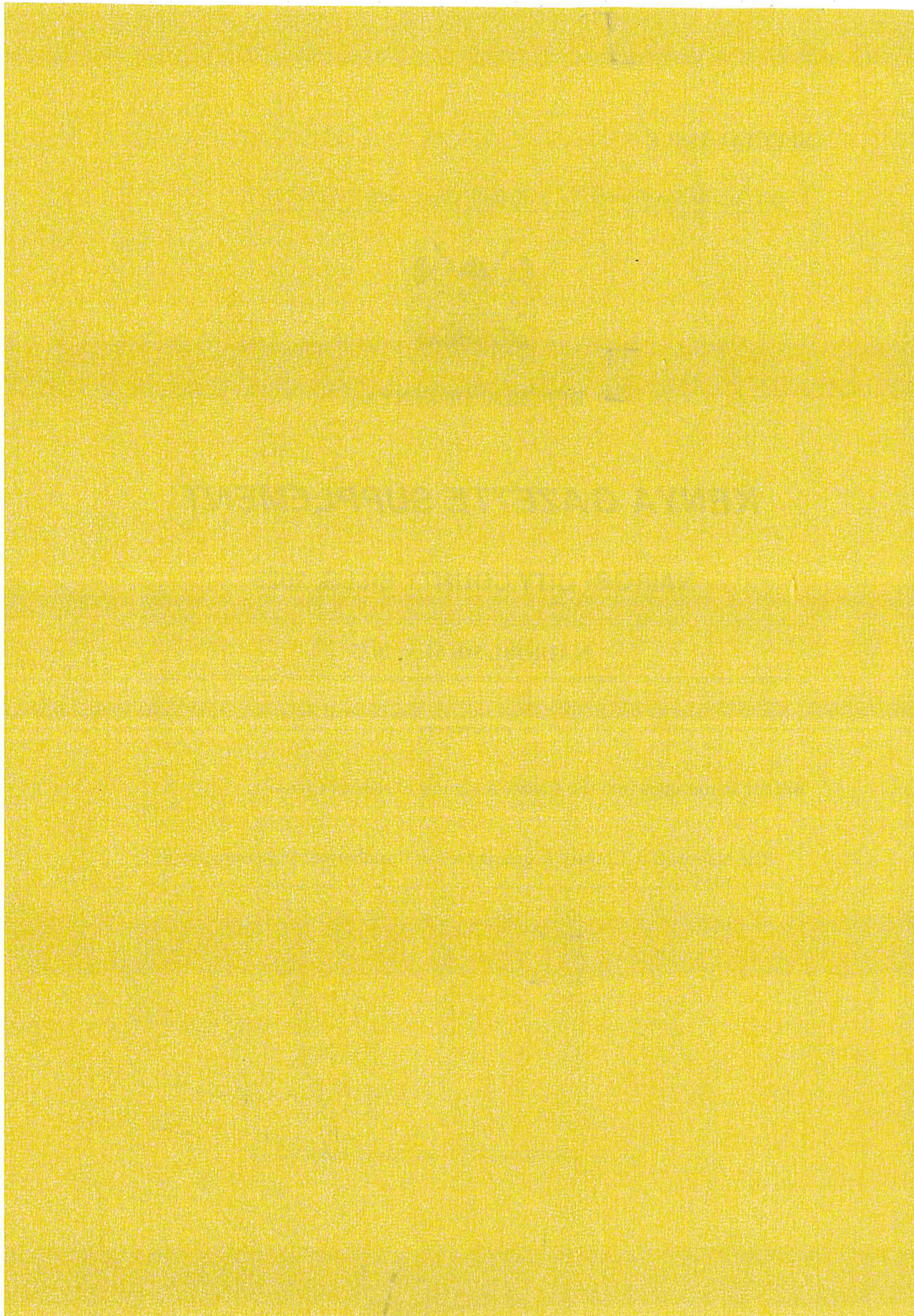
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THE NAIROBI CITY COUNTY REGULARIZATION OF UNAUTHORISED DEVELOPMENTS BILL, 2025

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**THE NAIROBI CITY COUNTY REGULARIZATION OF
UNAUTHORISED DEVELOPMENTS BILL, 2025**

A Bill for

**AN ACT of the County Assembly of Nairobi City to provide for the
Regularization of Unauthorised Developments; and for
connected purposes**

ENACTED by the County Assembly Nairobi City, as follows —

PART I— PRELIMINARY

Short title and commencement

1. This Act may be cited as the Nairobi City County Regularization of Unauthorised Developments Act, 2025 and shall come into operation upon publication.

Interpretation

2. (1) In this Act unless the context otherwise requires—

“Regularization” means process of approving developments/buildings plans whose were not originally approved by the County Government;

“Applicant” means an occupier or owner intending to make an application for regularization of unauthorised development under Section 9;

“Advisory Committee” means the Nairobi City County Regularization Advisory Committee established under section 22 of this Act;

“County” means Nairobi City County;

“County Assembly” means the county Assembly of Nairobi.

“County Liaison Committee” means the County Physical and Land Use Planning Liaison Committee established under section 76 of the Physical and Land Use Planning Act, 2019;

“development” has the same meaning as ascribed thereto in the Physical and Land Use Planning Act, 2019;

“Executive Committee Member” means the Nairobi City County Executive Committee Member for the time being responsible for matters related to physical and land use planning;

“owner” means a person with proprietary interest in the development in question;

“private land” has the meaning assigned to it in the Land Act, 2012;

“Provisional order of regularization” means an order issued by the Executive Committee Member pending the permanence of certain acts by the applicant or payment of fees by such applicant;

“Regularization period” means the period referred to in Section 6 (1) as may be extended from time to time.

“relevant law” means national and Nairobi City County laws;

“Unauthorised development” means a development where, irrespective of ownership, no permission or necessary approvals under the Physical and Land Use Planning Act, 2019 and other relevant law have been obtained prior to the commencement of this Act or having obtained such permission or approval, the development is in contravention of the relevant laws;

(2) The meaning ascribed to words, phrases or expressions in the Physical and Land Use Planning Act, 2019 shall apply to those words, phrases or expressions respectively where the words, phrases or expressions are used in this Act and the words, phrases or expressions used in this Act shall have corresponding meaning as set out in the Physical and Land Use Planning Act, unless the context requires otherwise.

Objectives of Act

3. The objectives of this Act are to —

- (a) provide for regularization of unauthorised development commenced or completed before the date of commencement in this Act;
- (b) exclude unauthorised development made on any public land from the benefit of regularization;
- (c) provide for regularization of unauthorised developments which fall within the required set-off specified in any law governing buildings;
- (d) provide for the establishment of an Advisory Committee for purposes of this Act.
- (e) Provide for the appointment of Regularization Technical Committee for the purpose of this Act.

Principles and Norms of the Physical and Land Use Planning Act

4. All the principles and norms of Physical and Land Use Planning as stipulated in the Physical and Use Planning Act. No. 13 of 2019 shall with the necessary modifications be applicable to this Act.

PART II —THE REGULARIZATION PROCESS

Regularization

5. Notwithstanding anything contained in any law, but subject to such a rule as may be prescribed, any unauthorized development in county, except those specified in Section 15 (1) made prior to the commencement of this act by any person on —

- (a) allotted land belonging to the County Government; or
- (b) Private land,

may on the application of such person made before such date as may be prescribed, be regularized in accordance with this Act.

Regularization period

6. (1) Development shall be eligible for Regularization under this Act from the date of commencement of this Act and shall lapse at the expiry of three (3) years from such a date.

(2) The County Executive Committee Member may, with the approval of the Governor extend the Regularization period.

(3) The power to extend the Regularization period shall not be extended for an aggregate period of more than three (3) years but may be extended more than once.

(4) The County Executive Committee Member shall provide to the County Assembly Quarterly reports on the progress of Regularization.

Notification of the public

7. The Executive Committee Member, as soon as may be, after commencement of this Act, shall publish this Act for the information and awareness of the public in such manner as may be prescribed.

Notice and application for unauthorized developments

8. (1) Fourteen (14) days after the notification of the public of the substance of this Act under section 13, the Executive Committee Member shall issue a Notice to all persons with unauthorised developments to make applications for regularization.

Provided that such notice shall conspicuously be published in at least two newspapers of nationwide circulation for a period of not less than fourteen (14) days.

(2) Any applicant who has been served with the notice under the sub section (1) may make an application in such form and in such manner as may be prescribed by the Executive Committee Member for regularization

of any unauthorised development within a period of three months from the commencement of this Act:

Provided that making an application shall be an obligation on part of the owner or occupier.

(3) The Executive Committee Member shall within three months from the date of commencement of this Act, or within such period as may be extended by the Executive Committee Member by order in writing, serve on the owner or occupier a notice in the manner as may be prescribed and direct him to furnish such particulars and documents as the Executive Committee Member deems necessary:

(4) The occupier or owner or, as the case may be shall reply in response to the notice served upon them under sub-section (3) within a period of fourteen (14) days of such notice and in such manner as may be prescribed.

(5) Any owner or occupier may on their own motion within a period of three (3) months from the commencement of this Act make an application to the County Executive Committee Member for regularization of unauthorized developments.

(6) The applicant shall pay the requisite application fees upon making the application.

Plans and documents to be prepared by a qualified person

9. A person applying for regularization of an unauthorised development shall ensure that any documents, plans and particulars that are provided to the Executive Committee Member while applying for regularization have been prepared by the relevant qualified, registered and licensed professionals.

Grant or refusal to regulate unauthorized developments

10. (1) On receipt of the reply to the notice or the application made by the applicant under section 14, the County Executive Committee member may forthwith give a copy of the application to the relevant authorities or agencies to review and comment on all the relevant matters including—

- (a) land survey;
- (b) roads and transport;
- (c) public health;
- (d) public works and utilities;
- (e) environment and natural resources;

- (f) urban development;
- (g) national security in respect of land adjoining or within reasonable vicinity of safeguarding areas; and
- (h) Any other relevant authority.

(2) Within twenty-one (21) days upon scrutiny of the reply to the notice or the application, and after making such inquiry, as it deems fit, the County Executive Committee member shall prepare and forward a report to the Advisory Committee

(3) Within seven (7) days after receipt of the County Executive Committee member's report, the Advisory Committee shall scrutinise and evaluate the report and make a decision thereof.

(4) The Advisory Committee shall recommend to the Executive Committee Member to approve, defer or reject the application to regularise such unauthorised development, with grounds thereof, in the form and manner as may be prescribed.

Register

11. (1) The County Executive Committee member shall maintain a register of documents submitted by applicants for regularization of unauthorised developments.

(2) The County Executive Committee member shall maintain a register of regularization of unauthorised developments and shall enter the details of each applicant for regularization of any unauthorised development, whether or not regularization was granted to that applicant and the details of the project for which regularization has been applied for.

(3) A register maintained by the County Executive Committee member under this Act shall be open to the public for scrutiny and the Executive Committee member shall publish guidelines for public access to that register.

Regularization fees

12. (1) The fees payable under this Act shall be determined by the relevant finance laws as passed by the County Assembly.

Circumstances under which unauthorized developments may be regularized

13. (1) Subject to the rules formulated under this Act, the Executive Committee Member may consider the following aspects during regularization of any unauthorised developments in respect of the following matters, namely—

- (i) Ground Coverage;
- (ii) Built up area;
- (iii) Height of building;
- (iv) Plot boundary;
- (v) Change of user/extension of user;
- (vi) Land amalgamation;
- (vii) Land subdivision;
- (viii) Advertisements
- (ix) Plot ratio;
- (x) Common plot;
- (xi) Parking facility;
- (xii) Public health requirements;
- (xiii) Fire safety requirements; or
- (xiv) Such other matters which the County Government may, prescribe.

Circumstances under which unauthorized development shall not be Regularized

14. (1) An unauthorised development shall not be regularised in any of the following circumstances—

- (a) unauthorised developments on existing or proposed roads, including those proposed for widening, railway line, communications and other civic facilities or public utilities;
- (b) unauthorised developments on forest land or river banks and riparian areas as defined by the Environmental Management and Coordination Act;
- (c) unauthorised developments done by any person on land belonging to another person over which the former has no title or where the title is disputed as evidenced by court proceedings;
- (d) unauthorised developments done in violation of any law;
- (e) unauthorised development on public land or land otherwise reserved for public utility;

- (f) unauthorised development on land appurtenant to any building owned by the Government or by a company owned or controlled by the Government and not allotted;
- (g) unauthorised development done on land belonging to the County Government and not allotted;
- (h) unauthorised development on any land reserved for parks, play grounds, open places or for providing any public amenities;
- (i) unauthorised development on water courses and water bodies like tank beds, river beds, natural drainage and such other places;
- (j) unauthorised development which is otherwise structurally unsound or which poses danger to the occupants or to the occupants of neighbouring premises or members of the public generally;
- (k) Development /Building that are not within the beacon both vertical and horizontal.
- (l) such other unauthorised development as the regularization committee in consultation with the Executive Committee Member may determine.

(2) Further, and without prejudice to subsection (1) above, an unauthorised development shall not be regularised if it is inconsistent with—

- (a) fire safety measures under the relevant laws, or
- (b) structural stability requirement as per the physical and Land Use Planning Act, 2019, Euro code and BS 114;
- (c) public health standards under the relevant laws.

Provided that subject to other provisions of this Act, on presentation of a certificate or licence from the relevant authorities, and as may be prescribed in the regulations, with regards to the compliance of provisions of clause (a), (b) and (c) or either, as the case may be, the Advisory Committee may regularise the unauthorised development.

Consequences of regularization

15. (1) On regularization of such unauthorised development under section 15, all court cases or other proceedings, filed by the Executive Committee Member, the occupant, and owner or otherwise and pending in

any court in so far as they relate to such unauthorised development, shall stand abated.

(2) Any decision under this Act shall not be deemed to have decided the ownership of the unauthorised development.

Prior actions to be recognized under this Act

16. All things done, or omitted to be done, and all actions taken, or not taken, with respect to obtaining approval for development during the period before the commencement of this Act shall, in so far as they are in conformity with, and regularised in accordance with the provisions of this Act be deemed to have been done, or omitted to be done, or taken, or not taken, under the provisions of this Act as if such provisions were in force at the time such things were done or omitted to be done and action taken, or not taken, during that period.

Conditional Regularization

17. The Executive Committee Member may through the Advisory Committee regularise a development subject to such conditions as he or she may impose, and an approval in the prescribed format shall not issue unless such conditions are met by the occupier, owner or applicant and within such timelines as the Executive Committee Member may determine.

Amnesty

18. (1) All notices issued by the County Government for initiating action against unauthorised development in respect of such development shall be deemed to have been suspended and no punitive action shall be taken till the expiry of the three (3) months from the date of notification of the public stipulated under section 14, if the development in question —

- (a) conforms to the safety standards as in force under any written law or such other safety requirements as may be notified by the County Government; and
- (b) complies with the directions with respect to safety, if any, issued by the County Government.

(2) This section shall not apply to developments mentioned in section 14.

Unauthorized developments not regularized

19. Every unauthorized development which is not regularised under this Act after the expiry of three (3) years from the date of publication of this Act shall be liable for an enforcement action, and unsafe structure which cannot be remedied to be removed immediately.

Application of certain provisions of Act No. 13 of 2019

20. The provisions of the Physical and Land Use Planning Act, 2019 relating to a matter of procedure or the manner of objections shall with the necessary modifications apply to the Regularization process under this Act.

Liability

21. (1) An owner undertaking any alteration, modification or addition in an unauthorised development so as to get the unauthorised development regularised shall continue to be wholly and solely liable for any injury or damage or loss whatsoever that may be caused to any one in or around the area during the carrying out of such work, and no liability whatsoever in this regard shall lie on the County Government.

(2) Regularization of unauthorised development shall not in any way mean the acceptance of any County government, documents, structural report, design or drawings and shall not discharge the owner, engineer, architect or the structural designer from the responsibilities imposed upon such owner engineer, architect or the structural designer under the relevant law.

(3) No suit, prosecution or other legal proceedings shall lie against any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

PART III—THE REGULARIZATION ADVISORY COMMITTEE

Establishment of the Advisory Committee

22. (1) There is established the Nairobi City County Regularization Advisory Committee.

(2) The Advisory Committee shall consist fourteen (14) members appointed by the Executive Committee Member—

- (a) a Chairperson who shall be a registered planner from the Built Environment Sector;
- (b) a surveyor nominated by the Lands Surveyor Board of Kenya;
- (c) the Chief Officer for the time being responsible for matters related to works in the county;
- (d) the Chief Officer for the time being responsible for matters related to Public Health in the county;
- (e) a representative from the National Environment Management Authority;

- (f) an engineer nominated by the Institute of Engineers of Kenya;
- (g) an architect nominated by the Architectural Association of Kenya;
- (h) the County Attorney;
- (i) the Chief Officer for the time being responsible for matters related to planning in the county;
- (j) the Chief Officer for the time being responsible for Lands in the county;
- (k) the Chief Officer for the time being responsible for matters related to Disaster management in the county;
- (l) the Chief Officer for the time being responsible for matters related to revenue in the county;
- (m) the Chief Officer responsible for finance in the county;
- (n) An Officer of National Land Commission ;
- (o) any member of the public co-opted by the advisory committee for that person's special skills, interest and knowledge;
- (p) a surveyor nominated by the Lands Surveyor Board of Kenya;
- (q) the Chief Officer for the time being responsible for matters related to works in the county;
- (r) the Chief Officer for the time being responsible for matters related to Public Health in the county;
- (s) a representative from the National Environment Management Authority;
- (t) an engineer nominated by the Institute of Engineers of Kenya;
- (u) an architect nominated by the Architectural Association of Kenya;
- (v) the County Attorney;
- (w) the Chief Officer for the time being responsible for matters related to planning in the county;
- (x) the Chief Officer for the time being responsible for Lands in the county;
- (y) the Chief Officer for the time being responsible for matters related to Disaster management in the county;

(z) the Chief Officer for the time being responsible for matters related to revenue in the county;

(aa) the Chief Officer responsible for finance in the county;

(bb) a Planner from the Kenya Institute of Planners;

(cc) a representative from the National Construction Authority;

(dd) an Officer of National Land Commission

(ee) any member of the public co-opted by the advisory committee for that person's special skills, interest and knowledge.

(3) A person shall not qualify for appointment under this section unless the person meets the requirements of Chapter Six of the Constitution.

(4) For the purpose of exercising its functions under this Act, the Advisory Committee shall be presided over by the Chairperson and in their absence any member as shall be appointed by the Advisory Committee to execute the said mandate.

(5) The Advisory Committee may co-opt a maximum of three (3) experts to assist in its deliberations.

(6) The members of the Advisory Committee shall serve for a term of 3 years' renewable only once.

Powers and functions of the Advisory Committee

23. (1) The Advisory Committee shall have all the generally necessary for the execution of its functions and mandate under this Act.

(2) Without prejudice to the generality of subsection (1), the Committee shall be responsible for—

(a) advising the Executive Committee Member generally on the regularization exercise;

(b) recommending the necessary stakeholder involvement in the regularization exercise;

(c) advising on the regularization exercise and recommending such measures as may be necessary to ensure its fair, equitable and efficient implementation;

(3) The Executive Committee Member shall provide such information, to the Advisory Committee as the committee may require on all aspects of the regularization process under this Act including information on the pending applications for regularization.

Procedures of the Advisory Committee

24. (1) The Advisory Committee shall, subject to this Act, determine its own procedure.

(2) Despite sub-section (1), the quorum of the Advisory Committee shall be nine (9) members where the total membership is fourteen (14) and eleven (11) members where the total membership is seventeen (17) by way of co-opted members.

(3) Where the chairperson of the Advisory Committee is unable to exercise his functions owing to illness, genuine absence or any other reason, the members present shall elect one of their own to be the chairperson of the Committee.

(4) The Advisory Committee shall meet at least once in a month.

Remuneration and allowances

25. The members of the Advisory Committee shall be paid such remuneration or allowances as per the Salaries and Remuneration Commission guidelines.

Powers of the Executive Committee Member

26. (1) The Executive Committee Member may issue, from time to time, directions to the Advisory Committee as it may deem fit to give effect to the provisions of this Act.

(2) The decision to approve or reject an application for regularization of unauthorised developments shall be communicated by the Executive Committee Member after consideration of the Advisory Committee's report.

(3) An applicant or an interested party that is aggrieved by the decision of the Executive Committee Member regarding an application for regularization of an unauthorised development may appeal against that decision to the County Liaison Committee within fourteen (14) days of the decision and that Committee shall hear and determine the appeal within Thirty (30) days of the appeal being filed.

Role of the County Director of Physical and Land Use Planning

27. (1) The County Director of Physical and Land Use Planning shall be responsible for—

- (a) receiving development applications;
- (b) invoicing and confirming payments;

- (c) evaluating and processing the applications;
- (d) conducting site visits and auditing of the Developments;
- (e) recommending for approval, deferment or rejection of regularised developments to the Executive Committee member;
- (f) preparing reports and updates on the progress to County Executive Committee Member for Built environment and Urban planning.

Secretariat support

28. The Directorate of Physical and Land Use Planning shall provide secretariat support to the Advisory Committee.

PART IV—MISCELLANEOUS PROVISIONS

Rules and Regulations

29. (1) The Executive Committee Member may, on the recommendation of the Advisory Committee and with the approval of the County Assembly make Rules and regulations for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may provide for—

- (a) the procedure of making applications for regularization and the processing of such applications;
- (b) the requirements with respect to documentation that may be required with the applications and other processes in the Regularization process;
- (c) the forms to be used and the manner of communication in the Regularization exercise;
- (d) action to be undertaken to make provision for expansion of access roads, disposal of solid and other waste, creation of space for amenities;
- (e) the manner of public participation in the Regularization exercise;
- (f) the receipt and dealing with objections by interested parties considering the relevant provisions of the national Physical Planning Act and any other relevant written law.

Administrative and arrangements

30. The Executive Committee Member shall put in place measures necessary to enable the full operationalization of this Act including

establishing the necessary administrative arrangements for that purpose. For the avoidance of doubt, the Executive Committee Member shall through the Physical and Land Use Planning Department provide secretariat services to the Advisory Committee.

Repeal

31. (1) The Nairobi City County regularization of Developments Act, 2015, is hereby repealed.

(2) Notwithstanding such repeal, all notices and directions issued under the repealed Act shall be deemed to have been issued under the provisions of this Act and all proceedings pending before the advisory committee including appeals pending before the Nairobi City County Physical and Land use Committee shall be decided in accordance with the provisions of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Constitution of Kenya, 2010 mandates and empowers the County Governments with the Responsibility of planning and development.

The Physical and Land Use Planning Act on the other hand mandates the respective County Governments through the office of the County Executive Committee Member responsible for Physical and Land Use Planning to issue development permissions and further, for any justifiable cause the County Executive Committee Member responsible for Physical and Land Use Planning may modify the conditions imposed on development permission.

AND WHEREAS such unauthorised developments are liable to be demolished, removed and require the owner, occupier, agent or developer of property to restore the land on which the development is taking place to its original condition or as near to its original condition as is possible as stipulated under the Physical and Land Use Planning Act;

AND WHEREAS by removal and pulling down of such unauthorised developments, great disadvantage to a large number of people is likely to be caused;

NOW, THEREFORE, it is expedient to have a law to provide for regularization of certain unauthorised developments.

This Bill seeks to establish a legal framework in order to –

- (a) Bring unauthorised developments under the umbrella of planning framework and to provide basic facilities and infrastructure to the residents;
- (b) Provide for regularization of unauthorised developments commenced or completed before the date of commencement of this Act;
- (c) Exclude unauthorised developments made on any public land from the benefit of regularization;
- (d) Provide for regularization of unauthorised developments made in conservation areas declared as such under the relevant law;
- (e) Provide for regularization of unauthorised developments which fall within the required set-off specified in any law governing buildings;
- (f) Provide for regularization of unauthorised developments having more than the allowed number of floors;
- (g) To provide for the establishment of an advisory committee for the purpose of the proposed law.

PART I provides for the preliminary matters including the definition of terms used in the Bill. The objectives of the Bill are also set out.

PART II provides for particulars relating to the regularization process, general and specific requirements for the regularization of unauthorised developments. It further provides for the service of notice to the owner of unauthorised developments within such a period as envisaged in the Bill and the procedure upon receiving such notice. This Part also provides a list of unauthorised developments which shall not be regularised and that unauthorised developments not regularised shall be demolished.

There is also a provision on amnesty and payment of regularization fees.

PART III provides for the establishment of the Nairobi City County Regularization Advisory Committee for ease of administration of developments that require regularization. This Committee shall be responsible for among other things, advising the County Government generally on the regularization exercise, providing and facilitating the necessary stakeholder involvement in the regularization exercise. It also provides for the composition of the Committee

PART IV makes provision for miscellaneous matters including but not limited to the empowerment of the Executive Committee Member to make regulations on the recommendations of the advisory committee and with the approval of the Governor for the better carrying out of the provisions of the Bill. It further provides that the Executive Committee Member shall put in place the necessary administrative arrangements for the full operationalization of this Bill.

The enactment of the Bill into law shall entail expenditure of public funds to be provided for in the County estimates.

ALVIN PALAPALA,
Chairperson, Planning and Housing Committee.