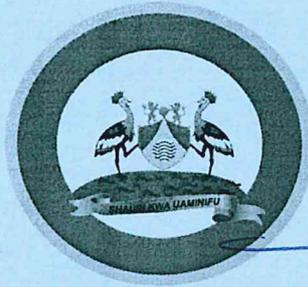


GOVERNMENT OF NAIROBI CITY COUNTY



Paper laid on  
15/10/2024.

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)

NCCA/TJ/PL/2023(56)

15<sup>TH</sup> OCTOBER 2024

PAPER LAID

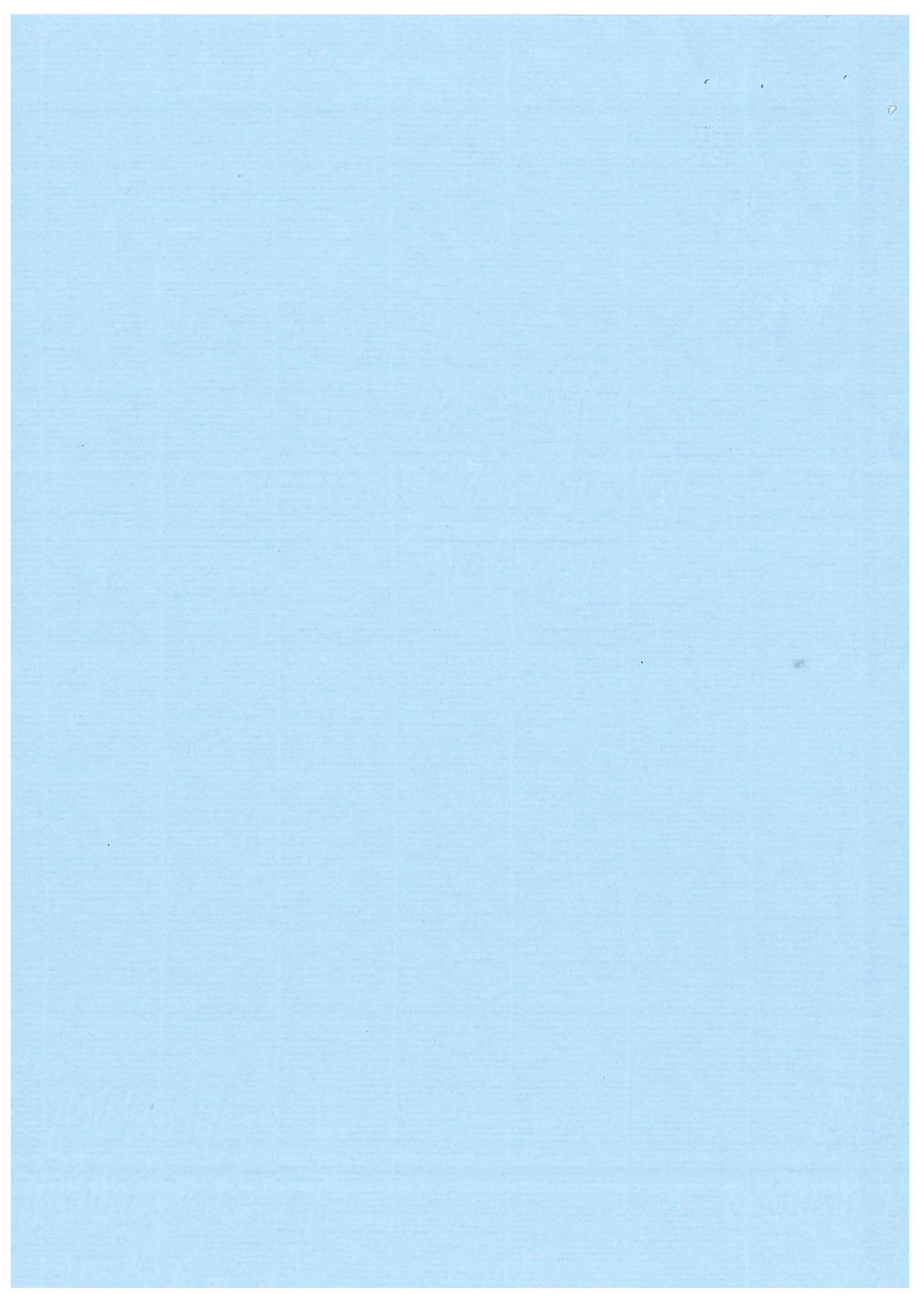
SUBJECT: REPORT OF A COMMITTEE

Pursuant to Standing Orders 196, I beg to lay the following Paper on the Table of this Assembly, today Tuesday 15<sup>th</sup> October 2024:

- i) **THE REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING ON WORKSHOP HELD FROM 26<sup>TH</sup> TO 29<sup>TH</sup> SEPTEMBER 2024 AT LAKE NAIVASHA RESORT, NAKURU COUNTY.**

*(Chairperson of the Sectoral Committee on Lands, Planning and Housing)*

Copies to:  
The Speaker  
The Clerk  
Hansard Editor  
Hansard Reporters  
The Press



THE GOVERNMENT OF NAIROBI CITY COUNTY



*[Handwritten signature]*  
15/09/2024

NAIROBI CITY COUNTY ASSEMBLY  
(THIRD ASSEMBLY)  
(THIRD SESSION)



REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING  
FOR THE WORKSHOP HELD FROM 26<sup>TH</sup> TO 29<sup>TH</sup> AUGUST 2024  
AT LAKE NAIVASHA REORT, NAKURU COUNTY

CLERK'S CHAMBERS  
NAIROBI CITY COUNTY ASSEMBLY  
CITY HALL  
NAIROBI.

SEPTEMBER, 2024

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## 1.1 PREFACE

### 1.1.1 Committee Mandate

**Hon. Speaker,**

The Sectoral Committee on Planning and Housing is established pursuant to Standing Order 209. Its mandate pursuant to Standing Order 209(6) is:

- i. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- ii. study the programme and policy objectives of departments and the effectiveness of the implementation;
- iii. study and review all county legislation referred to it;
- iv. study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- v. investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- vi. to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196 (*Committee on Appointments*); and
- vii. make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

### 1.1.2 Committee Membership

**Hon. Speaker,**

The Committee on Transport and Public Works is composed of the following Members:-

1. **Hon. Alvin Palapala, MCA** - Chairperson
2. **Hon. Collins Ogenga, MCA** - Vice Chairperson
3. Hon. Peter Imwatok, MCA
4. Hon. Anthony Kiragu, MCA
5. Hon. Paul Kados, MCA
6. Hon. Waithera Chege, MCA
7. Hon. Geoffrey Majiwa, MCA
8. Hon. Fuad Hussein, MCA
9. Hon. Hashim Kamau, MCA
10. Hon. Thuo Fiunifu, MCA
11. Hon. Paul Ndungu, MCA
12. Hon. Nasra Nanda, MCA
13. Hon. Hannah Wanjiru Muriuki, MCA
14. Hon. Nyantika Ricardo, MCA
15. Hon. Lily Akoth Kidenda, MCA
16. Hon. Jane Wanjiru, MCA

17. Hon. Nicholas Juma, MCA
18. Hon. Peter Maina, MCA
19. Hon. Clement Kamaru, MCA
20. Hon. Francis Kimondo, MCA
21. Hon. Patrick Macharia, MCA
22. Hon. Tricer Jeptoo, MCA
23. Hon. Martin Waithaka Wairobi, MCA

### 1.1.3 Background

The Committee held a two-day workshop from 26<sup>th</sup> to 29<sup>th</sup> August, 2024 in Nakuru County. The objective of the workshop was to enable the Committee to consider the following:

- a) The Sessional paper no. 1 of 2023 on Nairobi City County Development Control Policy;
- b) The Sessional paper no. 2 of 2023 on Nairobi City County Land use policy; and
- c) Draft Nairobi City County Regularization of unauthorized buildings Bill.

### 1.1.4 Acknowledgement

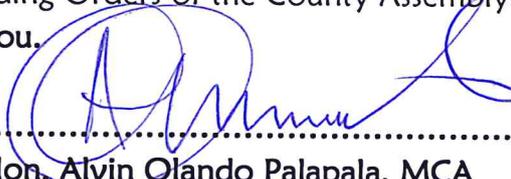
**Hon. Speaker,**

The Committee takes this opportunity to thank the Offices of the Speaker and of the Clerk of the County Assembly for the logistical support accorded to it in the execution of its mandate. Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the workshop and compilation of this report.

Finally, on behalf of the Sectoral Committee on Lands, Planning and Housing, it is my pleasure and duty to present to the Assembly, the Committee's retreat report pursuant to the Standing Orders of the County Assembly.

Thank you.

Signed .....

  
Hon. Alvin Olando Palapala, MCA  
(Chairperson)

Sectoral Committee on Lands, Planning and Housing

Dated this <sup>15<sup>th</sup></sup>.....day of <sup>oct</sup>.....2024

## DAY 1 OF THE WORKSHOP

### 2.1 PRESENTATION: NAIROBI CITY COUNTY DEVELOPMENT CONTROL POLICY

#### 2.1.1: Introduction

The workshop was officially opened by a word of prayer from the chair Hon. Alvin Olando Palapala, MCA before welcoming the Members to the meeting. The chair then invited the Members and the secretariat to introduce themselves and subsequently urged Members to be actively participate in the proceedings to understand and scrutinize the provisions of policies and the bill. The Chairperson invited the Assembly Legal Counsel to take the Committee through the Development Control Policy and the Land use Policy.

Section 185(4) (b) of the Constitution of Kenya 2010 provides that a County Assembly may receive and approve plans and policies for the development and management of county infrastructure and institutions. The Committee was informed that Development Control and Land Use Policies were forwarded from the County Executive and Tabled in the Assembly on 6<sup>th</sup> June 2023. The Policies were subsequently committed to the Sectoral Committee on Lands, Planning and Housing for consideration and reporting.

### 2.1 PRESENTATIONS: SESSIONAL PAPER NO. 1 OF 2023 ON NAIROBI CITY COUNTY DEVELOPMENT CONTROL POLICY

#### 2.1.1 Introduction

On 27<sup>th</sup> August 2024, the Session was facilitated by The Assembly Legal Counsel who informed the Committee as follows:

The Sessional Paper No.1 of 2023 on the Nairobi City County Development Control Policy was tabled on 6<sup>th</sup> June 2023 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012.

The Sessional paper was thereafter committed to the Sectoral Committee on Lands, Planning and Housing for consideration and reporting to the Assembly. Pursuant to Article 196(1) (b) of the Constitution which provides that: “*a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees*”, The Assembly placed adverts in the dailies of 8<sup>th</sup> February 2022 for members of the public and stakeholders to give their views/submissions on the Policy. It is important to note that no such views/submissions were forthcoming.

The City of Nairobi like other cities in the developing world is experiencing rapid urbanization. This has resulted to the City’s change shaped by several factors including economic, social, spatial, cultural, political, environmental and institutional factors. The growth and expansion of the City has also resulted in development challenges due to the pressure exerted on services and infrastructure that require to be effectively managed in order to ensure the City continues to play its respective role as the key driver of economic

growth and sustainable development. The urbanization challenges currently being faced in the City include unplanned and uncoordinated urban growth, inadequate infrastructure, deterioration of the urban environment and increasing poverty.

It is worth noting that currently, Nairobi City does not have a comprehensive integrated urban development plan. Past growth management frameworks for the City include the Metropolitan Growth Strategy of 1973, which expired in the year 2000. Its expiry underscored the urgency of the preparation of the Strategic Structure Plan to guide the overall development of the City. In 2013, the Nairobi Integrated Urban Development Master Plan (NIUPLAN) was prepared to guide the City's response to development challenges facing Nairobi's for 16 years that is 2014-2030.

Therefore, due to lack of an updated policy, the County processed applications using discretion, practice, precedence, planning justifications advanced by the developers, architects and engineers. The Physical and Land Use Planning Act, 2019 provides for formulation and revision of policies every 5-10 years. This is the premise upon which this development control policy is being revised.

## **2.2 ANALYSIS OF THE NAIROBI CITY COUNTY DEVELOPMENT CONTROL POLICY**

The Committee having scrutinized the Policy established the following:

### **2.2.1 Justification of the Policy**

The Committee observed that the Policy was necessitated by the following existing demographic, land use, environmental and legal realities in the County:

- a) The Physical and Land Use Planning Act 2019, allows for formulation and revision of policies within 5-10 years after formulation. Therefore, the County is reviewing the development control guidelines in order to comply with the requirements of law and ensure that developments in the City are effectively managed. In addition, the review in compliance with the recommendation of Nairobi Integrated Urban Development Master Plan (NIUPLAN) on formulation of development control guidelines and a review of Nairobi zoning ordinances.
- b) Nairobi City is experiencing unique spatial planning dynamics due to population growth, high demand for residential units, office space, need for support services and facilities. The City's development trends seem to be demand driven rather than guided by spatial planning and development control policies. This is due to undefined zoning policy guidelines that ought to be reviewed
- c) Environmental concerns have become prevalent since the prevailing development densities and trends are exerting pressure on the existing land uses leading to incompatible land uses, environment degradation, proliferation of informality, lack of compliance to the existing planning and building standards.

### **2.2.2 Policy Objectives**

The specific objectives of this Policy document are to:

- a) To revise the development control guidelines for effective urban management of developments within the City;
- b) To sustainably guide and control development in Nairobi City for the next ten years; and
- c) To facilitate private sector investment within the City aimed at transforming Nairobi into a modern City with high quality of life for all residents.
- d) To protect and conserve the environment.
- e) To promote public safety and health.
- f) To promote public participation in physical and land use development decision-making.
- g) To ensure orderly and planned building development, planning, design, construction, operation and maintenance; and
- h) To promote the safeguarding of national security.

### **2.2.3 Legal framework**

The Committee observed that Nairobi City County Development Policy was originated and formulate based on existing and approved overarching Constitutional, Statutory and Policy documents including the following:

- a) The Constitution of Kenya, 2010
- b) Kenya's Vision 2030
- c) National Land Use Policy of 2017
- d) The Big Four Agenda
- e) The Nairobi Integrated Urban Development Master Plan
- f) The County Governments Act, 2012
- g) The Urban Areas and Cities Act, 2011
- h) The Physical and Land Use Act, 2019
- i) Forest Conservation and Management Act
- j) Kenya Roads Act
- k) National Museum and Heritage Act
- l) Environmental Management and Co-ordination Act
- m) Civil Aviation Act
- n) National Construction Authority Act

## **2.3 POLICY INTERVENTIONS**

### **2.3.1 Institutional Framework**

The Committee noted that the current development control process is fragmented with functions cutting across various institutions and spillover effects being experienced in the neighboring Counties. This results in delays in the approval process. Roles of some of the institutions are also not supported by any legal framework.

### **2.3.2 Policy Proposal**

- a) NCCG shall receive and approve development applications;
- b) NCCG shall will adopt a one-stop development approval approach through constitution of the Urban Planning Technical Committee to vet and approve development applications. Membership of the committee shall comprise of NEMA, Nuclear Regulatory Authority, NWSCO, AAK, KIP, Town and County Planning association of Kenya, Ministry of Defense, IEK, and County Departments of Urban Planning, Roads, Disaster Management and Public Health. The committee will be convened by the Department responsible for urban Planning;
- c) NCCG shall build the capacity for urban planning, development control and enforcement of the guidelines through training, recruitments of additional staff to meet demand, improved working conditions and decentralization of the planning function to the Ward level;
- d) KCAA and Ministry of Defense shall provide guidelines to facilitate approval process around airports, airstrips and safeguarding areas; and
- e) NCCG shall take lead in establishing cooperation mechanisms with the National Government and neighboring Counties for formulation and implementation of intercountry development control plans.

### **2.3.4 Application for Development Permission**

The Committee established that the Physical and Land use Planning Act, 2019 provides that a person shall obtain development permission by submitting a development application in the prescribed form and after payment of the prescribed fees. Submissions shall strictly adhere to the stipulations of the Act.

### **2.3.5 Policy Proposal**

- a) All applications shall be submitted and processed through the e-development permit system;
- b) Requirements for each type of development application shall be as indicated in Annex 11; and
- c) All applications shall be vetted upon receipt, invoiced for application fee, circulated, evaluated by technical team upon which approval is given or declined.

### **2.3.6 Legal Framework**

The Committee observed that Nairobi City County lacks legal framework to curtail unauthorized developments.

### **2.3.7 Policy Proposal**

Nairobi City County Government shall develop planning and compliance framework within one year to ensure adherence to the Development Control Policy.

### 2.3.8 Infrastructure Development

The Committee established that expansion of infrastructure in Nairobi has been limited despite the high levels of development densities over the years. This has resulted to traffic congestion, limited water supply, poor solid waste management and inadequate sewer systems in most sections of the City.

### 2.3.9 Policy Proposal

- a) NCCG shall impose an infrastructure levy on development applications to facilitate infrastructure development in collaboration with other Government agencies supporting infrastructure;
- b) Nairobi City Water and Sewerage Company shall rehabilitate, upgrade and extend distribution networks to 100% coverage by 2035 in line with the Strategic Plan;
- c) Nairobi City County to develop policy on green building concept incorporating rain water harvesting, water recycling and reuse and green energy;
- d) Developers shall restore infrastructure destroyed during construction to the original state and to the satisfaction of the County Engineer in charge of roads. Contractors shall maintain the section of roads and other infrastructure during construction and occupation certificates will be issued after infrastructure is restored;
- e) Nairobi City County shall facilitate expansion of roads through planning and widening to enhance vehicular, Non-Motorized Transport and services provision in collaboration with Kenya Urban Roads Authority (KURA), Kenya Railways and other inter-governmental agencies;
- f) Development approvals in areas earmarked for road expansion shall be granted subject to surrendering portions of land to facilitate the expansion;
- g) Nairobi City County shall facilitate development of Intelligent Traffic Management Systems to reduce traffic congestion in collaboration with other Government agencies like KURA, NAMATA, NTSA and the National police Service; and
- h) Nairobi City County shall promote transport-oriented developments along major roads like Lang'ata, Mombasa road and Thika road.

## 2.4 IMPLEMENTATION FRAMEWORK

The Committee noted that the implementation of the Development Control Policy shall be in accordance with the following matrix:

Goal	Policy Intervention	Actors	Timeframe
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(A) INSTITUTIONAL FRAMEWORK

To strengthen the institutional framework of NCCG and create synergies with the National Government, other counties and the private sector in implementation of the development control guidelines	The NCCG shall: Constitute the Urban Planning Technical Committee to vet and approve development applications. Membership of the committee shall comprise of the professional bodies, government and government agencies drawn from the built industry. The committee will be convened by the Department responsible for urban Planning.	Director Urban Planning	Immediate
	Receive and approve development applications	Director Urban Planning	continuous
	Decentralize the planning function to the Ward level	Director Urban Planning	6months
	In collaboration with KCAA and Ministry of defense provide guidelines to facilitate approval process around airports, airstrips and safeguarding areas.	Director Urban Planning KCAA DoD	Immediate
	Take lead in establishing cooperation mechanisms with the National Government and neighboring Counties for formulation and implementation of intercountry development control plans.	NCCG CoG Ministry of Devolution	3months

(B) APPLICATION FOR DEVELOPMENT PERMISSION

To provide a framework for application of development applications pursuant to PLUPA of 2019	The NCCG shall: Develop an online system through which development applications shall be submitted and processed.	Director Urban Planning	immediate
	Ensure that all development applications are submitted in the prescribed format pursuant to PLUPA of 2019 Sec 58 and as indicated in Annex 11.	Director Urban Planning	continuous

	Ensure that all applications shall be vetted upon receipt, invoiced for application fee, circulated, evaluated by technical team upon which approval is given or declined	Director Urban Planning	continuous
<b>(C) LEGAL FRAMEWORK</b>			
To develop a legal framework that strengthens planning compliance and enforcement and curtail unauthorized Developments.	NCCG shall develop a planning and compliance framework to ensure adherence to the Development Control Policy.	Director Urban Planning	One year
<b>(D) INFRASTRUCTURE DEVELOPMENT</b>			
To enhance infrastructure development within Nairobi City County by adopting emerging technologies and through collaboration with the private sector and other government agencies.	NCCG shall: Impose an infrastructure levy on development applications to facilitate infrastructure development in collaboration with other Government agencies involved in infrastructure Development.	Director Urban Planning Director of Roads KeNHA KURA KeRRA	One year
	Through Nairobi City Water and Sewerage Company rehabilitate, upgrade and extend distribution networks to 100% coverage by 2035 in line with the Strategic Plan	NCWSCO	14years
	Ensure that developers restore infrastructure destroyed during construction to the original state and to the satisfaction of the County Engineer in charge of roads. Contractors shall maintain the section of roads and other infrastructure during construction and occupation certificates will be issued after infrastructure is restored.	Director Urban Planning Director of Roads KeNHA KURA KeRRA	6months
	Facilitate expansion of roads through planning and widening to enhance vehicular, Non- Motorized Transport and services provision in collaboration with Kenya Urban Roads Authority (KURA), Kenya Railways and other inter-governmental agencies.	Director of Roads KeNHA KURA KeRRA Kenya Railways NAMATA	continuous
	Ensure that development approvals in areas earmarked for road expansion shall be granted subject to surrendering portions of land to facilitate the expansion.	Director Urban Planning Director of Roads	continuous
	Facilitate development of Intelligent Traffic Management Systems to reduce traffic congestion in collaboration with other Government agencies such as KURA,	Director of Roads NTSA KeNHA KURA KeRRA	2years

	NAMATA, NTSA and the National Police Service.	Kenya Railways NAMATA	
	Promote transport-oriented developments along major roads like Langata, Mombasa Road and Thika road.	Director Urban Planning	6months

## 2.5 MONITORING AND EVALUATION

The Committee was informed that monitoring and evaluation of implementation of the Development Control policy will be critical to ensure that its intended goal is achieved and that development control related decisions are based on factual information in ten (10) years to address the efficacy of implementation. Therefore, this Development Control Policy will be reviewed after ten years to ensure that the policy is in line with current needs and development trends.

### 3.1 DAY 2: PRESENTATIONS: SESSIONAL PAPER NO. 1 OF 2023 ON NAIROBI CITY COUNTY LAND USE POLICY

On 26<sup>th</sup> August 2024, the workshop was facilitated by the Assembly Legal Counsel who to the Members through an overview of the Sessional paper no. 1 of 2023 on Nairobi City County Land Use Policy;

#### 3.1.1 Introduction

The Sessional Paper No.2 of 2023 on the Nairobi City County Land Use Policy was tabled on 6<sup>th</sup> June 2023 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012.

The Sessional paper was thereafter committed to the Sectoral Committee on Lands, Planning and Housing for consideration and reporting to the Assembly. Pursuant to Article 196(1) (b) of the Constitution which provides that: “*a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees*”, The Assembly placed adverts in the dailies of 8<sup>th</sup> February 2022 for members of the public and stakeholders to give their views/submissions on the Policy. It is important to note that no such views/submissions were forthcoming.

Nairobi City County as the capital city of Kenya, financial and economic hub of East Africa has many competing lands uses necessitating the need for a policy to balance these competing interests. The County also faces a myriad of challenges on land use including haphazard developments, lack of detailed land use planning, poor management of public land leading to land grabbing, encroachments, invasion by squatters, incompatibility of land uses and environmental degradation particularly of riparian reserves, wetlands, and parks. In addition, there has also been a notable expansion of informal settlements which

occupy prime urban land. This is further compounded by poor land record management which is paper based. Thus, the Land Use Policy has been necessitate by the need to provide a legal, administrative, institutional and technological framework to guide land use and land-use planning to facilitate optimal and sustainable use of land.

### **3.2 ANALYSIS OF THE NAIROBI CITY COUNTY LAND USE POLICY**

The Committee having scrutinized the Policy established the following:

#### **3.2.1 Justification of the Policy**

The Committee observed the Nairobi City County requires a land use policy to regulate the use of its limited land resource which will form one of the foundations for economic development when it is well planned, managed and utilized for sustainability. Thus, the policy is premised on the following:

- a) County land is fixed and cannot be expanded therefore there's need for optimal and efficient utilization of land in the County;
- b) There are competing land uses within the City, i.e commercial, residential, industrial, institutional agricultural and conservation. Therefore, there is need to have a rational way of allocating land to the various land uses;
- c) The rising land values within the City require that guidelines be provided to ensure that densification does not result in land degradation;
- d) The Policy will ensure that the City's environmental assets are conserved and protected;
- e) The policy is necessary to address the challenges experienced in land management including double allocations, encroachments, land grabbing, land disputes and over fragmentation of land to uneconomical sizes; and
- f) The Policy will address the challenge of informal settlements which occupy about 5% of the land but accommodate over 60% of the population.

#### **3.2.2 Policy Objectives**

The Committee observed that overall objective of the Nairobi City County Land Use Policy is to provide a policy framework to manage and regulate the use of land and natural resources in the city. To achieve this, the policy has the following specific objectives:

- a) Despite land being central to all socio-economic development, its supply remains fixed, thus calling for planning prudence in its use and development through clear policy guidelines. This is further underscored by the importance of Nairobi to the national economy and its strategic positioning in the region;
- b) Past land use management instruments for Nairobi have either failed or have been overtaken by the intensity of development occasioned by rapid urbanization and increasing population growth requiring the development of a clear policy to address the ensuing land use challenges and emerging trends;

- c) Disjointed implementation of a multiplicity and uncoordinated land use management instruments and diverse regulations to provide for services in the City have often resulted in institutional fragmentation. This calls for a harmonized land use framework in the context of the County;
- d) The land use within the City of Nairobi has been transforming due to increasing demand for land. This has created imbalance in the proportions of land for various uses with a bias towards residential and commercial uses. The policy seeks to create a balance in land use in tandem with the growing demand and future trends;
- e) Land issues are generally emotive. Lack of clear guidelines on access to and use of land, are often a recipe for conflicts and violence;
- f) To provide a framework to manage and guide formulation and implementation of land use standards to ensure sustainable use of the land resource and direct land use planning and development in the city.
- g) To provide a monitoring system for appraisal of the effectiveness of land use plans, decisions, regulations and standards for the city; and
- h) To coordinate the various actors within the lands sector in Nairobi City County.

### **3.2.3 Principles of the Land use Policy**

The Committee noted that the Land Use Policy is rooted and guided by the following principles:

#### **3.2.3.1 Optimal utilization of land**

Due to the fixed nature of land and the many competing demands, there is need to ensure that the available is used in the most efficient manner. This will require densification and compact development. This can be achieved through redevelopment, urban renewal and regeneration and upgrading of informal settlements.

#### **3.2.3.2. Sustainable Development**

This entails adoption of land use management practices that enable land users to optimize the economic and social benefits of land, while maintaining or enhancing the environmental support functions. It combines policies, strategies, and activities aimed at integrating socio-economic principles with environmental concerns, so as to enhance production, protect natural resources, and prevent environmental degradation while maximizing socio-economic potential for development. Rapid urbanization has led to spatial transformation of the urban landscape, whereby the carrying capacity of urban land is typically inadequate to cope with competing land use needs. This has led to major emerging environmental challenges including climate change, resource scarcity, proliferation of slums in ecologically sensitive areas, among others. Urban land use planning, should therefore be led by well- informed policies based on sustainable development principles and supported by well- planned and managed initiatives, that can help address these challenges.

### **3.2.3.3 Inclusivity and Equity**

Equity and spatial inclusion to the extent that no one should be penalized for where they live within the urban setup, and that public goods and basic services should be available to everyone. It therefore dictates that the urban space should not contribute to reproduce unequal relations or reinforce existing ones, but it should ensure that redistributive mechanisms are put in place for a fair, more efficient use of resources.

The land-use policy should therefore guarantee the entire population has equitable access to public spaces, public services, public institutions and social amenities. Decentralization of government services and functions at the local level, would therefore require provision of land for location of these functions and services

### **3.2.3.4 Integrated, strategic land use planning**

Land use planning should take into consideration the physical, economic, social and environmental dimensions of urban development. There is need for both horizontal and vertical integration, as well as multi-sectoral and multi-disciplinary integration while undertaking land use planning.

Land use planning recognizes that resources are limited and hence the need to have a long term vision but also to prioritize actions to respond to immediate challenges.

### **3.2.3.5 Ecological Integrity**

The policy recognizes that the urban space has critical ecosystems and environmental assets. This will be identified and protected.

### **3.2.3.6 Policy and Legal framework**

The Committee observed that Nairobi City County Development Policy was originated and formulate based on existing and approved overarching Constitutional, Statutory and Policy documents including the following:

- a) The Constitution of Kenya, 2010;
- b) Sustainable Development Goals;
- c) Kenya's Vision 2030;
- d) The Nairobi Integrated Urban Development Master Plan;
- e) National Land Use Policy of 2009;
- f) National Land Use Policy of 2017;
- g) Land Act 2012;
- h) Land Registration Act, 2012;
- i) National Land Commission Act, 2012;
- j) The Physical and Land Use Act, 2019;
- k) The County Governments Act, 2012; and
- l) The Urban Areas and Cities Act, 2011.

## **3.3 POLICY INTERVENTIONS**

### **3.3.1 Public Land Management**

The Committee noted that Public land represents land that is not private or communal, and is held by the County Government for the benefit of the public. This ranges from forests, public open spaces and recreational centers, rivers, national parks, water bodies etc., and plays an important role in the socio-economic development of the City. It should only be allocated and utilized in a socially responsible and economic way, as prescribed in law. To address the challenges of public land management and administration, the County Government shall ensure proper administration of land by actively undertaking the following:

- a) Establishment of processes and procedures of allocation that comply with the provisions of alienation of public land. Land reserved for public utilities, infrastructure and land banks for investments shall not be allocated or re-designated for private development and shall remain public land;
- b) Creation and maintenance of an inventory/data bank of all County public land;
- c) Surveying and titling of all public land;
- d) Securing public land by fencing and other protective measures;
- e) Establishment of a multi sectoral/agency team to investigate, review and recommend ways that public land illegally/irregularly allocated shall be recovered;
- f) Promotion of participatory involvement in public land management and administration;
- g) Development of a Land Information System to manage County land in an efficient manner;
- h) Ensuring that management of reserved public land shall be predicated on approved development plans, local area development policies or technical guidance issued by the relevant planning authority at County level; and
- i) Enforcement non-provisionary rights for Temporary Occupation allocations.

### **3.3.2 Private land management**

The Committee established that there is Prevalence of land related disputes resulting from an inefficient management system is linked to unregistered and untitled private land. Therefore, to address challenges of land allotted and untitled, unregistered land owned and sold by land buying companies and land allotted by the government, the County Government shall:

- a) Undertake a titling program to ensure all allotted land is registered; and
- b) Discontinue use of share certificates and allotment letters for processing of development applications.

### **3.3.3 Management of surrendered land**

The Committee observed that Past practice on management of surrendered land meant for public purpose use has not been efficient and harmonized. Therefore, to ensure proper management of surrendered public purpose/utility land, the County Government shall:

- a) Create an inventory of surrendered land;
- b) Gazette all surrendered land;
- c) Promote inter-agency coordination in securing surrendered land; and
- d) Promote development of the surrendered land as intended.

### **3.3.4 Land Information System**

The Committee observed that Land Use Policy intends to facilitate modernization of a land use information management systems to allow for easier collection, collation, storage and dissemination of data. The County has relied on a manual records system which is both inefficient and ineffective. This situation will be alleviated through the development of an integrated, transparent, decentralized efficient and affordable GIS- based Land Information System. To enable the same, the County Government shall ensure:

- a) Establishment of a County Spatial Data infrastructure;
- b) Adoption and mainstreaming of GIS based land management system by integrating all the county sectors;
- c) Integration of land use information system for management of land use planning and land use change;
- d) That development approvals in areas earmarked for road expansion shall be granted subject to surrendering portions of land to facilitate the expansion;
- e) facilitate development of Intelligent Traffic Management Systems to reduce traffic congestion in collaboration with other Government agencies like KURA, NAMATA, NTSA and the National police Service; and
- f) Promote transport-oriented developments along major roads like Lang'ata, Mombasa road and Thika road.

### **3.3.5 Land Use Planning**

The Committee established that disjointed planning of the City has resulted into haphazard development, underutilization of prime land, urban decay, environmental degradation, proliferation of informal activities, and land use conflicts among other challenges. This coupled with obsolete development control policies has resulted to urban sprawl and poor land use practices. To address this, the County Government shall:

- a) Formulate and implement Physical and Land Use Development Plans as prescribed in law;
- b) Formulate and implement necessary policies to address emerging issues in urban development to regulate use and sub-division of land, conversion of land to different uses as well as proliferation of informal urban activities;

- c) Provide adequate budgetary allocation for implementation of approved development plans;
- d) Ensure adequate budgetary allocation for implementation of the NIUPLAN and undertake detailed planning through preparation of local physical and land use plans for all the sub counties and the proposed sub-centers;
- e) Promote urban renewal, regeneration and re-development to optimize the use of prime urban land;
- f) Regularly review the development control policies and ensure strict compliance to the policies; and
- g) Establish and empower appropriate physical planning structures at sub-county level with adequate resources and capacity to ensure their effective and efficient performance.

### **3.3.6 Housing and Infrastructure Development**

The Committee noted that the County government is responsible for providing decent and affordable housing, security of land tenure and improve living conditions for the residents of Nairobi City County. To achieve the foregoing, the County Government shall:

- a) Formulate a County Housing Policy mirrored on the National Housing Policy;
- b) Develop social housing for low income groups;
- c) Identify and service land for site and service schemes;
- d) Reserve land during urban renewal projects for affordable housing development; and
- e) Provide incentives to investors of affordable housing development.

### **3.3.7 Informal settlement**

The Committee observed that Nairobi's landscape is marked by a number of informal settlements which lack security of tenure and are characterized with poor living conditions, deficient of infrastructure and public services. These settlements are home to over 60% of the City population. The County shall ensure that there are enough social amenities such as hospitals and schools for people living in the informal settlements. To achieve the foregoing, the County shall:

- a) Undertake an audit, map out and create an inventory of all the informal settlements;
- b) Undertake planning by declaring the settlements as Special Planning Areas to provide frameworks for improvement;
- c) Facilitate security of tenure;
- d) Provide social housing;
- e) Provide social and physical infrastructure;
- f) Create a multi-agency team to investigate and recommend redress measures on land issues; and
- g) Undertake informal settlements improvement/upgrading programs.

### **3.3.8 Provision of infrastructure and utility services**

The Committee noted that infrastructure such as roads, sewerage, storm water drainage, telecommunications and utility services such as water and electricity support optimal utilization of land. To ensure adequate provision of infrastructure and services, the County Government shall:

- a) Promote an integrated approach that brings together infrastructure and service providers at the planning stage of development in order to align with the designated land use;
- b) Enforce provision of land for upgrading and development of infrastructure in line with the law;
- c) Adopt appropriate standards for infrastructure and services provision; and
- d) Promote forward planning and implementation of infrastructure project.

### **3.3.9 Environmental management**

#### **3.3.2.1 Protection and conservation**

The Committee noted that urban environmental and natural resources conservation is key for the realization of any socio- economic development and citizen wellbeing of the city. Environmental degradation through practices such as encroachment, destruction of wetlands and riparian reserves, unsustainable mining and quarrying among others inhibit sustainable development as well as compromise the ecological integrity of the city. To address these challenges, the County Government shall:

- a) Identify, map and document all land areas encompassing key natural resources and critical strategic environment areas and features;
- b) Facilitate enforcement and compliance to guidelines on rehabilitation of mines and quarries, waste disposal sites and wastelands;
- c) Zone conservation areas and tabulate the permissible land use activities;
- d) Protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values;
- e) Ensure reclamation and regeneration of degraded environmental assets such as rivers, wetlands and forests;
- f) Prohibit settlement, dumping and any other destructive activities within ecologically sensitive zones; and
- g) Identify and map out disaster prone areas and ecologically sensitive areas.

#### **3.3.2.2 Riparian Land and wetlands**

The Committee noted that riparian Land and Wetlands support water resource and sustain a healthy ecological environment. To address management of Riparian Land and Wetlands, the County Government shall ensure that:

- a) Riparian reserves shall be used only as greenery and parks/recreational and no physical development shall be allowed;

- b) Registered property owners maintain the riparian reserves in line with the provided guidelines;
- c) Riparian Land is well documented and mapped out; and
- d) Enforcement of the above is undertaken through a multi-agency team

### 3.3.2.3 Green open spaces

The Committee established that Green Open Spaces and Parks are crucial social facilities which promote healthy lifestyle and maintain the aesthetics of the City. To address management of Green Open Spaces and Parks, the County Government shall ensure that:

- a) Open spaces and parks shall be used strictly for recreational purposes;
- b) No physical development shall be allowed on green open spaces and parks;
- c) Requisite infrastructure shall be provided to enhance access for public use; and
- d) All parks and public open spaces are surveyed and titled.

### 3.3.2.4 Climate change

The Committee observed that land utilization affects the urban environment contributing towards climate change. To address the issues of climate change and land use, the County Government shall:

- a) Facilitate implementation of the County Climate Change Action Plan through a multi-sectoral approach;
- b) Integrate climate change in land use and development planning.
- c) Identify and map disaster prone areas;
- d) Promote land use practices that enhance climate resilience and reduce effects on climate change; and
- e) Ensure adequate financial resource allocation for implementation of Climate Change Action Plan and related initiatives.

## 3.4 IMPLEMENTATION FRAMEWORK

The Committee noted that the implementation of the Land Use Policy shall be in accordance with the following matrix:

1.	Policy Area	Policy Intervention	Actor(s)	Timeline
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2.	<b>Management and Administration of Public Land</b>	<ul style="list-style-type: none"> <li>a. Create an inventory/data bank of all county public land;</li> <li>b. Survey and title all public land;</li> <li>c. Secure public land by fencing;</li> <li>d. Investigate and recover all illegally allocated and surrendered land;</li> <li>e. Promote participatory involvement by relevant stakeholders in land management; and</li> <li>f. Develop a Land Information System to manage county land in an efficient manner.</li> </ul>	<p>County Lands Department Ministry of Lands and Physical Planning</p> <p>National Lands Commission</p> <p>County ICT Department</p> <p>County Legal Department</p>	Short to medium term
3.	<b>Land Use Planning</b>	<ul style="list-style-type: none"> <li>a. Implement the Physical Planning legislation (PLUPA) and regulations to facilitate proper urban planning;</li> <li>b. Prepare local physical and land use plans for all the sub counties;</li> <li>c. Recruit county planners and enhance the planning budget;</li> <li>d. Prepare a county wide Land Use Plan;</li> <li>e. Establish a dispute resolution mechanism to deal with land disputes;</li> <li>f. Implement the revised zoning and land use policy and ensure compliance as provided in Appendix 1 hereto;</li> <li>g. Promote and provide incentives for urban renewal/regeneration and re- development for urban areas to optimize the use of prime urban land;</li> <li>h. Undertake informal settlements improvement/upgrading programs;</li> <li>i. Undertake an audit and map out the number and location of informal settlements and provide legal security of tenure;</li> <li>j. Regularly review the development control policies and ensure strict compliance to the policies; and</li> <li>k. Undertake planning and land banking for industrial, commercial, and infrastructure development.</li> </ul>	Immediate/short term	<p>County Urban Planning, Lands, Housing, environment Departments Resident associations</p> <p>Land buying companies</p>

4.	<b>Land Allocation and Management</b>	<ul style="list-style-type: none"> <li>a. Prepare an up to date land use map for Nairobi City County;</li> <li>b. Undertake titling programme to ensure all allotted land is titled;</li> <li>c. Titling of surrendered land in favor of the County;</li> <li>d. Establish a system of tracing and creating an inventory of surrendered land and gazettelement of the same;</li> <li>e. Promote inter-agency coordination in securing surrendered land; and</li> <li>f. Reserve land (land banking) for urban renewal and regeneration programme.</li> </ul>	Medium to long term	<p>County Lands, Valuation and Urban Planning Department</p> <p>Land buying companies</p> <p>Private land owners</p>
5.	<b>Environmental Conservation and Protection</b>	<ul style="list-style-type: none"> <li>a. Identify, map and document land encompassing key environmental assets;</li> <li>b. Zone conservation areas and tabulate the permissible land use activities;</li> <li>c. Protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values;</li> <li>d. Facilitate reclamation and regeneration of degraded environmental assets such as rivers, wetlands and forests;</li> <li>e. Prohibit settlement, dumping and other activities within ecologically sensitive zones;</li> <li>f. Identify and map disaster prone areas;</li> <li>g. Promote appropriate waste management technologies;</li> <li>h. Integrate initiatives that will address issues of climate change and disaster management;</li> <li>i. Develop disaster awareness programs that sensitize the communities on best land use practices that incorporate disaster mitigation; and</li> <li>j. Adopt climate change, adaptation and preparedness.</li> </ul>	Medium to long term	County Urban Planning, Lands and Environment Department

### 3.5 MONITORING, EVALUATION AND REVIEW

#### 3.5.1 Monitoring and evaluation

The Committee noted that the County Executive Committee Member responsible for Lands and Urban Planning shall be responsible for ensuring implementation and efficient performance of this Land Use Policy. To achieve this, the Member shall continually monitor and evaluate the Policy by undertaking the following:

- a) Coordinating all sectoral activities in the implementation of the Policy;
- b) Tracking implementation and performance of the Land Use Policy based on the policy objectives and guiding principles;
- c) Sharing information on interventions undertaken to respective actors as envisaged in the Policy;
- d) Reporting to the County Executive Committee the overall status of sectoral performance towards compliance with the Land Use Policy;
- e) Generating periodic reports to the County Assembly on the implementation status of and issues arising from implementation of this Policy;
- f) Issuing recommendations/advice on issues emerging from implementation of this Policy;
- g) Where necessary, seeking relevant professional advice on land use contestations, disputes and other related matters arising from implementation of this Policy; and
- h) Ensuring participation and consultations on land use matters with the view of getting comments on the implementation of this Policy.

### **3.5.2 Policy review**

The Committee noted that the policy acknowledges the fact that the nature and intensity of urban land use activities in the City will, invariably, change over time. To address the anticipated change, the County shall ensure the policy is reviewed after 10 years to address emerging land use issues. However, the Land Use Policy may be reviewed mid-term subject to sufficient justification.

### **4.1 NAIROBI CITY COUNTY DRAFT REGULARIZATION BILL**

The Committee was informed that the County Executive intends to forward to the Assembly the Nairobi City County Regularization of unauthorized Bill. The First draft of the Bill was forwarded to the Assembly and was in the process of being introduced. However, before then, it was important for the Committee to understand the provisions and the import of the Bill. The Legal Counsel took the Members through the draft Bill. The Committee was informed that the Bill intends to develop and 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; and
  - (g) To provide for the establishment of an advisory committee for the purpose of the proposed law
- Clause 3 provides for the objectives of the Bills which include:
    - a) pursuant to regulations to be formulated by the Executive Committee Member, bring unauthorized developments that meet the minimum standards under the umbrella of planning framework;
    - b) provide for regularization of unauthorized development commenced or completed before the date of commencement in this Act;
    - c) exclude unauthorized development made on any public land from the benefit of regularization;
    - d) provide for regularization of unauthorized developments which fall within the required set-off specified in any law governing buildings;
    - e) provide for the establishment of an advisory committee for purposes of this Act
  - Clause 4 provides for the domestication of parts of the Physical and Land Use Planning Act, 2019 in the proposed law
  - Clause 5 provides for the establishment of the Advisory Committee
  - Clause 6 provides for the powers and functions of the Advisory Committee
  - Clause 7 provides for the procedures of the Advisory Committee
  - Clause 8 provides for remuneration of Members of the Advisory Committee
  - Clause 9 provides for the powers of the relevant County Executive Committee Member
  - Clause 10 provides for decision making and communication
  - Clauses 11 to 18 provides for the regularization process
  - Clause 19 provides for the register and regularization fee
  - Clause 20 to 27 provides for circumstances under which unauthorized developments may be regularized and circumstances under which unauthorized development shall not be regularized.
  - Clause 28 to 30 provides for delegated powers, repeal an saving provisions

#### 4.1 OBSERVATIONS

1. On Development Control Policy, the Committee observed the need for the document to take into account the issues raised during public participation including the need for the document to be re-subjected to a more comprehensive public participation in order to comprehensively address the issues of high sky levels, the provisions of Nairobi Integrated Urban Development Master Plan and the need for development of infrastructure (water, sewer, transport);
2. On Land Use Policy, the Committee recommended for a more robust public participation; and
3. On Regularization Bill, the Committee raised concerns on:

- a) Procedure for regularization for properties without title deeds;
- b) Membership of the Advisory Committee to be relooked;
- c) The role of the County Assembly provide for; and
- d) The tenure of the Act to be relooked;

### **5.1 WAY FORWARD**

The Committee recommended that a joint workshop with the Built Environment and Urban Planning to clarify emerging issues and the foregoing observations in Development Control and Land Use Policies; and for sensitization on the Regularization Bill and agree on the next steps on processing of the documents in the Assembly and the Executive.

**MINUTES OF THE SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON LANDS, PLANING AND HOUSING HELD ON 1<sup>ST</sup> OCTOBER 2024 AT 10:30 A.M IN COMMITTEE ROOM 5.**

**PRESENT:**

1. Hon. Alvin Palapala, MCA - Chairperson
2. Hon. Collins Ogenga, MCA - Vice-Chairperson
3. Hon. Geoffrey Majiwa, MCA
4. Hon. Hashim Kamau, MCA
5. Hon. Hannah Wanjiru Muriuki, MCA
6. Hon. Jane Wanjiru, MCA
7. Hon. Francis Kimondo, MCA
8. Hon. Paul Ndung'u, MCA
9. Hon. Martin Wairobi, MCA
10. Hon. Nicholas Juma, MCA
11. Hon. Nyantika Ricardo, MCA
12. Hon. Patrick Macharia, MCA

**ABSENT**

1. Hon. Antony Kiragu, MCA
2. Hon. Fuad Hussein, MCA
3. Hon. Tricer Jeptoo, MCA
4. Hon. Peter Maina, MCA
5. Hon. Lily Akoth Kidenda, MCA
6. Hon. Clement Kamaru, MCA
7. Hon. Peter Imwatok, MCA
8. Hon. Nasra Nanda, MCA
9. Hon. Thuo Fiunifiu, MCA
10. Hon. Paul Kados, MCA
11. Hon. Waithera Chege, MCA

**SECRETARIAT**

1. Mr. Austin Inyundele - Senior Clerk Assistant

**AGENDA**

1. Preliminaries (prayers & adoption of the Agenda)
2. **Consideration and adoption of the Committee's report on workshop that was held from 26<sup>th</sup> to 29<sup>th</sup> August 2024**
3. Any other business
4. Adjournment

**MIN.004/LPH /OCT/2024– Preliminaries**

The Chairperson called the meeting to order at 10.00 a.m. and opened the meeting with a word of prayer. The Chairperson read the agenda of the meeting and was proposed by Hon. Jane Wanjru, MCA and seconded by Hon. Martin Wairobi, MCA.

## MIN.005/LPH/OCT/2024: CONSIDERATION AND ADOPTION OF THE COMMITTEE'S REPORT ON WORKSHOP THAT WAS HELD FROM 26<sup>TH</sup> TO 29<sup>TH</sup> AUGUST 2024

The Committee was informed that following the successful conduct of its workshop for the 1<sup>st</sup> Quarter FY 2024/2025, the Committee was expected to prepare and Table a report on the items of discussion on the programme. Accordingly, the Chairperson stated that the Secretariat had prepared a draft report to be considered for adoption by the Committee. As such, the Clerk of the committee was invited to take the Committee through the draft report.

The Committee was informed that pursuant to the programme, the following agendas were deliberated on at the workshop:

1. The Nairobi City County Development Control Policy;
2. The Nairobi City County Land Use Policy; and
3. The draft Regularization of Unauthorized Development Bill.

At the workshop, the Assembly Legal Counsel informed the Committee that the Development Control Policy was Tabled in the Assembly on 12<sup>th</sup> June 2023 and its objective is to provide for a policy framework to guide development in the County since the County was relying on an outdated guidelines. Further, the Land Use Policy that was Tabled on the same date intends to provide policy guidelines on zoning of the County with respect to the forms of land uses.

On Regularization of Unauthorized Developments, the Committee was informed that the Bill had not officially been committed to the Committee. However, it was important for the Committee to be sensitized on the provisions ahead of its official introduction. In this regard, the objective of the Bill is to provide 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; and
- (g) To provide for the establishment of an advisory committee for the purpose of the proposed law.

The Bill further seeks to establish mechanisms for authorization and rejection of regularization and proposes to establish an Advisory Committee to provide advisory and

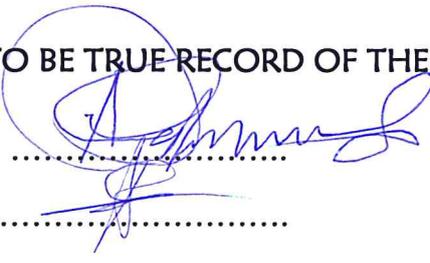
policy role in the implementation of the Act. In addition, the Bill proposes that the CEC Member be given delegated powers to make regulations for proper implementation of the Act. The Committee was informed that there were issues that needed to be brought to the attention of the Executive with respect to the Bill. For instance, the role of the County Assembly in its implementation, the composition of the Advisory Committee and determination of regularization fee. As a way forward, the Committee resolved to hold a meeting with the Built Environment and Urban Planning Sector to deliberate on emerging issues in the 3 documents.

The Committee adopted the report having been proposed by Hon. Collins Ogenga, MCA and seconded by Hon. Jane Wanjiru, MCA. The report to be processed for Tabling in the Assembly

**MIN.007/LPH/OCT/2024: ADJOURNMENT**

There being no other business to consider, the Chairperson adjourned the meeting at 11.20 a.m. The date of the next meeting would be communicated on notice.

**CONFIRMED TO BE TRUE RECORD OF THE PROCEEDINGS**

CHAIRPERSON .....		2 / OCT / 2024
SECRETARY .....		2 / OCT / 2024

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