



COUNTY LAND POLICY

DECEMBER, 2014

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LIST OF ACRONYMS

CECM	County Executive Committee Member
CLMB	County Land Management Board
CoK	Constitution of Kenya
C.O	Chief Officer
CSO	Civil Society Organizations
EACC	Ethics And Anti-Corruption Commission
KFS	Kenya Wildlife Service
KWS	Kenya Forestry Service
NLC	National Lands Commission
SCLCB	Sub County Land Control Boards

PREAMBLE

We the people of Kajiado County through our elected county leadership

BELIEVE Land is the link to our past and the key to our future that has sustained the people of Kajiado for years and now offers.

COGNIZANT of the provisions of the Constitution of Kenya article 6(1) as detailed in the First Schedule establishing the Counties which provides for their powers and functions including development control within their area of jurisdiction. Additionally noting provisions stated in section 66 (1), County Government Act (2012), Physical Planning Act (Cap 286) and the Urban Areas and Cities Act (2011) of the laws of Kenya.

RECONGNIZE the complexity connected to land management and use that is linked to ensuring cultural vitality and environmental sustainability.

ACKNOWLEDGE the primacy of land not only as a factor of production upon which all lives depend on as an economic, and pastoral base but also critical to food security as well as livelihoods and an opportunity for investments for our people, environment and economy

HEREBY proclaim this land policy to guide the department of lands in managing and administering the sustainable transformation of land in Kajiado in a fair and transparent manner that reflects the interests of the people.

CHAPTER 1: INTRODUCTION

1.1. Problem Statement

Land is critical to economic, social and cultural development of Kajiado County. Most people in Kajiado County derive their livelihood directly from land and land related resources. The lack of a land policy framework has resulted to numerous malpractices in the administration and management of the land sector in the County.

1.2. Vision of the Policy

A transparent, efficient, sustainable and equitable land use and management framework that is effective and accountable.

1.3. Mission of the Policy

To promote openness in land matters in a manner that protects legitimate land ownership, advances proper land use while conserves fragile ecosystems and secures livelihoods that is responsive to the economic, social, environmental that will address the developmental needs and aspirations of Kajiado people.

1.4. Objectives of the Policy

1.4.1. Overall Objective

To develop a land management framework that balances the economic, social, political, cultural and environmental concerns of the people of Kajiado County to ensure sustainability.

Specific Objectives

The Policy is guided by the following specific objectives;

- i) To ensure transparent, efficient and effective land transactions.
- ii) To promote environmental conservation and sustainable use of natural resources.
- iii) To create efficient and transparent land dispute resolution mechanisms.
- iv) To promote economic, sustainable and productive use of land resources.
- v) To promote access to land and protect individual and communal rights to land.
- vi) To improve land governance framework that facilitates, regulates, controls and guides urban and rural land use.

1.5. Methodology

The development of the County Land Policy was initiated by the Kajiado County Executive Committee through the Ministry of Lands, Physical Planning, Environment, Wildlife and Natural Resources Management. To generate evidence based policy, an extensive baseline survey and a review of all relevant existing legislative and policy documents was done. The policy document was then shared at the County Assembly Sectoral Committee on Lands, Physical Planning, Environment, Wildlife and Natural Resources Management for deliberation. The Policy also benefitted from a rigorous consultative and public participation process that culminated in the Kajiado Land Policy.

1.6. Land Policy Principles

The County Land Policy is guided by the following principles as enshrined in Article 60 of the Constitution of Kenya, 2010 and the National Land Policy.

- i) Equitable access to land
- ii) Security of land rights.
- iii) Sustainable and productive management of land resources.
- iv) Transparent and cost-effective administration of land.
- v) Sound conservation and protection of ecologically sensitive areas.
- vi) Elimination of gender discrimination, customs and practices related to land and property in land.
- vii) Encouragement of communities to settle land disputes through recognized local community initiatives consistent with the Constitution.

Further the policy is informed by the following principles that underpin the Kajiado Land context

- viii) Ensure justice and preservation of cultural heritage,
- ix) Protection and improvement of livelihoods
- x) Integrated and participatory planned development

1.7. Guiding Values

- i) The County Land Policy is designed to be; Consultative
- ii) Participatory
- iii) Interactive
- iv) Inclusive
- v) Consensus based
- vi) Timely and professional
- vii) Transparent
- viii) Gender sensitive
- ix) Innovative
- x) Cost effective
- xi) Justice

1.8. Policy Review

Given that the land sector is dynamic and fast transforming, the policy will be reviewed every five (5) years to take note of relevant changes in the Land Sector.

1.9. Socio-Economic and Geographic Context

1.9.1. Location and Size

Kajiado is one of the 47 Counties created by article 6(1) of the Constitution of Kenya (2010) as outlined in the First Schedule. The County borders Nairobi County to the North East, Narok County to the West, Nakuru and Kiambu Counties to the North, Taita Taveta County to the South East, Machakos and Makueni Counties to the North East and East respectively, and the Government of Tanzania to the South. It is situated between Longitudes 360 5' and 370 5' East and between Latitudes 10 0' and 30 0' South. The county covers an area of 21,900.9 (Km²).

Proximity of the County to Nairobi City and indeed location within the Metropolitan area is a recipe for increased demand for land for purposes of investments in various sectors such as housing, agriculture, commerce, educational, industrial among others. This has occasioned haphazard development patterns, subdivision of land to accommodate urban developments,

diminishing agricultural and pastoral land, demeaning land values and encroachment on ecologically fragile areas such as wetlands, hilltops, water resources and forests.

1.9.2. Physiography

The main physical features in Kajiado County are plains, valleys and occasional volcanic hills ranging from an altitude of 500 meters above sea level at Lake Magadi to 2,500 meters above sea level in Ngong Hills. Topographically, the county is divided into three different areas namely; Rift Valley, Athi-Kapiti plains and Central Broken Ground. Other key geographical features of the county include Mount Suswa and Lake Magadi and the Ngong hills. The altitude ranges from 1580 to 2460 meters above sea level.

1.9.3. Population and Demography

The County has an annual population growth rate of 5.5 percent. The 2009 population and Housing census indicated that the County had a population of 687,312. The county had more males than females. The population projections for 2015 and 2017 are 898,289 and 999,819 respectively. Most of its rural population comprises of the Maasai but major tribes are well represented in the population found in the main urban centres.

1.9.4. Population Density

Kajiado North constituency is the most densely populated with a density of 1,369 persons per Km² while Kajiado West has the lowest density of 14 persons per Km². The density is projected to reach 2,087 persons per Km² by 2017 in Kajiado North. This is due to the fact that the region is the most urbanized in the County.

1.10. Political and Administrative Units

Kajiado County is divided into five (5) Political and Administrative units. Namely; Kajiado South Constituency/ Sub-County, Kajiado north Constituency/ Sub-County, Kajiado East Constituency/ Sub-County, Kajiado West Constituency/ Sub-County and Kajiado Central Constituency/ Sub-County, each of these units has five (5) electoral wards.

CHAPTER 2: SITUATION ANALYSIS

Land plays a critical role in socio-economic and cultural development in Kajiado County. The proximity to the City of Nairobi, high demand for land and divergent interests in land have led to the rise of numerous land related issues characterized by the following:

2.1. Land Governance

A well-managed and robust land governance system enables quick and accurate decision making on land transactions, making it easy to identify and reserve land for different uses. There are numerous challenges in the governance of public, community and private land. Notably, alleged malpractices by land control boards, professionals, missing land records, issuance of multiple titles, irregular and multiple allocation of public land, illegal allocation of public land, fraudulent/corrupt/ unprocedural land transactions and not to mention the question of historical injustices.

2.2. Land Markets

Rapid and unplanned land sales and land speculation in Kajiado has been characterized by a well-developed secondary land market involving brokers most of whom are indigenous members of the Maasai community. The rise of unregulated brokerage of land services has led to implications of fragmentation of lands including pastoral, rapid unplanned urbanization, sprawling towns and encroachment on protected areas as well as depletion of agricultural zones consequently undermining pastoral cultural identity and family values.

2.3. Land use Planning

The indiscipline evident from land use patterns has had a significant negative impact characterized by uncontrolled developments, Haphazard land subdivisions, uncontrolled growth and expansion of towns, Encroachment on road reserves and riparian areas, non-compliance to change of use and other development control regulations. The foregoing has clear manifestations, and serious implications on food security, productivity, returns on land, conservation of the ecosystem, degradation of the environment, sustainability of land use, peace and security for Kajiado

2.4. Pastoralism

Pastoral land use has hitherto not been well factored as viable means of production. This is despite pastoral land being mostly viable of animal keeping and wildlife conservation. This has led to the transformation of pastoral land for urban use and decline of pastoralism which is the main source of livelihood in Kajiado County.

2.5. Environmental and Natural Resource

Environmental degradation, depletion of natural resources and un-clear benefit sharing mechanisms continue to undermine the Kajiado ecosystem sustainability. With increased land fragmentation, overstocking due to reduced land carrying capacity and now industrial uses, Kajiado is faced with depletion of the natural ecosystems alongside increased pollution.

2.6. Historical Injustices

Historically, the processes and procedures of land acquisition has either led to the extinguishing of customary tenure and displacement or more recently illegal allocation of community land to non-bonafide people. In other instances, processes for awarding land rights have been marred by political manipulation which has led to the dispossession of land from the bona fide owners. Understanding the foregoing, there is need to provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

2.7. Group Ranches

Illegal allocation of land alienated for public purposes, manipulation of group ranch registers, unplanned subdivisions, disputes over subdivision and allocation and mismanagement of group ranches. This another problematic area for Kajiado land policy- needs to be expounded with the challenges of craving for subdivision to sell., corruption, poor administration and problems of joint land owning as it relates to development and collateral)

2.8. Rapid Urbanization and change

Kajiado is experiencing rapid and uncontrolled urbanisation that is not matched with adequate services and desired urban management. This is proving to be a major challenge to the county administrators and needs some holistic and systematic approach.

2.9. Cultural resilience and Identity (Should be a big issue)

The Maasai community, having resisted cultural assimilation thus long are now faced with increasing pressure to abandon cultural beliefs and practices in favor of market driven livelihoods. In many ways the transition has not been easy especially those who have become urbanized and are either illiteracy or have been rendered destitute by past bad choices. An influx of new migrants is turning former rural centers into cosmopolitan settlements and is now diluting the Maasai culture and language. The long held patriarchal system is slowly giving way to gender consideration with much resistance invariably creating tensions between the genders at the family level. Practices that placed burden on productive members of the community continue to fuel land sales.

2.10. Overlap of boundaries and related disputes

Past survey of land has been executed in unprofessional manner. This has resulted to innumerable disputes. Overlap in boundaries has pre-occupied county survey offices especially in areas where group ranch dissolution is yet to happen with the potential of igniting conflict.

2.11. Human-Wildlife Conflict

The County boasts of a wide range diverse fauna and flora. However land fragmentation and encroachment into wildlife migratory routes has resulted into some of the challenges evident such as human wildlife conflict, encroachment of developments and human settlements into parks and conservancies and destruction of wildlife habitats. Additionally resources from wildlife have not been streamlined for the benefit of the County

2.12. Compulsory acquisition and inadequate compensation of property owners

The law is clear on when, what and how compulsory acquisition should take place. In practice it is however a slow process. Further, it is characterized by constant complaints of inadequate compensation for the affected parties.

2.13. Agricultural land

With its limited agricultural potential, Kajiado is faced with increased subdivision of agricultural land into unproductive units. This is a threat not only to land productivity but more importantly to food security and is a harbinger for poverty and eco system destruction. A collapse of agricultural economy in the face of dwindling pastoralism has serious implications for livelihoods and rapid urbanization.

CHAPTER 3: FRAMING THE POLICY

3.1. Policy framework

The Kajiado Land Policy establishes the framework for effective administration and management of land in Kajiado County. It sets out guidelines which the County Government and the relevant institutions shall implement to ensure optimal utilization of land resources in the County. This policy implementation shall be guided by the principles and values outlined in Article 10 of the Constitution of Kenya 2010 and Vision 2030. The County Government shall promote equitable access, sustainable land use and preservation of culture in utilization of land. In particular women, children, minority groups and person with disability shall be recognized in matters land.

This Policy recognizes the values of economic productivity, equity, environmental sustainability and the conservation of culture, and seeks to facilitate their protection for future generations. In addressing equitable access to land resources, different tenure systems that co-exist will be recognized.

The County Government in conjunction with the County Land Management Board and other relevant institutions shall;

- i) Ensure efficient, equitable and sustainable land administration and management in the County.
- ii) Facilitate the enhancement of community participation in the decision making process of land matters.
- iii) Implement land reform in line with laid out programs to achieve planned and controlled land use as well as environmental sustainability
- iv) Undertake quarterly monitoring of policies and programs to ensure they are in line with this policy.

3.2. Regulation of Property Rights

This policy recognizes property rights as enshrined in Article 40 of the Constitution. Land ownership shall be vested in the people of Kenya collectively as a nation, as communities and as individuals. Property rights shall be enjoyed based on rationalized land use plans and agreed

upon public needs established through democratic processes. Where the County Government may acquire land for public interest, appropriate mechanisms of acquisition and compensation will be formulated and followed within the confines of the national and county law.

3.3. Compulsory Acquisition

Compulsory acquisition is the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation, and as provided for in the Constitution and relevant laws. This power is exercised by the National Land Commission on behalf of the National and County Governments.

This policy shall

- i.** Recognize conferment of pre-emptive rights on the original owners or their successor in title where the public purpose or interest justifying the compulsory acquisition fails or ceases.

3.4. Land Tenure Issues

Land tenure refers to the terms and conditions under which rights to land and land-based resources are acquired, retained, used, disposed of, or transmitted. This policy recognizes that:

- a) Colonial and post-colonial land administration has undermined traditional resource management institutions, thereby creating uncertainty in access, exploitation and control of land and land-based resources.
- b) Successive governments in Kenya have been poor stewards of Government Land and Trust land resulting in the irregular and illegal allocation of essential public land, and destruction of critical natural resources such as forests and water catchment areas.
- c) Poor management of tenure systems has resulted to risks of insecurity, and unproductive and unsustainable use of land as well as inherent poor environmental management and conservation thereby undermining of livelihoods and social disharmony.

3.4.1. Overall Land Tenure Principles

The principles guiding the acquisition, use and disposal of land rights shall include:

- i) The equal recognition and enforcement of land rights arising under all tenure systems;
- ii) Traditional land use
- iii) Encouragement of communities to settle land disputes through recognized local community initiatives consistent with the Constitution
- iv) Sound conservation and protection of ecologically sensitive areas;
- v) Elimination of gender discrimination in law, customs and practices related to land and property in land;
- vi) Non-discrimination in ownership of, and access to land under all tenure systems;
- vii) The protection and promotion of the multiple values of land; and
- viii) The development of fiscal incentives to encourage the efficient utilization of land.

3.4.2. Categories of Land

Pursuant to the provision of Article 61 of the Constitution Kenya 2010 this policy recognizes categorization of land in Kenya as Public, Community and Private land. In particular, the County Government realizes the complexity of challenges in community land governance, where land sizes have greatly diminished. There have been abuses in some instances of subdivision of group ranches after dissolution without fair sharing of the benefits by the members. Public utilities in this case have either been misallocated or not even set aside adequately at the time of dissolution.

Public land

To secure tenure to public land the County Government shall;

- i) Recognize administration and management of public land by the County Land Management Board (CLMB).
- ii) In conjunction with the CLMB survey and keep an inventory of all public land
- iii) In conjunction with the CLMB establish mechanisms for the repossession of any public land acquired illegally or irregularly

- iv) Support participatory and accountable mechanisms for the allocation, development and disposal of public land by the County Land Management Board
- v) Entrust administration and management of leases to the CLMB
- vi) Establish an appropriate fiscal management system to discourage land speculation and mobilize revenue.

Community land

All unregistered community land shall be held in trust by the County Government on behalf of the communities for which it is held.

The County Government shall;

- i) Recognize, protect and register community rights to land and land based resources.
- ii) Secure copies of original group ranch registers and ensure they are deposited with the County Executive Committee Member in Charge of Land for purposes of ensuring transparency for members acquiring title deeds after winding up of a group ranch
- iii) Protect pastoralism as a way of life and facilitate flexible and negotiated cross boundary access among communities to cover both intercommunity and international boundaries.
- iv) Ensure that public utilities are mapped and protected.
- v) In matters of governance enhance capacity building of the community in land governance and encourage land transactions using participatory process (spousal and family consent).
- vi) Ensure productivity of community lands?

Private land

The County Government adheres to the respect and protect private land as defined in article 64 of the Constitution.

This policy shall;

- i) Ensure proper land use and adherence to planning requirements.
- ii) Ensure control in land transactions as per the Land Control Act, 2012.
- iii) Ensure spousal consent is strictly adhered to in land transactions.
- iv) Establish mechanisms to enable families retain minimum percentage acreage of land.
- v) Empower local mechanisms for vetting land transactions.

3.5. Land Governance Issues

3.5.1 Land Administration

In order to streamline the administration of land, the County Government shall institute a number of measures

The County Government shall;

- i) Through the CECM Lands in consultation with the Cabinet secretary in charge of Lands constitute the Land Control Board.
- ii) Ensure that the constitution of the County Land Control Board includes at least two representatives nominated by the County Government and a representative from the County Land Management Board to represent the interest of the County.
- iii) Ensure that minutes of the County Land Control Board meetings are copied to the County Chief Officer Lands.
- iv) Ensure consents for subdivision shall not be processed by the board without clearance from the Office of Chief Officer Lands.
- v) Ensure that for private surveyor to undertake any subdivision is cleared by the Office of Chief Officer, Lands
- vi) Progressively undertake to build the capacity of personnel and strengthen land governance.

3.5.1. Land Surveying and Mapping

Land for long term development has to be surveyed, planned and registered. Currently, these activities are inefficient, thus constraining the supply of land.

The County Government shall;

- i) Initiate taking stock of all land reservation in towns and document it in the County land register
- ii) Ensure surveying all land set aside for public utilities for purposes of fencing them and protecting them against encroachment
- iii) Avail resources and equipment for undertaking survey and mapping within its jurisdiction.
- iv) Establish a geo referencing mechanism for all land transactions.

- v) Develop adequate survey capacity at the county level.
- vi) Provide guidelines for undertaking any private survey work for sub division purposes.

3.5.2. Land Registration

While registration remains a central government docket, the County shall work closely with the National Government to create systems aimed at eliminating malpractices that impair quick access to registration and securing of title deeds. Partnership in improving service delivery shall encourage computerization and modern record keeping eliminating in efficiencies.

3.5.3. Land Information Management

Land information management systems have remained poor and lacking in requisite capacities including outdated land information and lack of mechanisms to disseminate land information. Furthermore there are poor spatial data on land ownership and no land-based addresses

The County Government shall;

- i) Create land-based addresses for urban areas.
- ii) Establish efficient interactive digital Land Information Systems to preserve value of investments and productivity. (LIS).
- iii) Issue guidelines for regular updating of urban land information systems.
- iv) Partner with the National government to digitize records to improve efficiency.
- v) In association with the National Government (Ministry of Land) institute reforms to restructure and replace missing records.
- vi) Ensure the Land Registrar informs the CECM Lands on progress of reconstructing lost records.

3.5.4. Land Market

The land market has been characterized by rapid land sales and the involvement of land brokers. Further the value of the land and land based resources has yet to be determined leading to variance in land valuation.

The County Government shall;

- i) Commercialize land rights subject to the principle of equity, sustainability and consideration of crucial factors like security.

- ii) Avail serviced land for urban development, taking into account the needs of the marginalised groups.
- iii) Develop structures and instruments to make land market operations more efficient and effective including consideration of land transactions.
- iv) Ensure Land brokers/agents are registered and regulated by setting regulations that are within the confines of the law.
- v) Undertake regular land market assessments.
- vi) Undertake a valuation and registration of all unregistered community land and public land.
- vii) Provide valuation services at the lowest level of decentralization.
- viii) Protect public land from illegal privatisation;
- ix) Support public education on land matters especially value and effective management of land transactions.

3.5.5. Allocation of Public land

Allocation of public land for urban development has hitherto been carried out by the national government and local authorities without appropriate coordination.

To develop efficient land allocation systems, the County Government through the CLMB shall;

- i) Effectively address allocation of public land through assessing the state of landlessness and make use of regulations developed.
 - a) Develop a data base of land ownership and landlessness in the county.
- ii) Address issues of fraudulent and multiple allocation of public land.
- iii) Ensure all expiring and expired leases are handed back to the County Government.
- iv) Facilitate renewal and extension of leases.
- v) Prepare guidelines for allocation of public land in the context of existing laws.
- vi) Ensure that public land set aside in subdivision schemes should be surrendered to the custody of the County Government.
- vii) Ensure all subdivisions of land are cleared by the Chief Officer before proceeding to the Land control board.
- viii) Develop capacity for management and protection of public land.
- ix) Conduct public education on importance and use of public land.

3.5.6. Land Adjudication

Implementation of the processes of adjudication and consolidation has been slow due to legislative and institutional constraints.

The County Government shall;

- i) Facilitate completion of on-going processes of adjudication and consolidation.
- ii) Ensure that future adjudication and consolidation processes adhere to this Policy.
- iii) Ensure that adjudication and consolidation processes are speedy, transparent and accountable.
- iv) Ensure that the adjudication process commences with identification, marking and registration of the entire public utility within the group ranch to avert future encroachment, manipulation and/or misallocation.
- a) Develop internal capacity to carry out adjudication.

3.6. Land Use Planning and Management Issues

3.6.1. Land Use Planning Principles

The County Government shall;

- i) Protect and integrate rights and interest of minorities and marginalized groups and communities.
- ii) Protect and develop natural resources in a manner that aligns National and County Government policies.
- iii) Promote the pursuit of equity in resource allocation within the county as well as sustainable use and protection of ecosystem.
- iv) Maximize on the productivity of land utilization while maintaining value of investments as well as provision and preservation of public utilities.
- v) Facilitate engagement between County Government, the citizenry and other stakeholders and interest groups.

3.6.2. Rural Land Use Planning

Rural areas in Kajiado are characterized by community and individual owned land. The major land use in this rural setting is pastoralism marked by extensive production of livestock in

rangeland environments that are communally or individually owned. This shall require the promotion and protection of mobility in line with the constitution including supporting institutions which underpin pastoralism in a society that is increasingly sedentary and individualized.

To ensure rural land use modes of production thrive, a system that provides for the recognition, planning, protection, management and administration of rural land, the County Government shall;

- i) Hold in trust all unregistered land on behalf of the community
- ii) Identify and register all community land
- iii) Identify and plan for grazing land, grazing rights and wildlife corridors
- iv) Establish Community land management committees and community registers
- v) In conjunction with the County Land Management Board, oversight rural land use planning
- vi) Create awareness on rural land use planning
- vii) Set minimum acreage for agricultural land.
- a) Promote integrated multi-sector rural land uses that bring together agricultural and tourism

3.6.3. Urban and Peri-Urban Land Use Planning

Peri urban and urban areas of Kajiado have in the past experienced urban sprawl driven by weak enforcement of planning regulations and total disregard of the public interest and law. In particular urban sprawl has led to: uncontrolled and unsustainable urban development; environmental degradation; loss of rural heritage; and, conflicting policies on urban development.

To address urban and peri urban land use, the County Government shall;

- i) Prepare a County Spatial plan to guide land use.
- ii) Delimit township boundaries
- iii) Ensure the development of rules on change of use are formulated and submitted to the County Assembly for approval.

- iv) Provide the Physical planning department with resources and space to exercise its full mandate to co-ordinate development control
- v) Develop zoning and structural plans for urban areas.
- vi) Develop land use planning guidelines and standards.
- vii) Facilitate the County Land Management Board to assess the state of landlessness and develop a suitable program to address it.
- viii) In conjunction with County Land Management Board Limit the amount of public land allocated to individuals or other entities depending on factors such as the intended use and the ecological zone.
- ix) Eliminate incidents of multiple allocations and allocate land through public auctions except for land earmarked for the support of livelihoods in urban and rural areas.

(a) (The issue of county capacity development in this regard comes in)

3.6.4. Planning for Agriculture, Forestry and Informal sectors

Semi-Arid areas such as Kajiado suffers from limited forest cover and compromised food security that is compounded by the effects of climate change. In particular the agricultural and forest uses occur in the rural areas that often are inaccessible and dependent on wood fuel energy. Besides, informal sector activities arising from the above uses are prominent features of the County economy.

To ensure an inclusive environment that takes into account agriculture, forestry and informal sector land use activities, the County Government shall;

Regulate Use and Development of Land

- i) Identify agro ecological zones suitable for viable agriculture practices
- ii) Encourage agro-processing enterprises that can support livelihoods for both urban and peri-urban residents;
- iii) Ensure compliance with land development control regulations;
- iv) Designate public areas for the development of markets and business incubation centers
- v) Establish infrastructure linking urban and rural markets;
- vi) Discourage urban sprawl through enforcement of development control regulations and standards.

Land Sizes

- i) Limit the fragmentation of land in agro-ecological zones beyond reasonable limit
- ii) Promote optimal utilization of land to yield the best results.
- iii) Promote policies that discourage land fragmentation in all cases
- iv) Develop guidelines on fragmentation of land based on land use plans

Restoration and Conservation of Land Quality

- i) Promote immediate afforestation in the existing forest areas
- ii) Gazette riparian and road reserves for preservation and identity
- iii) Regulate developments on hills by prescribed landscape design
- iv) Develop medium and long-term plans of land conservation and utilization in regard to specific areas.
- v) Delineate public utility land for posterity in regard to amenities and infrastructure.
- vi) Support environmental policies and programs with a view to ensuring sustainable land use and land utilization

3.7. Development Control

Development control is the power of the County to regulate property rights in urban and rural land, and is derived from the County's responsibility to ensure that the use of land promotes public interest. The statutes that provide the legal framework for planning and development include the County Government Act, 2012, Urban Areas and Cities Act, 2011 and the Physical Planning Act Cap 286 among others.

The County Government together with the relevant institutions shall;

- i) Develop a County spatial plan and an Urban Integrated Development Plan.
- ii) Regulate the use of land to ensure sustainability through zoning.
- iii) Ensure development control meet standards, processes and procedures that are efficient, transparent and accountable taking into account International Conventions and national policies relating to the sustainable use of land and the preservation of environment.
- iv) Ensure effective enforcement of development control.

- v) Provide safeguards to ensure that development control does not amount to compulsory acquisition without compensation.
- vi) Ensure that the exercise of development control takes into account local practices and community values on land use and environmental management.
- vii) Ensure effective public participation in the exercise of development control.
 - a) Develop capacity for controlling development within county land and planning structures.

3.8. Environmental Management Issues

3.8.1. Environmental management principles

Environmental management principles are guided by article 42 and 70 of the Constitution which state that every person has the right to a clean and healthy environment which includes the right to have the environment protected for the benefit of present and future generations through legislative and other measures. The rapid rate of urbanization in the county is bound to generate significant negative impact on the terrestrial and aquatic ecosystems as a result of inadequate management systems for industrial and domestic waste

The policy shall;

- i) Recognize the provisions of the various laws on environmental management for the common good and work hand in hand with the relevant institutions.
- ii) Ensure the principles of environmental management are adhered to.

3.8.2. Environmental Assessment and Audit as Land Management Tools

The rapid rate of land conversion in Kajiado is compromising ecosystems and with it the quality of water reservoirs, polluting the atmosphere as well as contaminating the land thereby impacting on the livelihoods of the pastoralists. This provides a strong rationale for efficient and effective environmental management. In this regard the policy acknowledges that the tools for environmental management are found primarily in the Environmental Management and Coordination Act of 1999.

To reverse the deterioration of water, air, and land quality, the County Government shall;

- i) Enforce compliance with environmental legislation by ensuring that all developments undergo an Environmental Impact Assessment and consequent Environmental Audit.
- ii) Encourage conservation and preservation of water and land resources
- iii) Promote the application of the polluter-pays-principle.
- iv) Support the adoption of environmentally friendly technology.
- v) Initiate programs for climate change adaptation and mitigation.
- vi) Establish and support mechanisms to steer environmental management.

3.9. Land Use Reforms

Lack of a holistic policy has manifested in, but not limited to, the many land uses issues, such lack of enforcement, incompatible land use, competing ownership, as well as deterioration in land quality. The existing guidelines require review and face lift to be in tandem with emerging trends. This calls for formulation of a subsidiary legislation that will give guidance of specific intents and actual development problem affecting people.

The County Government shall

- i. Through the County Assembly of Kajiado place a moratorium on transactions on plots.
- ii. Develop a mechanism for resolution and regularization of existing fraudulent allocations.
- iii. Undertake and audit of all public lands.
- iv. Delineate land for growing urban areas.
- v. Provide consent in subdivision of land by private surveyors
- vi. Enforce already existing and formulate additional land use guidelines

3.10. Land Issues Requiring Special Intervention

The challenges experienced in land management have been compounded by a number of factors relating to ownership, Inheritance, historical injustices including restitution and compensation and inequalities continue to have a bearing on land. In the case of inheritance,

Closely related to the foregoing is the issue of Further afield. Further the policy recognizes that.

To ensure the inclusion of marginalized groups is achieved, the County government shall;

Inheritance of land

The lack of clear systems has left many vulnerable as they are exposed to constant conflict and sometimes court battles. Whereas the Law of Succession Act is supposed to harmonize succession systems, in practice the transmission of land rights is largely done within customary and religious systems, which discriminate against women and children.

- i) The County Government shall sensitize communities on the provisions of the law of succession.

Resolution of Historical Land Injustices

Historically, the processes and procedures of land acquisition led to the extinguishing of customary tenure and displacement. Understanding the foregoing, there is need to provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

The County Government shall;

- i) Implement, the activity/item of historical land injustices by conforming to the legal framework to the all existing and upcoming legislation on historical land injustice.
- ii) Identify and establish through research land and natural resources injustices for proper redress
- iii) Work with the CLMB to establish conversion mechanisms of converting public land to private land or public land to community and vice versa.

Restitution

- i) Provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their land taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Compensation and Resettlement

The County Government shall;

- i) Ensure communities shall not be forcibly removed from their lands without the free, prior and informed consent of the community concerned and after agreement on just and fair compensation and, where possible, with the option of return.

- ii) Ensure communities, have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
- iii) Through the CLMB, in cases where evictions are deemed lawful and where the person or persons evicted are rendered homeless, ensure that such persons are provided with appropriate resettlement in accordance with the provisions of the relevant Act and any other laws for the time being governing resettlement programs.
- iv) Make provision for compensation to be paid to occupants in good faith of land acquired under clause article 40 (4) of the Constitution, who may not hold title to the land.
- v) Ensure that compensation for victims of relocation under the principle of compulsory acquisition is paid prior to relocation or resettlement.
- ii) Through the CLMB, provide compensation to victims of relocation in accordance to the law.

Pastoral Land Issues

Despite pastoral land being viable it has not been well factored as viable means of production. Hence there is a need to sustain pastoral land use for continued decent livelihood.

The County Government Shall;

- i) Promote and protect pastoral livelihood, by enacting legislation on pastoralism and grazing rights.
- ii) Create zoned areas that are specifically pastoralist with land sizing regulated.
- iii) Delineate migratory routes for livestock
- iv) Progressively support the improvement of pastoral mode of production to conform to modern land use and market demands to improve livelihoods of pastoral communities.

Wildlife management

Wildlife survival in Kajiado County is threatened by other competing developments which do not guarantee its sustainability hence the need to provide for protection and conservation.

The County Government shall;

- i) Delineate wildlife migratory routes to be used during migration by pastoralist and wild animals.
- ii) Design proper mechanisms for compensation for people affected by human-wildlife conflicts
- iii) Promote public private and community partnerships in conservation of wildlife ecosystems and utilization of benefits.

Land Rights of Vulnerable Groups (Women, Children and Youth, Matrimonial Property- Spousal consent)

Vulnerable groups have not actively been enjoined in exercising the land rights.

The County Government Shall

- i) Adopt the definition of marginalised community and groups as provided for in the Constitution of Kenya.
- ii) Recognize provision of the Matrimonial Property Act Marriage Act and the Children’s Act as it relates to land administration.
- iii) Ensure the implementation of laws that empower or support the vulnerable groups
- iv) Facilitate public participation by, vulnerable groups in decision making in all aspects of land.

Gender

To ensure gender is factored in land governance and development

The Kajiado county land policy shall;

- i) Promote gender equality
- ii) Promote equity and fairness on all matters land
- iii) Protect and promote the rights of women

Access to land by non-citizens

In respect of non-citizens the law provides that non-citizens can apply and be allocated land for any permissible use.

The County Government Shall;

- i) Ensure that the grant to land to non-citizens does not unduly deny access to land by its people.
- ii) Ensure that such grants can only be given to non-citizens or companies through lease hold that shall not exceed a period of ninety nine (99) years and subject to public policy consideration on such matters as security

Land Banking

Developments in land such as land banking for sustainable utilization provide useful options for arresting rampant and unplanned land sales.

The County Government shall;

- a) Adopt land banking as a new venture and mechanism of regulating land use and county market
- b) Carry out research to establish the viability of land banking in Kajiado County.
- c) In collaboration with the CLMB establish a land banking department that will be buying land from the locals as a mechanism to sustain pastoralism, biodiversity and ecosystem.
- d) Establish land banking and making it available for investment and development
- e) To put in place regulation on land buying and general transaction as means to reduce malpractices in land transaction.
- f) County government shall keep good records of all bought land
- g) Establish a regularized conveyance system that shall formalize all stakeholders under conveyances.
- h) Support community initiatives that promote land banking
- i) Legislation in place to regulate the land banking department.

3.11. Dispute Resolution Principles

The policy recognizes Articles 159 (2C) and 67 of the Constitution in solving disputes through traditional dispute resolution mechanisms on land and land related resources.

The County Government shall

- i. Promote capacity of community dispute resolution mechanisms and arbitration between competing interests with the purpose of reaching amicable solution for all.
- ii. Liaise with the judiciary to set up environment and land courts at the constituency level
- iii. Establish legal education department within the land office and avail to the lowest extent possible legal aid to the poor- pro-bono legal services and. community education and awareness as well as promoting. Plus

3.12. Cross Cutting Issues Requiring Special Interventions

Corruption

- a) Official receipts from the County government should be used at every stage in the land registration process to eliminate malpractices.
- b) Enforce access control mechanisms for entry into county and national government premises
- c) Have adequate representation of the County Government at the Land registry within the County.
- d) Ensure proper linkages between the County Government and Land Registries
- e) The Land registries should operate within the regulations as stipulated in the Land Registration Act, other land laws and Article 174 & 175 of the Constitution.
- f) In conjunction with the Ethics and Anti-Corruption Commission (EACC), develop mechanisms to ensure accountability and transparency in land transactions.
- g) Community mechanisms of reporting and information sharing.

CHAPTER 4: INSTITUTIONAL FRAMEWORK

4.1. The County Government of Kajiado

The Constitution of Kenya, 2010 in its Article 176 Sub-articles 1 &2 establishes the County Governments. The Fourth Schedule of the Constitution of Kenya and the County Governments Act, 2012 Part II section, 5 and 6 stipulates the functions and powers of the County Governments. The County government of Kajiado is therefore mandated to undertake proper county planning, land management and administration within its area of jurisdiction.

4.2. The National Land Commission - County Land Management Board

The Constitution of Kenya under Article 67 and the National Land Commission Act, 2012Section 9(a) empowers the National Land Commission to manage public land on behalf of the National and County Governments, allocation of public land, change and extension of user, subdivision of public land, renewal of leases and performance of any other functions as assigned by the commission or any other written law.

4.3. The National Government

The National Government through the line Ministry in-charge of Land will revise, consolidate and rationalize the registration of title to land to give effect to the principles and objects of devolved government in land registration and for connected purposes as stipulated in the Land Registration Act, 2012.

4.4. Land Control Board

The Land Control Board within the County of Kajiado shall perform their functions as stipulated in Section 6 of the Land Control Act, 2012.

4.5. Citizen Fora

Citizens shall be involved in the implementation of this County Land Policy at various stages in accordance to the Principles of citizen participation as stipulated in Section 87 of the County Government Act, 2012.

4.6. Inter-sectoral collaboration and coordination

The inter-sectoral collaboration on coordination on land issues shall be undertaken by the department directly responsible for matters pertaining to or affecting land under the leadership of the CECM. The collaboration and coordination shall include;

1. Inter-sectoral collaboration and coordination

2. Institutional strengthening
3. Laws to back policy
4. Interdepartmental collaboration and coordination
5. Capacity development
6. Financial allocations and budgetary provisions for land matters
7. Enhancing Community mechanisms

CHAPTER 5: LAND POLICY IMPLEMENTATION MATRIX

1. Legal and Policy Coordination				
Strategies	Objectives	Responsibility	Time frame	Indicators
Equity, Efficiency & Sustainability	<ol style="list-style-type: none"> 1. To sensitize the community on succession and matrimonial laws 2. To sensitize the community on existing land laws and transactions 	County Executive CECM Lands CAK, Lands Committee	1 year	<ol style="list-style-type: none"> 1. Increased access to land by vulnerable groups 2. Increased use of laws 3. Less dependence on brokers 4. Decreased cases of corruption 5. Decreased cases of people losing their land
Citizen Participation	<ol style="list-style-type: none"> 1. To Sensitize community on property rights 2. To Promote mechanism through which communities are involved in matters 3. Citizen participation and legislation making 	County Executive CECM Lands CAK NGA CSO's- YESS & MPIDO	1 year and continuous	<ol style="list-style-type: none"> 1. Increased involvement of people 2. Increased application of spousal and family member consent 3. Reduced cases of people losing land 4. Increased cases of full payment of land 5. Increased joint land registration of family members
Monitoring	<ol style="list-style-type: none"> 1. To establish mechanism for 	CECM Lands	1 year	A monitoring mechanism is in

	continuous monitoring	C.O Lands Technical Officers Lands		place
Property rights	<ol style="list-style-type: none"> 1. To establish regulations that regulate property rights 2. To implement rules and regulations 3. To ensure land owners are fairly compensated 4. To ensure involvement of county government and land owners in negotiations 	All Kajiado Residents	1 year	More land owners satisfied with compensation
2. Land tenure				
Strategies	Objectives	Responsibilities	Time frame	Indicators
Governance and Control	<ol style="list-style-type: none"> 1. To constitute the LCB 2. To develop and implement zoning regulations 3. To develop a land service charter 	CECM Lands C.O Lands CLMB SCLCB	1 year	<ol style="list-style-type: none"> 1. Properly constituted land control board in place 2. Zoning regulations implemented 3. Service charter developed and displayed
Allocation , Disposal and dispute resolution on public land	<ol style="list-style-type: none"> 1. To operationalize regulations on allocation 2. To ensure greater involvement of families in land disposal 3. To ensure there is a greater understanding of land law 4. To encourage joint ownership of family land 	CECM Lands C.O Lands CLMB SCLCB	1 year	<ol style="list-style-type: none"> 1. Increased involvement of vulnerable groups 2. More joint ownership registered

Protection of public land , community and pastoral land	<ol style="list-style-type: none"> 1. To ensure all public and unregistered community land is registered 2. To identify and alienate grazing areas 	CECM Lands C.O Lands CLMB	5 years	<ol style="list-style-type: none"> 1. All public and community land alienated and protected 2. Grazing areas identified 3. Number of pastoral areas purchased
3. Land Administration systems				
Strategies/Activities	Objectives	Responsibility	Time frame	Indicators
Land Administration and Management	<ol style="list-style-type: none"> 1. Ensure proper administration and management of land issues 2. Prompt effective and efficient service delivery 3. Ensure compliance to existing legislation, policy and guidelines. 4. Develop a service charter for the ministry of lands 	CECM Lands C.O Lands CLMB SCLCB MoL	1 year and continuous	<ol style="list-style-type: none"> 1. A service delivery charter 2. Reduced number of conflicts and complaints 3. Reduced malpractices 4. Reduced reliance on land brokers
Regularization of existing fraudulent allocations; Public lands audit; set aside growing urban areas	<ol style="list-style-type: none"> 1. Collect ownership data/ identify ownership in already planned and surveyed areas. 2. Identify lands yet to be surveyed but already in occupation. 3. Regularize existing development in identified areas 4. Undertake audits for all public land 5. Delimit growing urban areas in 	NLC CECM Lands CLMB Other professionals including Physical planners, surveyors,		<ol style="list-style-type: none"> 1. Issuance of allotment letters 2. Issuance of lease certificates 3. Increased revenue collection on land rates and plot rents 4. Proper data records on audited land data 5. Survey maps of the areas

	all parts of the county			set apart 6. Clear land ownership records
Land Information Management.	<ol style="list-style-type: none"> 1. Ensure timely access land to information 2. Proper management of land records 3. Digitization of land records 	CECM Lands C.O Lands CLMB MoL	2 years	<ol style="list-style-type: none"> 1. A land information and management system 2. Organized land registry 3. Digitized land records
Land Markets and Valuation	<ol style="list-style-type: none"> 1. Provide clear guidelines on land values within the county 2. Ensure transparency in land transactions 3. Have regularized land market operations 	CECM Lands CAK C.O Lands	2years	<ol style="list-style-type: none"> 1. Guidelines for regularization of land markets in place 2. Valuation indicator for properties 3. Organized land intermediary groups
4. Land Use Planning and Management Issues				
Strategies	Objectives	Responsibility	Time frame	Indicators
Land-Use Planning and Management	<ol style="list-style-type: none"> 1. Ensure coordinated land use activities 2. Develop a spatial framework for guiding land use activities 3. Ensure proper coordination of various departments dealing with planning issues 4. Improve capacity of the physical planning department 5. Digitization of urban and rural development plans 	CECM Lands CAK C.O Lands CLMB MoL Kajiado residents	2 years	<ol style="list-style-type: none"> 1. A county spatial plan in place 2. Well established, equipped county physical planning department 3. Reduced land use conflicts 4. Digitized land use development plans 5. County physical planning legislation in place. 6. Integrated Urban

	<ol style="list-style-type: none"> 6. Enact legislation on county physical planning 7. Ensure proper planning of urban areas 			Development Plans for major urban areas
Development Control	<ol style="list-style-type: none"> 1. Ensure enforcement and compliance to physical planning standards 2. Develop guidelines for development control 3. Minimize effects of urban sprawl on peri urban and rural areas 4. Establish a fully equipped enforcement section within the county physical planning department. 5. Development applications that provide a one stop shop for applications and approvals, 	CECM Lands CAK C.O Lands Kajiado Residents	2 years	<ol style="list-style-type: none"> 1. Guidelines for development control in place 2. Planning guidelines and standards in place 3. Guidelines for approval of development application including building developments in place 4. Fully equipped and established enforcement section in the county physical planning department
Environmental management, Climate Change and Natural Resource utilization	<ol style="list-style-type: none"> 1. Ensure sound environmental conservation 2. Ensure sustainable use of natural resources 3. Ensure protection of ecologically sensitive areas 4. Promote benefit sharing of locally available natural resources 5. Reduce and /or eradicate conflict 	CECM Lands C.O Lands NEMA, Environmental Experts KWS, KFS CSOs	2 years	<ol style="list-style-type: none"> 1. A County Environmental and Social Management Plan (ESMP) 2. Guidelines for benefit sharing 3. Minimized wildlife conflict 4. Zoning and management plans for ecologically sensitive areas. 5. Policies and guidelines on

	<p>over utilization natural resources</p> <ol style="list-style-type: none"> 6. Develop an Environmental and social management plan for Kajiado County 7. Establish an inventory /database for natural resources in Kajiado. 8. Minimize human-wildlife conflict 9. Compliance to environmental regulation in development 10. Develop policies and guidelines on Solid waste management 			<p>solid waste management</p> <ol style="list-style-type: none"> 6. Records/Inventory/database for Natural resources in Kajiado county
5. Special interventions				
Strategies	Objectives	Responsibility	Time frame	Indicators
Land banking and public Awareness	<ol style="list-style-type: none"> 1. To Identify and acquire land for future public use 2. To Sensitize the community on matter land and land banking 	CECM Lands C.O Lands CAK CSO's CLMB	5 years	<ol style="list-style-type: none"> 1. Number of land parcels acquired by CGK 2. Number of potential ranches identified
Social Inclusion and poverty reduction	<ol style="list-style-type: none"> 1. Promote Modern pastoralism 2. Improve livestock production 3. Develop alternative sources of income to reduce land sales 4. Promote sustainable agriculture 5. Protect the rights of vulnerable groups (women, youth, children, 	CECM Lands CAK CLMB CSOs Residents of Kajiado	1 year/ continuous	<ol style="list-style-type: none"> 1. Modernized pastoralism 2. Increased livestock production 3. Increased productivity on agricultural lands. 4. Improved livelihoods. 5. Reduced unnecessary land

	and disabled) in land ownership.			sales.
Transparency and accountability	<ol style="list-style-type: none"> 1. Ensure compliance to all legal provisions in land transactions 2. To create awareness on existing legislations and structures for land transactions 3. To enhance openness in land transactions 4. To establish a reporting mechanism 5. To Operationalize suggestion boxes (get autonomous body to deal with irregularities posed in suggestion boxes) 	CECM Lands C.O Lands CAK CSO's CLMB	1year/ Continuous	<ol style="list-style-type: none"> 1. Legal procedures on all matters land adhered to 2. Less reports of fraudulent transactions 3. Reporting mechanisms established and working
Dispute resolutions and historical injustices	<ol style="list-style-type: none"> 1. Address historical injustices 2. Reduce new land disputes 		2 years	<ol style="list-style-type: none"> 1. Number of disputes solved 2. Number of historical injustices addressed

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ANNEXES

Annex1: Change and Extension of Use Guidelines, 2014

1) Definitions

Change of Use - means the use of land and buildings for a different purpose other than the designated use necessitating redevelopment

Extension of Use - means addition of a new use on the designated use on land and/or buildings whose effect is not pre-dominant to warrant a complete change

Registered/Practicing Physical Planner – A Physical Planner Registered and obtained a practicing certificate from the Physical Planners Registration Board

Act of Parliament - the Physical Planning Act (Cap, 286 of 1996)

The Count Executive Committee Member (CECM) -the County Executive Committee Member in-charge of Physical Planning

Technical Committee - the committee constituted by the CECM to review and approve development application

2) Objective

The main objective of these guidelines is to provide a coordinated framework for administration of development applications and enhance development control and ensure orderly development

3) Application, Vetting and Approval Procedure

i) Application and Requirements

- All applications shall be submitted in triplicate on duly filled form PPA 1
- The application shall include a three bound copies of physical planning report and prepared and signed by a registered and practicing physical planner
- The application must be submitted together with

- An extract of local daily newspaper notice (the Daily Nation, the Standard and/or Taifa Leo)
- Photo image of advert on site
- An official search indicating the status of the land upon which the development is to be carried out of not more than fourteen (14) days from the date of submission
- Extract of the area zoning plan
- A tentative plan/design for the proposed development
- Detail location showing abutting plots and roads of access
- A certified copy of certificate of incorporation for registered limited companies
- A certified copy minutes/resolutions/letter of undertaking by members in case of registered community land and/or societies

4) Approval Process

i) Circulation and comments

- All applications received at the county physical planning department shall be circulated to public works, lands, survey, environment, public health and/or any other department as may deem necessary for scrutiny and comments
- The circulation shall be undertaken by the applicant upon securing preliminary approval from the county physical planning department
- Comments from each department must be signed by authorized officers and sealed or stamped accordingly and returned to the county physical planning department
- Comments received shall be filed together with a copy of plans for reference
- The applications and attendant physical planning reports shall be forwarded to the technical committee for vetting

ii) Appointment and Mandate Technical Committee

- The CECM shall constitute a technical committee of head of relevant departments –Physical Planning, Public Works, Survey, Environment Public Health, and CLMB

- The Technical Committee shall meet on a fortnight basis to review and consider the applications
- The technical committee shall undertake the vetting of all applications received and recommend on the necessary action to be taken
- The Committee shall consider the following:
 - i) Written comments from relevant departments and general public
 - ii) Review the reports and relevant documents attached therein
 - iii) The zoning requirements
 - iv) The relevant statute
 - v) Any other relevant information
- The quorum of the committee shall not be less than three members
- The committee shall from time to time give the CECM minutes and reports on their proceedings
- Applications must be processed within twenty-one (21) day from the date of receiving and applicants shall be notified of the decisions for approval, deferment or rejection/dismissal of respective applications on Form PPA 2

iii) *Granting Approval*

Application for change/extension of use shall be granted upon meeting the following conditions:

- The intent/purpose is not injurious to the neighbourhood
- Operational activities do not impair movement and circulation
- The road of access serving the plot proposed has sufficient capacity to serve the proposed user
- The proposed use complements activities and services in the neighbourhood
- The project does not cause pollution
- The proposed use does not cause an out of character situation or interferes with the aesthetics or consistent planning of the area
- The development does not fall within land designated/surrendered for public use and road reserves

iv) *Deferment of application*

Applications that fail to meet relevant requirements shall be deferred. The application shall be deferred if:

- The application is not signed by the owner
- No ownership documents, search or certificates of practicing physical planner has been attached
- The approving authority has no clarity on the location of the project site
- A site visit has not been done
- Further information is required

v) *Dismissal or rejection of application*

Grounds for dismissal of applications are as follows:

- The application falls in fragile ecosystems, abuts a wetland, conservation area or potentially contentious site
- Areas of conflicts and likely going to subject neighbors to injurious impacts
- The site is restrictive thus lacks capacity to handle operational activities
- Activities could be nuisance to the entire neighbourhood
- Adverse incompatibility
- The attachments are proven to be fraudulent or fake
- The proposed development does not meet the zoning requirements
- The statutory fees has not been duly paid
- The carrying capacity of the land cannot sustain the proposed development
- The available infrastructure is not sufficient for the proposed development

vi) *Appeals on rejection or dismissal*

- The applicant may, in writing, appeal if he/she is not satisfied with the rejection and or deferment of a development application within twenty-eight (28) days from the date of approval

- Appeals shall be handled by a committee of technical staff selected by the Chief Officer in charge of Physical Planning
- Intent and requisition for appeals shall be done in writing to the Chief Officer in charge of Physical Planning
- Appeals shall be handled in not more than twenty-eight (28) days once it has been launched
- Outcome of the appeals shall be communicated to the applicant in writing through the address provided

iv) Enforcement, Fees, Penalties and Other Requirements

- County Government shall charge all fees as per the approved charges
- Any person(s) who carries out development without approval for change/extension of use shall be served with an enforcement notice (Form PPA 7) and compliance must be within fourteen (14) days from the date of issuance of the notice
- Any person(s) who fails to comply shall be liable to a fine of Kenya shillings One Hundred Thousand (100,000/-)
- Each development falling within categories indicated must execute a change of use
 - Subdivision of land resulting to plots of 0.5 acreage (0.2 hectares) and below
 - Development of commercial, residential schemes, industrial, recreational, institutional, and other facilities on agricultural land and land which is on freehold interest
 - Quarrying and mineral extraction activities
 - Commercial farming such as large poultry farms, greenhouse etc.
 - Telecommunication base stations, electricity substations and energy generation stations
 - Erection of billboards on buildings and branding (advertisements) on buildings
 - Increase of densities on existing buildings
 - Alterations on existing buildings leading to a new or additional use
 - All land whose user is changed shall attract annual rates as per the valuation roll

Annex II: Guidelines for Administration of Public Land.

1) Objective

The main objective of these guidelines is to ensure proper management and administration of public land within the county.

2) Planning and survey of new townships

- a. Areas designated for townships shall be properly planned. The public shall be notified on the intention to plan townships.
- b. At least thirty (30) percentage of the land within the township shall be designated for public purpose including road network. Town planning shall be done by the county physical planning department.
- c. Town plans shall clearly indicate the various land use with adequate access. Upon expiry of the thirty (30) days of public viewing the survey works will be carried out by the county surveyor or dully consultant
- d. The public shall be notified within thirty (30) days of the completion of plans and shall be deployed for viewing. They shall be given at least thirty (30) days to give written comments on the complete plans before approval.
- e. The plan shall be forwarded to the executive for scrutiny and vetting through the CECM in charge of Physical Planning and survey.
- f. If the county executive committee is satisfied, it shall forward the plan to the county assembly for approval and adoption.
- g. All plans shall be digitized

3) Validation of existing township plans

- a. All planned and surveyed townships shall be validated to establish the ownership of various plots and correspondent on the ground.
- b. Any amendments on the plan and data collected shall be updated, geo-referenced and digitized accordingly.
- c. The public shall be notified of the validation process at least thirty (30) days before commencement of the exercise.
- d. The validated plans and records of ownership of individual plots shall be forwarded to the county executive committee for scrutiny and approval.
- e. Validation shall be done jointly by the county Physical Planning and survey departments.

4) Allocation of public land

- a. Allocations shall be based on approved, planned, surveyed and validated townships.
- b. Allocations shall be done by the county land management board.
- c. The board shall invite applications from the general public for purpose of allocations.
- d. The board shall carry out the vetting and process all applications.
- e. The received list of successful applicants shall be published on the respective townships for public viewing for a period of at least thirty (30) days.
- f. Upon expiry of the thirty (30) days for public viewing, the allottees will be issued with letter of allotment within thirty (30) days and show their respective plots by the county surveyor upon payment of requisite fees.
- g. All allottees must develop their plot within twenty four (24) months from the date of issuing the allotment failure to which the plot(s) shall be re-allocated to new person(s).

5) Transfer / Subdivision of Plots.

- a) All applications shall be done on a prescribed form dully signed by the transferor and the transferee.
- b) The application shall be lounged with the County Land Management Board.
- c) The application shall be accompanied by the following documents / requirements:
- d) Certified copies ownership documents.
- e) Copies of national I.D. cards and P.I.N certificate.
- f) Passport colored passport photos of both the transferor and the transferee.
- g) A certified copy of the area development plan and the plot edged in red.
- h) A copy of rates / plot rent clearance certificate.
- i) A payment receipt for transfer fees.
- j) Subdivision scheme to be provided in case of subdivision.
- k) Spousal consent must be attached to the form and the spouse should appear in person.
- l) Sworn affidavit for single parents
- m) The board shall process the application within sixty (60) days from the date of application.
- n) The applicant shall be notified of the decision of the board within fourteen (14) days in writing.
- o) Properties belongings to orphaned minors should not be transferred.

p) Ground for deferment or rejection.

- i. If any of the above requirement is not presented.
- ii. Plot is under dispute or caution.
- iii. Site not available.
- iv. When the plot falls on a public utility or road reserve.
- v. Plot falls within unplanned and unsurveyed townships.

q) Appeal

- i. Persons who are not satisfied with the decision of the board may appeal for reconsideration or rejection within thirty (30) days.
- ii. The board shall re-evaluate the appeal within 30days and conveyed in writing within 14 days.