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## THE URBAN AREAS AND CITIES (GENERAL) REGULATIONS, 2022

The Cabinet Secretary of Transport, Infrastructure and Urban Development published the Urban Areas and Cities (General) Regulations, 2022 (the “Regulations”) to operationalize the Urban Areas and Cities Act, 2011 (the “Act”).

We highlight some of the key provisions below.

### Accreditation of Business and Neighbourhood Associations

The Regulations provide for accreditation of business and neighbourhood associations by the relevant urban area board or committee and the maintenance of a register of those accredited associations.

For purposes of accreditation, an association has to be in existence for a period of 2 years and submit together with the accreditation application, its certificate of registration, a list of its members, resolutions of five duly convened meetings and a record of its officials and their contact details. Once the board or committee is satisfied with the information provided and the requisite fee paid, the association will be issued with a certificate of accreditation.

These associations may also be clustered and the officials of the clustered association elected from among the list of officials of the individual neighbourhood associations for proper coordination. The register of accredited associations is to be updated by the relevant urban area board or committee every 2 years.

Accreditation offers several benefits to business and neighbourhood associations. These include (i) eligibility to be part of a Market Centre Committee, whose role is the management of market centres within the local area, and (ii) eligibility to be part of a citizen forum established under the Act for purposes of promoting public consultations and making proposals and recommendations to relevant institutions on policies, county and national budget and development plans, delivery of services and administration of the city or urban area.

### Development Approvals

Before commencing any development activities within an urban area, a developer is required to procure a development permit from the relevant board or committee of that urban area. Within 7 days of receipt of the development application, the committee will forward it to the relevant authorities and agencies to respond with their comments within 14 days. The committee will either reject the application or issue the development permission within 30 days.

Whereas under the Physical and Land Use Planning Act, 2019 (PLUPA), the relevant County Executive Committee has the active mandate of determining development applications, for developments within urban areas, the role of the County Executive Committee is limited to giving comments; the urban area board or committee shall be responsible for determining the development application.

Similar to PLUPA, if the urban area committee does not respond within 60 days of receipt of the development application, the permission shall be deemed granted.

### Resident’s Right to Object

The board or committee is required to publish details of its proposed joint ventures or partnerships in two widely circulated newspapers and on its website. A resident of an urban area may, within 14 days, submit an objection in writing to the chairperson of the board or committee and a determination is to be made within 28 days of receipt of the objection.

An appeal of the decision has to be filed with the relevant County Governor within 14 days, who shall constitute a task force to make a determination on the appeal within 30 days.

### Governance and Service Delivery

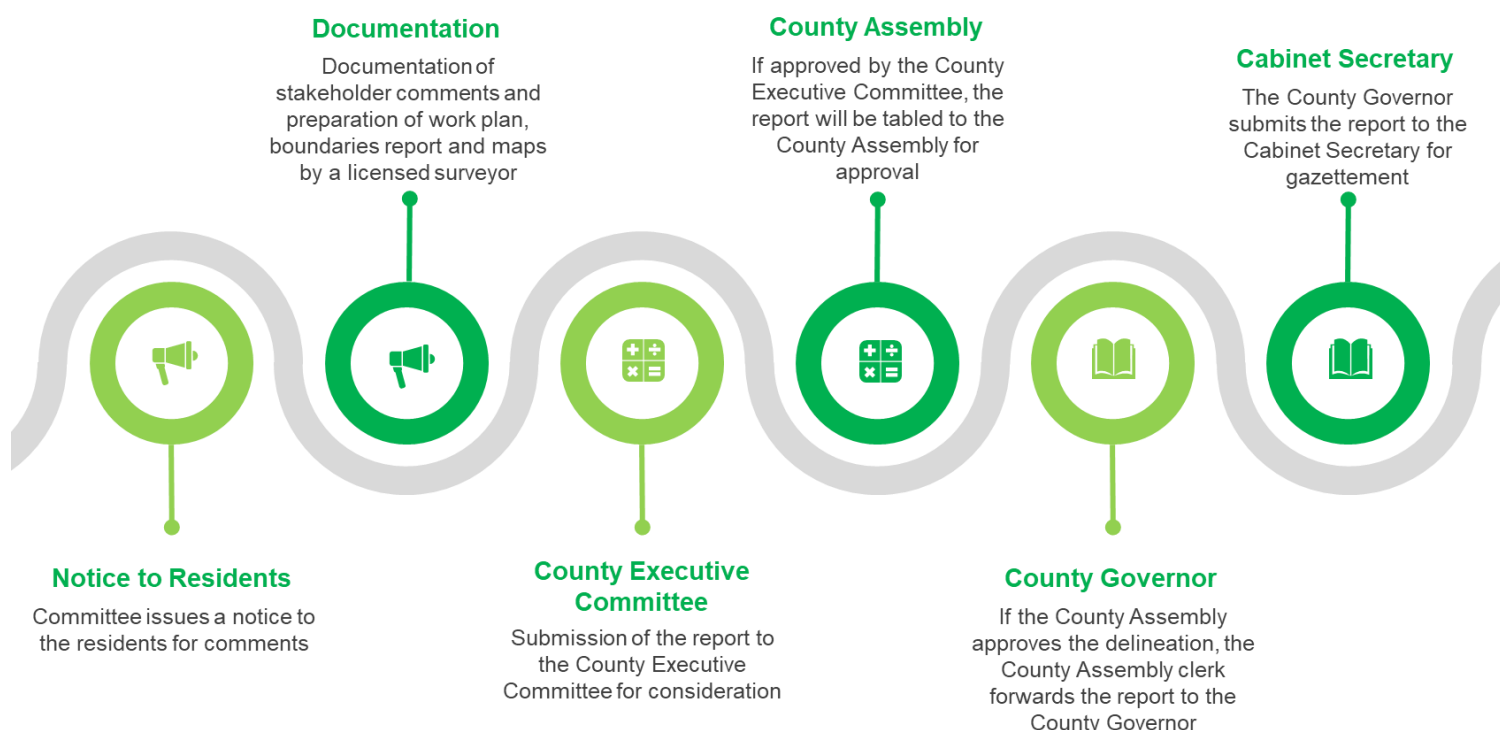
The Regulations provide for the establishment of citizen fora by the relevant urban area committee or board to promote vibrant and active citizenship and participation with residents through outreach programmes, capacity development initiatives and engagement platforms. A citizen forum shall comprise business, informal sector, professional and accredited neighbourhood associations as well as faith based organizations. They shall form an executive committee which shall organise annual meetings of the forum and the decisions of the forum shall be by simple majority.

The County Executive Committee has also been given the mandate to review and approve the establishment of service delivery units for proper functioning and delivery of services within an urban area. This is likely to promote proper delivery of water, electricity, waste disposal and health services.

### Delineation of City or Urban boundaries

The Regulations provide that a County Governor may submit a written request to the Cabinet Secretary to have a city or urban area’s boundary reviewed together with the names of nominees of the Ad hoc Committee to undertake the delineation. The Cabinet Secretary shall procure publishing of the names of the members of the Ad hoc committee in the Kenya Gazette.

Where an urban area or city falls in more than one county, the respective County Governors will, through a joint memorandum, request the Cabinet Secretary to establish an Ad hoc committee to undertake the proposed delineation. The approval process is as illustrated below.



### Establishment of Special Purpose Cities and Conferment of City Status

Special Purpose Cities under the Act are areas with significant cultural, economic or political importance. The Regulations provide for the criteria and procedure for an urban area to be delineated as a Special Purpose City or

conferred the status of a City. A proposal may be initiated by the relevant County Governor or the Cabinet Secretary. The Cabinet Secretary shall constitute a committee to evaluate the proposal and if viable, the Cabinet Secretary will prepare a city charter and the President shall, within 60 days, present the charter to the respective County Governor.

For a town committee seeking conferment of a municipal status, the committee makes an application in writing to the County Executive Committee Member responsible for urban development. The application will thereafter be tabled before the County Assembly and the Senate for approval before the resolution is forwarded to the President for conferment.

County governments are also required to make annual reports on the implementation of the National Urban Development Policy and for the decentralization of Nairobi into functional units equivalent to Municipalities and managed under the Act.

A Citizen Service Delivery Charter will also be prepared and operationalized by the board or committee of urban areas or cities within 6 months of their appointment.

### Conclusion

The Regulations are a welcome move as they are in line with Article 184 of the Constitution of Kenya 2010 which mandated parliament to enact legislation to provide, inter alia, the criteria for classifying areas as urban areas and cities and to provide for participation by residents in the governance of urban areas and cities. It is expected that the Regulations will promote vibrant public participation in governance of urban areas by creation of the citizen fora and granting residents the right to object to joint ventures and partnerships entered into by the relevant committees. The introduction of development approval at the urban areas level may have been an unnecessary step as the approval processes are sufficiently covered under PLUPA. If the intention is to remove cities and urban areas from the jurisdiction of county planning authorities, then necessary amendments will need to be made to the PLUPA and the Development Permission and Control (General) Regulations, 2021 to align them with the Regulations. Nonetheless, the reintroduction of deemed approvals upon lapse of 60 days from the date of the application will address the potential delays at cities and the urban areas level.

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