

'URBAN AND REGIONAL PLANNING AND DEVELOPMENT BILL, 2017

ARRANGEMENT OF SECTIONS

SECTIONS

PART 1

Administration of physical planning, urban development and building control

1. Establishment of Relevant Physical Planning and Development Agencies
2. Functions of the Ministry
3. Power of Commissioner
4. Assent of the Governor for Special Building Projects
5. Procedure to be adopted for the preparation and review of Development Plans
6. Publication and preparation of draft Development Plans
7. Exhibition of draft Development Plan
8. Submission of objection to draft plan by members of the Public
9. Schedules of summaries of objections and Comments
10. Consideration of comments and Objections
11. Procedure for amendment of Draft Plan
12. Withdrawal of Objection
13. Notice of Amendment
14. Meetings
15. Additional Power of Amendment
16. Objection to Development Plan
17. Submission for Approval
18. Operative Development Plan
19. Correction of Operative Development Plan
20. Deposit of Operative Development Plan
21. Revocation of Operative Development Plan
22. Compliance with Operative Development Plan
23. Review of Operative Development Plan

PART 2

The Planning Permit Authority

24. The General Manager of the Planning Permit Authority
25. Tenure of Office of General Manager
26. Remuneration of General Manager
27. Appointment of Secretary
28. Other Staffs
29. Removal of General Manager and Secretary
30. Remuneration of Secretary and Staff
31. Appointment of Legal Officer
32. Power to establish and maintain Departments
33. Functions of the Planning Permit Authority
34. Planning Permit
35. Application for Planning Permit
36. Consideration of representation by developer and Submission of Technical Report
37. Grant or Rejection of Planning Permit
38. Grounds for Rejection of an application for Planning Permit
39. Delay of Planning Permit
40. Planning Permit Fees
41. Grant of Planning Permit
42. Approved Planning Permit
43. Compliance with Planning Permit
44. Validity of Planning Permit
45. Enforcement of rights and duties attached to a Planning Permit
46. Register of applications and publication of Planning Permits
47. Provisions for planting of trees and greenery
48. Revocation of Planning Permit
49. Payment of Compensation
50. Annual Estimates
51. Funds of the Authority
52. Account and Audit
53. Annual Report

PART 3

The Kwara State Building Control Agency

54. The General Manager of the Building Control Agency

55. Tenure of office of General Manager
56. Remuneration of General Manager
57. Appointment of Secretary
58. Other Staff
59. Removal of General Manager and Secretary
60. Remuneration of Secretary and other Staff
61. Appointment of Legal Officer
62. Power to establish And Maintain Departments
63. Functions of the Building Control Agency
64. Annual Estimates
65. Funds of the Agency
66. Account and Audit
67. Annual Report
68. Building Insurance

PART 4

Enforcement

69. Enforcement Notices
70. Service of enforcement Notices by the relevant Agency
71. Conditions to Alter, Vary, Etc.
72. Requirement for Enforcement Notices
73. Address of Enforcement Notices
74. Enforcement of Order
75. Liability for expenses
76. Stop Work Order
77. Extension of Stop Work Order
78. Effect of enforcement Notices
79. Penalty
80. Power of relevant Agencies on contravention
81. Defective Structures
82. Power of Building Control Agency to Demolish Defective Buildings
83. Power of relevant Agency over Abandoned Buildings
84. Forfeiture of property on collapse of Building or Structure

84. Forfeiture of property on collapse of Building or Structure
85. Offences and Penalties
86. Failure of staff to comply with this Law

PART 5

Acquisition of Land

87. Power to Acquire Land
88. Facilitation and Execution of Operative Development Plan

PART 6

Appeals and other Matters

89. Establishment of the Appeals Committee
90. Composition of the Appeals Committee
91. Functions of the Appeals Committee
92. Powers of the Appeals Committee
93. Recommendations of the Appeals Committee
94. Proceedings of appeals Committee
95. Sittings of the Appeals Committee
96. Remuneration and Allowances
97. Tenure of Office of Appeals Committee
98. The Secretariat
99. Appeal Against Decisions of the Committee
100. Establishment of the Technical Advisory Committee
101. Composition of the Advisory Committee
102. Functions of the Advisory Committee
103. Proceedings of the Advisory Committee
104. Sittings of the Advisory Committee
105. Remuneration and Allowances
106. Tenure of Office of the Advisory Committee
107. Cessation of Office
108. The Secretariat
109. Power to make Regulations

- 110. Savings
- 111. Repeals
- 112. Interpretation
- 113. Citation And Commencement

SCHEDULES

First Schedule

Second Schedule

Third Schedule

Fourth Schedule

Fifth Schedule

**A BILL
FOR
A LAW TO PROVIDE FOR THE ADMINISTRATION OF PHYSICAL
PLANNING, URBAN DEVELOPMENT, URBAN REGENERATION
AND BUILDING CONTROL IN KWARA STATE AND FOR
CONNECTED PURPOSES**

BE IT ENACTED by the House of Assembly of Kwara State and by the authority of same as follows- () Date

PART 1

Administration of physical planning, urban development and building control in Kwara State.

1. Establishment of relevant Physical Planning and Development Agencies

- (1) The Ministry of Housing and Urban Development (referred to in this Law as “the Ministry”) will be responsible for all physical planning, urban development, urban regeneration and building control policies of the State.
- (2) There is established the following Physical Planning and Development Agencies (referred to in this Law as the “Agencies” to implement the policies of the Ministry-
 - (a) The Kwara State Physical Planning Permit Authority (referred to as “Planning Authority”); and
 - (b) The Kwara State Building Control Agency (referred to as the “Building Control Agency”)
- (3) The Ministry will have direct responsibility to supervise the Agencies established in subsection (2) of this section and any other physical Planning Agency as may be established.

2. Functions of the Ministry

The Ministry will be responsible for the-

- (a) initiation, formulation of policies, coordination of programmes and review of all aspects of physical planning, urban development, urban regeneration and building control in the State;
- (b) implementation of its policies through the relevant agencies established under the provisions of this Law;
- © preparation and approval of the following hierarchies of Physical Development Plans-
 - (i) Regional plans,
 - (ii) Sub-Regional Plans,
 - (iii) District Plans,
 - (iv) Model City Plans,
 - (v) Urban/ Town Plans,
 - (vi) Urban Regeneration Plans,
 - (vii) Development Guide Plans, and
 - (viii) Local Plans including layout and subdivision plans;
- (d) provision of technical assistance to all government ministries and agencies on matters relating to physical planning, urban regeneration and building control;
- (e) determination of the locations of infrastructural facilities and centres of economic activities in the State;
- (f) offering advice on statement development projects/ programmes with socio-economic and environmental impacts as may be referred to it from time to time;
- (g) formulation of guidelines for fostering inter-ministerial, intergovernmental, bilateral and multi-lateral cooperation on physical planning, urban development, urban regeneration and building control;
- (h) adoption of measures for promotion of physical planning, urban development, urban regeneration and building control policies in the state;
- (i) conducting research on physical planning, urban development, urban regeneration, building construction and control;
- (j) creation and administration of database for physical planning, urban development, urban regeneration, building construction and control in the state;

- (k) consideration of all matters referred to it by the State Executive Council, other government ministries, agencies and the general public;
- (l) liaising with agencies of other governments including Federal, States and Local Governments in the execution of its physical planning, urban development, urban regeneration and building control programmes and projects;
- (m) regulating the location, positioning, dimensions, appearance, display and manner in which urban furniture will be affixed to land in the state;
- (n) make regulations prescribing fees chargeable for its services and
- (o) executing such other planning, urban development, urban regeneration and building control functions and duties as may be assigned to it by the Governor.

3. Powers of the Commissioner

The Commissioner will have powers to—

- (a) review issuance of Planning Permits by the relevant authority or agencies;
- (b) direct any relevant authority/agency established under this law to seal up any premises for any alleged contravention of any physical planning, urban development, urban regeneration or building control law and regulations for the purpose of enforcement and compliance;
- (c) direct any relevant authority/agency established under this law to demolish any unauthorized structure or development on, under, or over any land or seabed in the state after the issuance of appropriate notices;
- (d) authorize the entry into any premises at reasonable hours of the day for purposes of giving effect to the provisions of this Law and Regulations made under it;
- (e) delegate specific responsibilities and functions for implementation to any Agency established under this Law and to any other person; and
- (f) organize stakeholders meeting for the purpose of deliberating on any matter under this Law.

4. Assent of the Governor for special building projects

The assent of the Governor will be obtained in respect of development of special building projects.

5. Procedure to be adopted for the preparation and review of Development Plans

(1) The relevant physical planning Agency in the state will, with the approval of the Commissioner-

(a) set up programmes for the preparation and review of development plans and the review of an Operative Development Plan which will take place periodically as may be determined by the relevant agency;

(b) approve where it considers appropriate, certain plan(s) as will be drafted and processed for approval in defined parts;

(c) direct that some sections of the Operative Development Plans be reviewed, revised, redrafted and processed for approval.

(2) For the purpose of preparing development Plans in the State, the Ministry or relevant Agency will from time to time invite relevant stakeholders including Ministries, Agencies, Non-governmental organisation, Professional bodies and individuals for the purpose of considering any matter relating to physical planning and urban development.

6. Publication and preparation of draft Development Plans

(1) Notice will be given in the Official Gazette and in at least one (1) daily newspaper circulated within the State and by other specified means, of the date on which preparations will commence for a draft plan or for reviewing an Operative Development Plan or part of it and the Official Gazette Notice will, where appropriate, provide the following information-

(a) the location, boundary, geographic co-ordinates and description of the proposed area for the Development plan(s);

(b) a general description of the type(s) of development proposed and working populations;

© matters which could be contentious; or

(d) any other matter of public interest.

(3) A copy of the draft development plan will be available to any person on the payment of a prescribed fee as may be specified from time to time.

8. Submission of objection to draft plan by members of the public

(1) During the period of exhibition of the draft development plan as set out in section 7 of this Law, any member of the public including non- governmental organisations, state ministries, agencies, local governments and professional bodies, may submit to the Ministry or relevant Agency, written statements of their objections which will-

(a) define the nature and reasons for the objection(s); and

(b) suggest alterations and amendments that could be made to resolve the objections

(2) Such suggestions will be made by the objector personally or through the relevant and appropriately registered professionals as advocate of the objector.

(3) All written statements of objections will be acknowledged.

9. Schedules of summaries of objections and comments

(1) The Ministry or relevant Agency will prepare schedules of summaries of the objections, comments and suggestions submitted to it.

(2) Such schedules will be submitted within twenty-eight (28) days after the final day of exhibiting the draft development plan.

10. Consideration of comments and objections

The Ministry or relevant agency will within sixty (60) days after final date of exhibiting a draft development plan, consider the schedules of objections and comments submitted to it.

11. Procedure for amendment of draft plan

(1) The Ministry or relevant Agency may give preliminary consideration to any objection in the absence of the objector and may propose amendments to the draft plan in the public interest.

(2) Notice of such amendment will be served in writing on the objector.

(3) An objector may notify the Ministry or relevant Agency in writing within fourteen (14) days after service of notice under subsection (2) of this section that, the objection is withdrawn on the condition that the amendment as proposed by the Ministry or relevant Agency has nullified the objection failure of which, such objection will cease to hold.

12. Withdrawal of objection

(1) Where an objection has been conditionally withdrawn and the Ministry or relevant Agency does not proceed with the proposed amendment, the written statement of objection shall be considered at a meeting.

(2) The objector will be given reasonable notice of such meeting, which its representative may attend and be heard.

13. Notice of amendment

(1) Where an amendment appears to affect any approved land use or development project which has been granted development permit, notice of such amendment will be given to the applicant by registered post or advertisement or other practicable means.

(2) Any written objection received within fourteen (14) days after giving notice under subsection (1) will be considered at a meeting of the Ministry or relevant Agency where the objector, other objectors or their representatives may be present and be heard.

(3) On the consideration of any objection in accordance with subsection (2) of this section, the Ministry or relevant agency may reject the objection in whole or in part or may cause amendments to be made to the draft development plan in order to wholly or partially satisfy such objection.

(4) The final decision of the Ministry or relevant Agency will be communicated in writing to the parties within a week from the date of the decision.

14. Meetings

(1) The Commissioner will preside at any meeting for the consideration of a development plan in the Ministry.

(2) The Commissioner on the advice of the General Manager of the relevant Agency will call for a meeting for the consideration of any development plan.

(3) The General Manager will preside at any other meeting of the relevant Agency.

15. Additional Power of Amendment

(1) The draft development plan made under section 5 of this law may be amended after exhibition, but only before it is approved by the Commissioner on the advice of the relevant Agency.

(2) Every amendment to a draft development plan made under section 6(3) of this Law will be exhibited for public inspection between the hours of 9.00am and 4.00pm on working days for a period of fourteen (14) days and during such period be advertised in at least one (1) daily newspaper circulated within the State.

(3) A copy of an amended draft plan made under this section will be made available to any person on payment of such fees as may be prescribed from time to time.

16. Objection to Development Plan

A person affected by an amendment to a proposed draft Development Plan made under this Law may make an objection within a period of twenty one (21) days in the manner provided for under section 8 of this Law.

17. Submission for Approval

After the consideration of objections of the draft final Development Plan, with or without amendments will be submitted to the Commissioner for approval together with-

- (a) any objection made and not withdrawn;
- (b) a schedule of amendments made, if any, with a view to meeting such objections; and
- © copies of the minutes of meetings and hearings held in relation to the consideration and hearing of the objections and amendments of the draft Development Plan.

18. Operative Development Plan

- (1) Subject to the provisions of this Law on the submission of a final Development Plan, the Commissioner on the advice of the relevant Agency may-
 - a. approve it in part;
 - b. approve it in whole;
 - c. decline approval; or
 - d. refer it to the relevant Agency for further consideration and amendment of the whole or part of it.
- 2) A Final Development plan approved under this Law will be referred to as an "Operative Development Plan", and a notice to this effect will be published in the State Official Gazette and one(1) daily newspaper or published in any other suitable manner as may be prescribed by the Agency.

19. Correction of Operative Development Plan

There will be a notice in the official Gazette of intention to correct any omission or error in any Operative Development Plan as well as due publicity for the correction or omission.

20. Deposit of Operative Development Plan

- (1) Copies of the operative Development Plan, duly signed by a Development plan authorized officer, will be deposited in the Ministry, and with other organs of government responsible for its implementation, execution,

administration, enforcement and compliance and such plans must be available for inspection between the hours of 9.00a.m and 4.00pm on working days.

(2) Copies of the Operative Development Plan will be made available for sale at a price to be determined by the Ministry.

21. Revocation of Operative Development Plan

(1) The Commissioner on the advice of the relevant agency or authority may-

(a) revoke in whole or in part, any Operative Development Plan;

(b) refer any operative development plan or part of it to the relevant Agency for-

(i) replacement by a new Development Plan or part of it, or

(ii) amendment.

(2) Notification of any revocation under subsection(1) of this section will be published in the official Gazette and indicated on all the copies of the Operative Development Plan deposited for inspection as required by section 20 of this Law, as well as any other means of communication or publicity.

(3) With reference to subsection (1) (b) of this section, a replacement or amendment of an Operative Development Plan or part of it will be prepared, approved and deposited in accordance with the provisions of this Law.

(4) An Operative Development Plan referred for review and amendment will be replaced by a new Operative Development Plan or read as one with any approved amendment, as the case may be.

22. Compliance with Operative Development Plan

(1) All government agencies involved in processing applications for planning permit will comply with the provisions of the Operative Development Plan.

(2) All applications for planning permit will comply with the provisions of the Operative Development Plan.

23. Review of Operative Development Plan

Without prejudice to section 5(1) of this Law, the review of an Operative Development Plan will be undertaken every five (5) years.

PART 2

Kwara State Physical Planning Permit Authority

24. The General Manager of the Physical Planning Permit Authority

1. There will be appointed by the Governor for the Planning Permit Authority a General Manager who will-
 - (a) be a holder of a recognized qualification and professional registration in Town Planning; and
 - (b) who will have not less than fifteen(15) years cognate post-professional registration experience.
2. The General Manager will be the Chief Executive Officer of the Planning Permit Authority and be responsible for the-
 - (a) general administration; and
 - (b) execution of the functions conferred on the Planning Permit Authority under this Law.
 - (c) keep proper accounting records in accordance with standard accounting practice and financial regulations of the State in respect of -
 - (i) all revenues and expenditure of the authority,
 - (ii) all assets, liabilities and other financial transactions, and
 - (iii) all other revenues collected by the authority.

25. Tenure of Office of the General Manager

The General Manager shall hold office for a term of 4 (Four) years, renewable for another 4 (Four) years only.

26. Remuneration of the General Manager

The General Manager shall be paid such emoluments and benefits as the Governor may from time to time determine.

27. Appointment of Secretary

- (1) There shall be a Secretary to the authority who shall be appointed by the Governor.
- (2) The Secretary shall keep record of all correspondences, memorandums minutes of meetings and carry out such duties as the General Manager may from time to time assign.

28. Other Staff

The Governor shall have power to appoint such other staff of the authority on the recommendation of the Commissioner in consultation with the General Manager and determine the condition of service of such other staff.

29. Removal of General Manager and the Secretary of the Authority

Notwithstanding the provisions of section 26 of this law, the General Manager and Secretary of the authority shall cease to hold office if-

- (a) he resigns his appointment by notice under his hand addressed to the Governor;
- (b) he becomes of unsound mind;
- (c) he becomes incapable of carrying on the functions of his office either arising from infirmity of mind or body;
- (d) he is convicted of a felony or of any offence involving dishonesty or corruption;
- (e) he becomes bankrupt or makes compromise with his creditors;
- (f) the Governor is satisfied that it is not in the interest of the authority or of the public for the person to continue in office and the Governor removes him from office;
- (g) he has been found guilty of a breach of the code of conduct or other serious misconduct in relation to his duties;

30. Remuneration of the Secretary and Other Staff

The Secretary and other staff shall be paid such remuneration and allowances as may be determined by the Governor on the recommendation of the Commissioner in consultation with the General Manager.

31. Appointment of Legal Officer

There shall be a Legal officer attached to the authority, who shall be seconded from the State Ministry of Justice as a Legal Adviser for the Authority.

32. Power to Establish and Maintain Departments

The General manager shall have power to establish and maintain such departments, subsidiary division and sections; and to devise and use such formats and follow procedure and make all other administrative arrangements as may in his opinion be necessary or expedient for the performance of its functions under this Law subject to the approval of the Commissioner.

33. Functions of the Planning Permit Authority

The Planning Permit Authority will be responsible for-

- (a) processing and issuance of all planning permits in the state subject to the provisions of this law and Regulations made pursuant to this Law;
- (b) monitoring and ensuring compliance with the provisions of approved and Operative Development Plans, Approved Orders and Regulations made under this law;
- (c) establishing District Planning Permit Offices for the discharge of its functions with the approval of the Governor on the recommendation of the Commissioner;
- (d) establishing Local Planning Permit Offices in cooperation with the Local Government and Local Council Development Areas for the discharge

of its functions at the Local Government level with the approval of the Governor on the recommendation of the commissioner;

(e) preparation and periodic review of the following categories of Physical Development Plans-

- (i) District Plan,
- (ii) Development Guide Plans,
- (iii) Town Plans, and
- (iv) Local Plans.

(f) referring any plan prepared by it to the Ministry for the purpose of obtaining the approval of the Commissioner;

(g) keeping records of Planning Permit applications granted, rejected or withdrawn and publication of the lists in the State Official Gazette;

(h) evaluation of Physical Planning Technical Report in consultation with the Ministry;

(i) preparation and review of physical planning regulations in consultation with the Ministry;

(j) cooperating with the Building Control Agency to achieve zero tolerance of illegal developments;

(k) engaging in stakeholder consultations, enlightenment and publicity;

(l) operational control and supervision of its District Planning Permit Offices and Local Planning Permit Offices;

(m) exercise other powers as may be conferred on it by Regulations made pursuant to this Law.

34. Planning Permit

(1) The permission of the Planning Permit Authority will be required for any physical development in the State.

(2) A developer of any building above two floors must insure its liability in respect of construction risks and submit a certified true copy (C.T.C) of such insurance policy certificate with its application for Planning Permit.

(3) A developer must make provision for access, safety and toilet facilities for physically challenged persons in all public and commercial buildings

35. Application for Planning Permit

(1) A developer (whether private or government) will apply for a Planning Permit in such manner using such forms, and providing such information and documents as may be prescribed by the Regulations made under this Law.

(2) An application made under this Law will comply with all requirements and standards of an Operative Development plan of which it is a part.

(3) A plan required to be made under this Law will be prepared by the appropriate registered professional and must be in accordance with the provisions of the Regulations made pursuant to this Law.

(4) An application for a Planning Permit to develop or partition a structure or subdivide or partition land must be in conformity with the Planning Regulations made pursuant to this Law.

(5) A Planning Permit granted must satisfy the provisions of the State Land Policy and the Land Use Act.

(6) A development must not commence by any government or its agencies without obtaining a permit from the Planning Authority.

36. Consideration of representation and Submission of Technical Report

(1) The planning permit authority may consider representations made to it by a person, body or organization to be affected by an intended developer.

(2) A developer must at the time of submitting his application for Planning Permit submit a detailed Technical Report as prescribed by the Regulations made pursuant to this Law.

37. Grant or rejection of Planning Permit

The Planning Permit Authority may approve or reject an application for Planning Permit.

38. Grounds for rejection of an application for Planning Permit

An application for a Planning Permit may be rejected if-

- (a) the application is not in accordance with the Operative Development Plan;
- (b) in the opinion of the Planning Permit Authority, the proposed development is likely to cause nuisance or have major impact which cannot be adequately mitigated on the environment, facilities, or inhabitants of the community or in the Public interest; or
- (c) the development is not in accordance with any other condition as may be specified by Regulations made under this Law.

39. Delay of Planning Permit

- (1) The Planning Permit Authority may, if circumstances so require, delay the approval of an application for Planning Permit until the developer-
 - (a) satisfies the following conditions-
 - (i) provision of infrastructure and service facilities,
 - (ii) provision of necessary commercial facility,
 - (iii) provision of necessary social, recreational and communal facilities, or
 - (iv) payment of a sum of money in lieu of the Planning Permit Authority for provision of (i) or (ii) of this subsection;
 - (b) enters into an agreement with an individual, corporate or unincorporated body in respect of any matter which the Planning Permit Authority deems to be necessary for the development; and
 - (c) complies with any other condition stipulated by Regulation made under this Law.
- (2) In reaching its decision under subsection (1) of this section, the Planning Permit Authority must comply with-
 - (a) the policies and proposals of an Operation Development Plan applicable to a locality within its area of jurisdiction;
 - (b) a proposed plan or an approved plan under review; and

(c) any other consideration made particular and applicable to a locality by regulation made under this Law.

(3) The Planning Permit Authority may delay the approval of an application for Planning Permit for a period of time not exceeding three (3) months from the date of submission of the application.

(4) The decision of the Planning Permit Authority on an application for a Planning Permit will be communicated to the applicant in writing not later than three months from the day of submission of the application.

(5) Where the Planning Permit Authority decides not to approve an application it shall give reasons for its decision in writing.

(6) The decision of the Planning Permit authority will be evidence of information stated in it.

40. Planning Permit Fees

(1) Fees shall be paid in respect of application for Planning Permit

(2) The scale of such fees shall be as prescribed from time to time by the planning permit authority and published for the information of the general public.

41. Grant of Planning Permit

(a) use and development of land;

(b) change in the use of land, seabed or structure or part of structure;

(c) alteration of an approved Development Plan;

(d) renovation of existing approved building structures;

(e) demolition of the existing structure by the owner/developer.

42. Approved Planning Permit

An approval granted under this Law by the Planning Permit Authority, will be referred to as "Planning Permit".

43. Compliance with Planning Permit.

The holder for the time being of a Planning Permit must comply with the contents of the permit.

44. Validity of Planning Permit.

- (1) A Planning Permit granted in respect of any development on any land is deemed valid.
- (2) A Planning Permit will become invalid where development has not been commenced within two (2) years of the grant of such Permit.
- (3) Where a developer fails to commence development within two (2) years, the Planning Permit will be subjected to re-validation by the Planning Permit Authority on the payment of prescribed fees provided that the Operation Development Plan has not been amended, varied or altered as provided for in this Law.
- (4) A Planning Permit will not be deemed to confer ownership of the land on the applicant.

45. Enforcement of Rights and Duties

The Planning Permit Authority will enforce all the rights and duties attached to a Planning Permit, against a developer provided that, where a developer transfers or assigns his interest, the Planning Permit Authority will enforce all the rights and duties attached to a Planning Permit against a holder for the time being.

46. Register of Applications and Publication of Planning Permits

- (1) The Secretary of the Authority must keep a register or records of all applications for Planning Permit submitted to it.
- (2) The lists of Planning Permits issued will be published in the State Official Gazette.

47. Provisions for Planting of Trees and Greenery

- (1) The Planning Permit Authority shall grant Planning Permit subject to the preservation of existing trees or greenery or planting of new trees or greenery on the site of development by the imposition of necessary conditions.

- (2) Without prejudice to the provisions of any existing Law under the subject matter, the Planning Permit Authority shall make "Tree Preservation and Greenery Order" for securing such amenities within its area of jurisdiction.
- (3) If it appears to the Planning Permit Authority that the Amenities or part of an area or an adjoining area is seriously injured by the condition of a garden, vacant site or open land, the Planning Permit Authority will serve on the occupier or owner of such land a notice requiring such steps to be taken for abating an injury within such period of time as may be specified in the Notice.
- (4) The Notice referred to in subsection (3) of this section will contain a period of thirty (30) days within which such injury will be abated, failure which the garden, vacant site or open land may be acquired by the State Government subject to the provisions of the Land Use Act.

48. Revocation of Planning Permit

A Planning Permit granted under this Law may be revoked in part or in whole on any of the following grounds-

- (a) the proposed development and uses for which the Planning Permit was granted are no longer appropriate;
- (b) the site for which the Planning Permit was granted is required for overriding public purpose;
- (c) the Planning Permit was obtained fraudulently;
- (d) the developer or owner of the Planning Permit has develop in excess of the approval granted or, has not complied with the terms and conditions under which the permit was granted;
- (e) the permitted development or use has been modified, altered, varied, added to or renovated without permit; or
- (f) the permitted development or use has not complied with building control standards.

49. Payment of Compensation

(1) The state Government will pay compensation for the revocation mentioned in section 48(a) and (b) to the extent of all reasonable costs that may have been incurred by the owner or developer if -

(a) development has commenced; or

(b) the developer or owner is liable under an existing contract to a third party for damages for breach of contract.

(2) Compensation will not be paid for the revocation mentioned in section 41© (e) and (f).

(3) Any compensation to be paid under this law shall be in accordance with the provisions of the Land Use Act.

50. Annual Estimates

The Authority shall cause to be prepared, not later than 30th September of each year, an estimates of its income and expenditure for the succeeding year.

51. Funds of Service

The Authority shall establish and maintain a fund which shall consist of and to which shall be credited-

(a) monies appropriated by the House of Assembly for the capital and recurrent expenditure of the authority.

(b) all other monies as may from time to time, be granted to the authority by the State Government or donor agencies, provided such grants are not intended for purpose contrary to the objects and functions of the authority.

52. Account and Audit

The General Manager shall ensure proper accounts and records are kept and such accounts shall not later than 6 (six) months after the end of each year,

be audited by auditors appointed by the Governor from the list of approved auditors on the recommendation on the Auditor-General of Kwara State.

53. Annual Report

(1) The Planning Authority shall prepare and submit to the Commissioner, once every year, a report in such form as the Commissioner may direct on the activities of the Authority during the last preceding financial year and shall include in the report a copy of the audited accounts of the Authority for that year and of the auditor's report on the account.

(2) The Commissioner shall cause a copy of each report made to him under this section to be laid before the State Executive Council.

PART 3

The Kwara State Building Control Agency

54. The General Manager of the Building Control Agency

(1) There will be appointed by the Governor for the Building Control Agency a General Manager who will be-

- (a) a holder of a recognized qualification and professional registration in architecture, civil/structural engineering or building; and
- (b) who will have not less than fifteen (15) years' cognate post-professional registration experience.

(2) The General Manager will be the Chief Executive Officer of the Building Control Agency and will be responsible for the-

- (a) general administration; and
- (b) execution of the function conferred on the Building Control Agency under this Law.

54. Tenure of Office of the General Manager

The General Manager shall have a tenure office of 4 (Four) years, renewable for another 4 (Four) years only.

55. Remuneration of the General Manager

The General Manager shall be paid such emoluments and benefits as the Governor may from time to time determine.

56. Appointment of Secretary

(1) There shall be a Secretary to the authority who shall be appointed by the Governor.

(2) The Secretary shall keep record of all correspondences, memorandums minutes of meetings and carry out such duties as the General Manager may from time to time assign.

57. Removal of General Manager and the Secretary of the Authority

Notwithstanding the provisions of section 54 of this law, the General Manager and Secretary of the authority shall cease to hold office if:

- (a) he resigns his appointment by notice under his hand addressed to the Governor;
- (b) he becomes of unsound mind;
- (c) he becomes incapable of carrying on the functions of his office either arising from infirmity of mind or body;
- (d) he is convicted of a felony or of any offence involving dishonesty or corruption;
- (e) he becomes bankrupt or makes compromise with his creditors;
- (f) the Governor is satisfied that it is not in the interest of the authority or of the public for the person to continue in office and the Governor removes him from office;

(g) he has been found guilty of a breach of the code of conduct or other serious misconduct in relation to his duties;

58. Other Staffs

The Governor shall have power to appoint such other staff of the authority on the recommendation of the Commissioner in consultation with the General Manager and determine the condition of service of such other staff.

59. Remuneration of Secretary and Other Staff

The Secretary and other staff shall be paid such remuneration and allowances as may be determined by the Governor on the recommendation of the Commissioner in consultation with the General Manager

60. Appointment of Legal Officer

There shall be a Legal Officer attached to the authority, seconded from the State Ministry of Justice as a Legal Adviser for the Authority.

61. Power to establish and maintain departments

The General Manager shall have power to establish and maintain such departments, subsidiary division and sections; and to devise and use such formats and follow procedure and make all other administrative arrangements as may in the opinion of the Authority be necessary or expedient for the performance of its functions under this Law

62. Functions of Building Control Agency

The Building Control Agency will be responsible for the -

- (a) enforcement of building control regulations;
- (b) regulation and inspection of building works and, certification of various stages of building construction and keeping of such records;
- (c) removal of illegal and non-conforming structures;
- (d) identification and removal of distressed buildings to prevent

collapse;

- (e) issuance of Certificate of completion and fitness for habitation.
- (f) provision of building services such as material evaluation and testing, fire and public health control;
- (g) establishing Local Building Control Offices in cooperation with the Local Governments and Local Council Development Area for the discharge of its functions at the Local Government level with the approval of the Governor on the recommendation of the Commissioner;
- (h) administration of building construction control in all its ramifications;
- (i) conduct research in building construction, maintenance and control;
- (j) cooperating with the Planning Permit Authority to achieve zero tolerance of illegal developments;
- (k) operational control and supervision of its Building Control Offices;
- (l) enforcing the provisions of this Law and any regulations made under this Law in respect of inspection of buildings, verification and certification of building insurance;
- (m) carrying out of public enlightenment on building control; and
- (n) exercising other powers as may be conferred on it by this Law and the Regulations made under this Law.

63. Building Insurance

- (1) A developer or owner of a construction involving a structure of more than two (2) floors will, at the time of submitting his application to commence building works to the Building Control Agency, submit a General Contractors All Risk Insurance Policy Certificate.
- (2) An owner or occupier of a building will within thirty (30) days of service of demand notice, produce the Certificate of Insurance to the Building Control Agency for verification and on an annual basis.

(3) An owner of a building or structure existing and in use before the commencement of this Law will, within three (3) months of its commencement, submit the Certificate of Insurance to the Building Control Agency for verification.

64. Removal of Unlawful Structure

(1) Where any person carried out or caused to be carried out any development of land or the construction, demolition, alteration, extension, or repair of any building without an interim planning permit granted. The agency may by notice require him within the time specified in that notice, to abate such work, remove any structure constructed as a result of such work to the state in which it was prior to such work and such person shall comply with the requirements of the Agency.

(2) If such person shall fail to comply with the requirement of the agency, the agency may itself remove such structure or reinstate such land or building to its own original state prior to such work and the cost incurred by the Agency in that regard shall be paid to the agency by such person and recoverable by the agency as a civil debt.

65. Annual Estimates

The Agency shall cause to be prepared, not later than 30th September of each year, an estimate of its income and expenditure for the succeeding year.

66. Funds of Agency

The Agency shall establish and maintain a fund which shall consist of and to which shall be credited:-

(a) monies appropriated by the House of Assembly for the capital and recurrent expenditure of the Agency.

(b) all other monies as may from time to time, be granted to the agency by the State Government or donor agencies, provided such grants are not intended for purpose contrary to the objects and functions of the agency.

67. Account and Audit

The Agency shall ensure proper accounts and records are kept and such accounts shall not later than 6 (six) months after the end of each year, be audited by auditors appointed by the Governor from the list of approved auditors on the recommendation on the Auditor-General of Kwara State.

68. Annual Report

(1) The Agency shall prepare and submit to the Commissioner, once every year, a report in such form as the Commissioner may direct on the activities of the Agency during the last preceding financial year and shall include in the report a copy of the audited accounts of the Agency for that year and of the auditor's report on the account.

(2) The Commissioner shall cause a copy of each report made to him under this section to be laid before the State Executive Council.

PART 4

ENFORCEMENT

69. Enforcement Notices

Enforcement Notices includes the following-

- (a) Contravention Notice;
- (b) Stop Work Order;
- (c) Quit Notice;
- (d) Seal-up Notice;
- (e) Regularisation Notice; and

- (f) Demolition Notice

70. Service of Enforcement Notices by relevant agency

(1) The relevant agency may serve Enforcement Notices on the owner of a private or public, residential, commercial, industrial, institutional, recreational or any other land use wherever any development is commenced without Planning Permit and building control authorisation or, where the building constitutes danger to the occupier or public or, where the building is affected by a renewal programme.

(2) An Enforcement Notice may be issued under subsection (1) of this section, notwithstanding that the unauthorized development, renovation, alteration, repair or addition took place before the commencement of this Law.

(3) An Enforcement Notice served under subsection (2) may direct the developer or owner to obtain Planning Permit or building control authorisation to alter the structure to be in conformity with building regulations within ninety (90) days of the Contravention Notice.

(4) An Enforcement Notice served under subsection (1) of this section may direct the developer or owner to alter, discontinue or remove a development.

71. Conditions in order to alter, vary, etc.

- (1) Before serving an Enforcement Notice in accordance with the provisions of subsection (3) of section 52, the relevant agency will-
- (a) have regard to the existing conditions for granting a Planning Permit;
 - (b) have regard to the likely environmental degradation or impact of development carried out or being carried out; and
 - (c) consider the overriding public interest without prejudice to paragraph (b) of this subsection.

- (2) The relevant agency may impose additional conditions as it may deem fit in each circumstance.

72. Requirement for Enforcement Notices

An Enforcement Notice served under section 60 by the relevant agency will:-

- (a) Be in writing and addressed to the developer or owner;
- (b) State the reasons for the proposed action of the relevant agency;
- (c) Give time deadlines for response to the notice;
- (d) Consider any representation made by a developer or owner, or on behalf of a developer or owner.

73. Address of Enforcement Notices

- (1) The notice will be addressed to the owner, occupier, builder, contractor or those responsible for the illegal structure, works or development and is deemed to have been duly and validly served by pasting or affixing such notice and marking on any part of the structure, premises or when handed to any representative of the developer found at the site.
- (2) Where service of notice is effected by pasting or affixing on any part of a structure or premises, the person effecting service will make photographic evidence of the pasting or fixing of the notice.

74. Enforcement of Order

The relevant agency can enforce an order of the Appeals Committee or of the High Court of Kwara State against a developer or holder for the time being of a Planning Permit who fails to comply with such an order.

75. Liability for expenses

A developer or holder for the time being of a Planning Permit must be liable for the expenses reasonably incurred by the relevant agency or any of its officers or agents, as the case may be; in enforcing the provisions of this Law.

76. Stop Work Order

- (1) Where it appears to the relevant agency that-
 - (a) an unauthorised development is being carried out; or
 - (b) a development does not comply with a Planning Permit issued by the relevant agency; or
 - (c) a development is defective or poses danger to the owner, contractor, occupier, or the public or, constitutes a nuisance to the occupier or public, the relevant agency will issue a Stop-Work Order on the owner, occupier, or contractor or holder for the time being of a development pending the service of any other Enforcement Notice, and such owner, occupier, etc., will immediately cease any further development or use of the development.
- (2) where a development or use is a minor development or use, the relevant Agency will have the power to order the developer to discontinue, alter, or remove the development or use.

77. Extension of Stop Work Order

Where an Enforcement Notice is served in respect of a development to which a stop work order is served, the Appeals Committee may on the application of the relevant agency extend the period of time for which a stop work order remains in force.

78. Effect of Enforcement Notices

Every Enforcement Notice served as provided in this Law takes immediate effect on service on a developer, occupier, contractor or owner of the development for the time being.

79. Penalty

A person who fails to comply with the terms of the Enforcement Notice issued and served under this Law is guilty of an offence and liable on conviction to a fine as specified in this Law and Regulations made under this Law.

80. Power of relevant agency on contravention

- (1) Where a developer contravenes the provisions of this Law or any Regulation made under it, the relevant agency has power to require the developer to-
 - (a) submit an application for Planning Permit and building control authorization; or
 - (b) carry out such alterations to the building as may be necessary to ensure compliance; or
 - (c) pull down the building; or
 - (d) reinstate a piece of land to its prior state.
- (2) Where a developer fails to comply with the provisions of subsection (1) of this section, the relevant agency shall carry out demolition of the structure without further notice, and recover cost of demolition from owner or developer.
- (3) Where the owner or developer refuses to pay the cost of demolition within three (3) months of service of a demand notice, such property will be forfeited to the Kwara State Government.

81. Defective Structures

- (1) The Building Control Agency will have powers to serve on a developer or holder for the time being of a Planning Permit, a demolition notice if a structure erected by the developer or holder of the permit is found to be defective as to pose danger constitute a nuisance to the occupier or public.

- (2) Notice served in subsection (1) of this section will contain a date not later than twenty-one (21) days on which the Building Control Agency will take steps to commence demolition of the defective structure.

82. Power of Building Control Agency to demolish defective buildings

- (1) After the expiration of the time specified in the notice served under subsection (2) of section 40 of this Law, Building Control Agency can demolish the defective structure and recover cost of demolition from the owner or developer.
- (2) Where the owner or developer refuses to pay the cost of demolition within three (3) months of service of a demand notice, such property will be forfeited to the State Government.

83. Power of the agency over abandoned buildings

The relevant agency will have power over any abandoned building in the State in the following ways-

- (a) seal up the property to prevent its conversion by unauthorised persons;
- (b) unseal the property upon satisfaction that it is structurally stable; or
- (c) unseal the property where the owner or developer submits a written application supported by an affidavit that he is ready to continue further development or re-occupy the building within fourteen (14) days of the unsealing; or
- (d) make the owner of the structure pay penal fees to be determined from time to time before such structure is unsealed.

84. Forfeiture of property on collapse of building or structure

In the event of the collapse of any property or structure due to the negligence on the part of the owner, or the developer, such property will be forfeited to the State Government after due investigation and or publication in the State official Gazette.

85. Offences and Penalties

- (1) A person who contravenes the provisions of this Law and Regulation made pursuant to this Law is guilty of an offence and liable on conviction to a fine not exceeding the sum of Two Hundred and Fifty Thousand Naira (N250,000.00) or one (1) month of community service or both.
- (2) A person who breaks any seal or, removes any marking placed upon any property by or with the orders of the relevant agency commits an offence, and will on conviction be liable to a fine not exceeding the sum of Five Hundred Thousand Naira (N500,000.00) or two (2) months community service or both.
- (3) A person who fails to insure his building as required under this Law commits an offence and shall on conviction be liable to a fine not exceeding the sum of Five Hundred Thousand Naira (N500,000.00) or one (1) month community service or both.
- (4) Subject to any restrictions or conditions prescribed by the Constitution or any other law, a Magistrates' Court has jurisdiction and powers in respect of trial of offences contained in this Law or Regulations made pursuant to this Law.
- (5) Where any cost is incurred by the relevant agency in the course of demolition or removal or enforcement of compliance, such cost is assessed and communicated in writing to the owner, builder, developer, occupier or any other person responsible for the illegal structure demanding for reimbursement of the cost.
- (6) A person who fails to pay the assessed cost of demolition is guilty of an offence and be liable to a fine not exceeding the sum of One

Hundred Thousand Naira (#100,000.00) or one (I) month of community service in addition to the payment of the assessed cost referred to in subsection (5) of this section.

- (7) Where an offence under this Law is committed by a body corporate, the fine on conviction will be twice the fine imposed for the commission of such offence or payment of a fine not exceeding the sum of Two Hundred and Fifty Thousand Naira (#250 000.00) where there is no option of fine.
- (8) Where the act constituting an offence under this section continues after the service of the relevant notices, the offender on conviction in addition to the penalty for the offence is liable to additional fine not exceeding One Hundred Thousand Naira (#100,000.00) for every day the offence continues.
- (9) For the purpose of this section, 'any person' includes an owner, his servants, agents or privies, a developer, an independent contractor, architect, engineer or builder and each of these persons who knowingly participated in contravening the provisions of this Law or any Regulation made under this Law.

86. Failure of staff to comply with this Law

Any officer /staff of the agency or authority established by this law who contravenes any of the provisions of the in carrying out his /her duties shall face disciplinary actions under the civil service rules or any regulations guiding his employment.

PART 5

Acquisition of land

87. Power to acquire land

- (1) Where it appears to the Commissioner that it is necessary to obtain any land in connection with planned urban or rural development in accordance with the policies and proposals of any Operative Development Plan, any right of occupancy subsisting on that land may be revoked on recommendation to the relevant agency.
- (2) A right of occupancy referred to in subsection (1) of this section will be revoked only in accordance with the relevant provisions of the Land Use Act.

88. Facilitation and Execution of Operative Development plan

Notwithstanding any provision of this Law, the relevant agency may, when it deems it necessary —

- (a) facilitate the execution of the Operative Development Plan;
- (b) make payment or reasonable compensation to any person who had developed or who is carrying on lawful development who sustains a damage or suffers any loss, while if his land is affected by-
 - (i) injurious affection; or
 - (ii) disturbance; or
 - (iii) displacement, in order to give effect to any provisions of this Law or Regulations made under the Law.

PART 6

Appeals and other matters

89. Establishment of Appeals Committee

There is established a body to be known as the physical Planning and Building Control Agency Appeals Committee (referred to in this Law as "the Appeals Committee").

90. Composition of the Appeals Committee

- (1) The chairman and members of the Appeals Committee will be appointed by the Governor on the recommendation of the relevant professional bodies.
- (2) The Appeals Committee comprises of;
 - (a) The Chairman who will be a registered professional in the built environment with at least fifteen (15) years' cognate post registration experience.
 - (b) The following members who will be registered members of the relevant professional bodies with not less than ten (10) years cognate post registration experience--
 - (i) a town planner,
 - (ii) an architect,
 - (iii) a legal practitioner,
 - (iv) an engineer,
 - (v) a land surveyor,
 - (vi) a builder,
 - (vii) an estate surveyor and valuer,
 - (viii) a quantity surveyor,
 - (ix) a representative of the Ministry of Housing and Urban Development,
 - (x) two (2) members of the public of suitable standing and not members in the built environment profession, and
 - (xi) a secretary who will be a registered Town Planner in the Civil Service of the State and not less than Grade Level 14.

91. Functions of the Appeals Committee

The functions of the Appeals Committee includes:-

- (a) investigation of petitions sent to it on Physical Planning, Regeneration or Building Control matters;
- (b) consideration of appeals from members of the public on the decisions of the relevant agency;
- (c) recommendation of appropriate remedial action;
- (d) submission of an annual report to the Commissioner; and
- (e) advise on matters referred to it by the Commissioner or relevant agency or other Departments and agencies of government and the general public,

92. Powers of the Appeals Committee

The Appeals Committee will have powers to—

- (a) investigate and decide on-
 - (i) all public complaints concerning decisions on development permit application, Development Plans, layouts or schemes, change of use, approval-in-principle, demolition, conduct of planning or building control officials, and service of notices; and
 - (ii) disputes arising from compensation or other matters affecting physical planning and development and building control in the State.
- (b) Invite any member of the public including officials for of carrying out its investigation for the purpose of obtaining information or advice;
- (c) Call for documents, plans, schemes, files, in the course of its investigation
- (d) Consult the Physical Planning Law and Regulations of the State in its proceedings;

- (e) Recommend the suspension of further physical development activities in a building, site or premises the subject of investigation; and
- (f) Enter any building, site or premises the subject of investigation.

93. Recommendations of the Appeals Committee

The Appeals Committee will make recommendations for the consideration of the Governor through the Commissioner.

94. Proceedings of the Appeals Committee

- (1) The Appeals Committee will regulate its own proceedings, operations and meetings.
- (2) Quorum will be by a simple majority of the members of the Appeals Committee.

95. Sittings of the Appeals Committee

- (1) The Chairman of the Appeals Committee will cause a sitting of the Appeals Committee once a month or as may be deemed necessary to hear appeals,
- (2) The aggrieved owner, occupier, developer or interested party may attend sitting of the Committee and be heard personally or through authorized representatives.

96. Remuneration and Allowances

The Chairman and members of the Appeals Committee will be paid such remuneration and allowances as may be approved by the Governor.

97. Tenure of office of the Appeals Committee

- (I) The Chairman and members of the Appeals Committee will hold office for three (3) years and be eligible for re-appointment for another term

of three (3) years by the Governor on the recommendation of the Commissioner.

- (2) The office of the Chairman or a member becomes vacant if:-
 - (a) the Chairman or a member has completed his tenure of office;
 - (b) resigns appointment in writing to the Governor through the Commissioner;
 - (c) without good cause is absent from sittings for the hearing of an appeal referred to the Committee on three (3) consecutive occasions;
 - (d) is adjudged bankrupt by a court of competent jurisdiction;
 - (e) is so incapacitated either by reason of illness or otherwise becomes incapable of attending meetings of the Committee;
 - (f) is adjudged to be of unsound mind;
 - (g) appointment is terminated by the Governor In the interest of the public;
 - (h) is found guilty of professional misconduct by the relevant professional registration council in Nigeria; and
 - (i) is convicted of corruption by a court of law.
- (3) The office of the Chairman or member will also be vacant by reason of good cause.
- (4) For the purpose of subsection (3) of this section "good cause" means:-
 - (a) failure to disclose a professional involvement in the case before the Appeals Committee at its earlier or prior stage; and
 - (b) having direct or indirect proprietary or pecuniary interest in the case before the Appeals Committee.

98. The Secretariat

The Office of the secretary will serve as the Secretariat for the Appeals Committee.

99. Appeal against decisions of the Committee

- (1) An aggrieved person or any interested party may appeal against the decision of the Appeals Committee, and such appeal must be made within twenty-eight (28) days after notification of the final decision of the Committee has been communicated.
- (2) An appeal against the decision of the Appeals Committee lies as of right to the High court of the State, and the appeal must be made within twenty-eight (28) days after written notification of the final decision of the Committee.

100. Establishment of the Technical Advisory Committee

There is established a body to be known as the Technical Advisory committee on Physical planning and Building control (referred to in this Law as "the advisory committee").

101. Composition of Advisory committee

The Advisory Committee comprises:-

- (1) The Chairman and members of the Advisory committee will be appointed by the Governor on the recommendation of the relevant professional bodies.
- (2) The Chairman who will be a registered professional in the built environment with at least fifteen (15) years' cognate post registration experience.
- (3) The following members who will be registered members of the relevant professional bodies with not less than ten (10) years cognate post registration experience-
 - (a) a town planner;

- (b) an architect;
- © a legal practitioner;
- (d) an engineer;
- (e) a land surveyor;
- (f) a builder;
- (g) an estate surveyor and valuer;
- (h) a quantity surveyor;
- (i) two (2) members of the public of suitable standing and not members in the built environment profession;
- (j) a representative of the Ministry of Housing and Urban Development of not less than a director grade level; and
- (k) a secretary who shall be a registered member in the building environment profession and a serving officer in the Civil Service of Kwara state and of not less than Grade Level 14.

102. Function of the Advisory Committee

The Advisory committee may make recommendations and give advice for the proper carrying out of the provisions of this Law with respect to all or any of the following matters-

- (a) implementing operative Development plans in the State;
- (b) the fees payable in respect of any application for Planning Permit and Building Control Agency and other incidental matters;
- © granting exemption from any fees;
- (d) fees payable for service rendered by the relevant agencies directing the time and place of payment of such fees;
- (e) forms of all notice required to be given or sent under this Law and the issuance and service of same;
- (f) the control, whether by prohibition or otherwise of a Development Plan;
- (g) the regulation of the operation of Physical Planning and Building Control activities;
- (h) submission of an annual report to the Commissioner;

- (i) advise on matters referred to it by the Governor through the Commissioner or relevant agency or other departments and agencies of government and the general public; and
- (j) any other matter incidental to Physical planning and Building control activities in the state.

103. Proceeding of the Advisory Committee

- (1) The advisory Committee will regulate its own proceeding, operations and meetings.
- (2) Quorum will be by a simple majority of the members of the Advisory Committee.

104. Sittings of the Advisory Committee

- (1) The Chairman of the Advisory Committee will call a sitting of the Committee once a month or as may be deemed necessary to consider issues relating to its functions.
- (2) The aggrieved owner, occupier, developer or interested party may attend sittings of the Advisory Committee and be heard either personally or through authorized representatives.
- (3) The Advisory Committee may invite interested persons with or without request by such persons to attend its sittings for the purpose of obtaining information or advise.

105. Remuneration and allowances

The Chairman and members of the Advisory Committee will be paid such remuneration and allowances as may be approved by the Governor.

106. Tenure of office of the Advisory Committee

The Chairman and members of the Advisory Committee will hold office for three (3) years and may be eligible for re-appointment for another term of three (3) years by the Governor on the recommendation of the Commissioner.

107. Cessation of Office

- (1) The office of the Chairman or a member shall become vacant if-
- (a) the Chairman or a member has completed his tenure of office;
 - (b) the Chairman resigns in writing to the Governor through the Commissioner;
 - (c) without good cause, he is absent from sittings of the Committee on three (3) consecutive occasions;
 - (d) the chairman is adjudged bankrupt by a Court of competent jurisdiction;
 - (e) the chairman is so incapacitated either by reason of illness or otherwise as to make him capable of attending meetings of the Committee;
 - (f) the Chairman is adjudged to be of unsound mind;
 - (g) the appointment is terminated by the Governor in the interest of the public;
 - (h) the Chairman is found guilty of professional misconduct by the relevant professional registration council in Nigeria; or
 - (i) the Chairman is convicted of corruption by a Court of law.
- (2) The office of the Chairman or member will also be vacant by reason of good cause.

108. The Secretariat

The Office of the Secretary will serve as the secretariat for the Advisory Committee.

109. Power to make regulations

(1) The Commissioner, on the recommendation of the relevant Agency, may make regulations for the purposes of carrying into effect the provisions of

this Law including implementing development planning relating to the following-

- (a) the format, scales, standard, notations and matters to be included and covered in all types of physical development plans;
- (b) the format, documents, survey plans, development plans and matters to be dealt with in all applications for building permit;
- (c) the form and content of the comprehensive records that must be kept of all applications for building permit; and
- (d) prescribing in particular the fees payable in respect of any application for building permit and other matters incidental to it.

(2) The commissioner has power to make regulations determining the forms and contents of physical development plans in the State and the said power comes within the following-

- (a) outline development plans as specified in the first schedule to this Law;
- (b) the mode of objection to physical development plan or scheme;
- (c) the preparation of schemes by relevant agencies of the state and the execution of such schemes;
- (d) applications for grants of physical planning and building control authorization; and
- (e) to set standards of building work for construction of buildings and structures with documents containing practical and technical guidance on compliance.

(3) The commissioner has power to make regulations on the recommendations of the building control agency for the regulation of building standards and any matter incidental to it.

(4) The commissioner has power to make regulations for the location, position, dimensions, appearance, display, and manner in which urban furniture is affixed to land.

110. Savings

Subject to the provisions of this Law, any Planning Permit granted in respect of any Physical development in any part of the state before the commencement of this Law, is deemed valid.

111. Repeals

Town Planning and Development Authority Law Cap T2 KWSL No 4 of 2006 is repealed.

112. Interpretation

In this Law, unless the context otherwise requires----

“Abandoned Building” includes an existing previously occupied but vacated building and, left in that condition for a period of up to five (5) years, or a building which is under construction but on which has ceased for up to five (5) years;

“Commissioner” means the Commissioner who for the time being is charged with the responsibility for Physical Planning, Building Control and Urban development;

“Constitution” means the Constitution of the Federal Republic of Nigeria 1999 as amended;

“Developer” means a builder, contributor, creator, and pioneer;

“Development” means----

- (i) The carrying out of any building, mining, or other operation in, on, over, or under any land, or
- (ii) The making of any material change in use of any land building or structure, or
- (iii) Conversion of land, building or structure from its established or approved use, or

- (iv) Placement or display of urban furniture on the land, on building or structure, or
- (v) Making of any environmentally significant change in use of any land; and
- (vi) Demolition of building including felling of trees;

“Development Plans” means details, drawings and specifications for a development rendered at appropriate scales, dimensions and sizes as prescribed by the regulations made pursuant to this Law;

“Gazette” means Kwara State Government Official Gazette;

“Good cause” means failure to disclose a professional involvement in any matter before the Advisory Committee; having direct or indirect proprietary or pecuniary interest in any matter before the Advisory Committee;

“Governor” means Governor of Kwara state;

“Land” includes land covered with water and everything attached to the earth or permanently fastened to anything which is attached to the earth and also chattels real, and tenures of every description and any interest in it, and undivided shares of land;

“Ministry” means Kwara State Ministry of Housing and Urban Development;

“Operative Development Plan” means any plan that has formally been endorsed for implementation;

“Person” means an applicant for or holder of development permit under this law and includes for the avoidance of doubt, an owner, his servant or agent, consultants, an independent contractor or a builder or a corporate or an unincorporated body registered under the relevant Acts;

“Relevant agency” means the Kwara State Physical Planning and Urban Development Authority, the Kwara State Building Control Agency and any other bodies that may be created under this Law;

“Rehabilitation” means a planning process whereby individual structures are improved to meet established building standards and criteria. It can also be called Renovation Scheme;

“Redevelopment” means a planning process where an existing old and decayed settlement or neighborhood which has been declared a blighted area is completely pulled down and redeveloped from scratch and thereby creates a new and modern development in replacement of the old one;

“Renovation” means to rebuild, reclaim, recondition, reconstruct, rehabilitate, reinstate, rejuvenate, restitute, and restore a building (excluding painting);

“State” means the Kwara State Government

“Special Building Project” includes refineries, petrochemical plants or complex storage/holding tank farms, container/bonded terminals and other development that may be classified by the relevant agencies as special building project;

“Urban furniture” includes those entire physical structures place on a landscape and affixed to the land distinct from actual building and, includes nus stop shelter, telecommunication antennae, mast and towers, cables and pipes, street neon sign, advertisement billboards, light statue, artifact placement, fountains and, direction finders;

“Urban Renewal” means a planning process geared towards a physical improvement of existing urban settlement to eliminate blight by any of the following methods; redevelopment, upgrading or regeneration or, rehabilitation, preservation and conservation;

“Up-grading” or **“regeneration”** means a planning process where an existing but decaying urban area is improved in parts to meet established physical planning;

“Waste Land” includes land which for the time being is unworkable and includes burrow pit, land degraded by erosion, abandoned by waste dumps and land liable to flooding.

113. Citation and commencement

This Bill may be cited as the Kwara State Urban and Regional Planning and Development Bill, 2016.

FIRST SCHEDULE

COMPREHENSIVE (MASTER) DEVELOPMENT PLANS, FUNCTIONS

PART 1

1. The main function of Comprehensive Development Plan is to present the Kwara State Government's broad intentions for the use and development of all areas within its jurisdiction in such a manner as to provide a statutory framework minimum standards and guidance for-
 - (a) the preparation of State, Metropolitan, and District other more detailed plans;
 - (b) the administration of the development plans and development control system.

PART 2

MATTERS TO BE DEALT WITH AND SCALE OF MAPS

1. Scale

Scale of Maps for comprehensive development plans (Regional, State, Metropolitan Areas, will be prepared to vary from 1:20,000 to 1:100,000.

The appropriate Authority may approve deviation for specific reasons;

Scale of Maps for Development Plans for small and medium towns varies from 1:5,000 to 1:10,000

2. Socio-economic opportunities

Provisions of social and economic opportunities appropriate to the employment, housing welfare and needs of the future populations.

3. Natural resources and environment

The identification, preservation and development of natural resources including water, soil, air and other natural systems, farmlands, forests, fisheries, mineral (including sand, metal, gravel and brick clays) and areas of value for the enjoyment of nature and the landscape.

4. Population

The general location of present and future developments and population distribution including:-

- (1) The pattern and general form of urban and rural population distribution;
- (2) General identification of existing urban pattern, areas for future urban growth and expansion and areas for comprehensive development programmes for land assembly, development and disposal;
- (3) General land use pattern by broad areas of existing and planned future (20 years ahead)-
 - (a) residential areas and their design population;
 - (b) industrial and commercial areas and their work force capacities;
- (4) General identification of rural land and resources to provide all the fresh water and most of the fresh food requirements for the future population and adequate green belts to contain the metropolis and state as an entity; and
- (5) General identification of areas to be excluded from future urban development, including land of high productive capability, land subject to hazards such as flooding and earth subsidence, land with high activities of recreational value and land to separate and to enhance the environments and individuality of urban complexes and Local Government Areas.

5. Transportation

Assessment of the present transportation system for projection of future demands and proposals to meet them with specific reference to the location and capacities of-

- (a) Major highways;
- (b) Mass transit railways or mono rails;
- (c) Waterways; and
- (d) Air traffic corridors

6. Recreation

The present provisions and future needs for active and passive recreational facilities including standards for their provisions in district plans and development plans.

7. Education

Assessment of the standards and provisions of existing facilities and estimates of future needs and standards for the provision of :-

- (a) Primary schools;
- (b) Secondary schools;
- (c) Polytechnics; and
- (d) Universities.

8. Health

Assessment of existing facilities and future requirements and standards for-

- (a) Health or medical centres including dentists;
- (b) Clinic including maternity services;
- (c) Specialist hospitals (private and public); and
- (d) General hospitals

9. Communal facilities/ amenities

Assessment of existing facilities and future requirements and standard of provision for-

- (a) Civil, entertainment and commercial facilities;
- (b) Police, fire and ambulance services;
- (c) Refuse disposal sales and systems; and
- (d) Cemeteries and crematoria

10. Cultural facilities and amenities

Assessment of existing facilities and future requirements and standard of provision for-

6. Recreation

The present provisions and future needs for active and passive recreational facilities including standards for their provisions in district plans and development plans.

7. Education

Assessment of the standards and provisions of existing facilities and estimates of future needs and standards for the provision of :-

- (a) Primary schools;
- (b) Secondary schools;
- (c) Polytechnics; and
- (d) Universities.

8. Health

Assessment of existing facilities and future requirements and standards for-

- (a) Health or medical centres including dentists;
- (b) Clinic including maternity services;
- (c) Specialist hospitals (private and public); and
- (d) General hospitals

9. Communal facilities/ amenities

Assessment of existing facilities and future requirements and standard of provision for-

- (a) Civil, entertainment and commercial facilities;
- (b) Police, fire and ambulance services;
- (c) Refuse disposal sales and systems; and
- (d) Cemeteries and crematoria

10. Cultural facilities and amenities

Assessment of existing facilities and future requirements and standard of provision for-

- (a) Cultural facilities including libraries, auditoriums, museums, art galleries, theatres, cinemas, and public halls;
- (b) Resort areas, camps and sporting facilities including sport stadia and race courses;
- (c) Zoological and botanical gardens;
- (d) Shrines, mosques and churches.

11. Regulations and standards

Comprehensive Development Plans includes regulations and standards which define the scope and limits within District Plans and other Developments Plans are to be framed and drafted. These include the following-

(a) Definition of the main planning zones and the main types of developments and uses that are permissible and departure developments and uses within them plus certain, but not all restrictions and conditions that may be imposed by the planning permit authority on departure planning permissions;

(b) Planning Regulations defining-

- (i) requirements for the provision of formed streets, provisions of site and service,
- (ii) formation, minimum requirements for dwellings units of various types including sizes, service cores, room sizes, ceiling height and day lighting or ventilations,
- (iii) building site requirements and limitations, minimum building lines, airspaces, and maximum coverages, height and plot ratios, for the main types of residential, commercial, industrial and institutional developments in defined use zones.

(c) The Building Regulations defining-

- (i) guidance documents that contain practical ways and explanations of how to comply with the functional requirements of the building control,
- (ii) requirements for structural stability of buildings,
- (iii) requirements for fire safety in the construction of building,
- (iv) requirements for site preparation and resistance to contaminants and moisture,

- (v) requirements for protection against sound from other parts of the building and adjoining buildings,
 - (vi) requirements of adequate ventilation in the buildings,
 - (vii) requirements for sanitary conveniences and washing facilities in the building,
 - (viii) requirements for toxic substances and cavity insulation within buildings,
 - (ix) requirements for drainage and waste disposal,
 - (x) requirements for cool and hot air appliances in a building,
 - (xi) requirements for stairs, ladders, ramps and guards in a building,
 - (xii) requirements for conservation of fuel and power,
 - (xiii) requirements for access and use of buildings,
 - (xiv) requirements for glazing safety in relation to impact, opening and cleaning in buildings, and
 - (xv) requirements for electrical safety in buildings.
- (d) Defined requirements for sub-division of land and the partitioning of buildings including-
- (i) minimum and maximum building site requirements for the type of buildings to be construct on them,
 - (ii) offences and penalties for illegal developments, and
 - (iii) the new requirement for change of use of land and building.

12. Programming

In presenting policies and strategies, the development plan may indicate the scale sequence, timing and relative priority in developments.

13. Implementation

The Development Plan will include the following as may be appropriate-

- (a) levels of service and operating policies for public utilities, services and facilities;
- (b) amount, type and source of financial and other resources necessary.

© identification of the bodies and agencies requirement for implementation.

SECOND SCHEDULE DISTRICT PLANS

Functions

1. The primary function of District Plan is to interpret the policies and requirements of Comprehensive Development Plan and present a clearer indication of the future disposition of major uses, development patterns and population distribution in the areas of their jurisdiction. They should present an indication of the phasing and timing of development, provision of service and population growth.
2. They provide a clear frame work and guide for the formation of more detailed planning proposals and the preparation of all types of developments.

PART 2

REQUIREMENTS

1. District plans must conform with all the requirements and minimum standards of Comprehensive development Plans in so far as they pertain to the area.
2. Draft District Plans will be prepared by Planning Permit Authority and will be displayed for public scrutiny, comments and objections, hearing and deciding on objections after which it will be submitted to the Commissioner of Physical Planning and Urban Development for approval.

PART 3

MATTERS TO BE DEALT WITH IN DISTRICT PLANS

1. District plans covers all relevant matters referred to in Comprehensive Development plan, which are operative and applicable in their areas, in more specific and detailed terms, if appropriate. Scales of maps to be used are to vary from 1:5,000 to 1:10,000 and the Development Permit Authority may approve deviation for specific reasons.
2. District plans comprises written statements and such plans, diagrams, schedules and tables as maybe required to clearly portray their intentions.
3. They will provide assessments of existing conditions, constraints, and potentials in its area, based on sound and updated survey data.
4. They will provide assessments of existing and future design, residential populations and employment opportunities within defined neighbourhoods and zones.
5. They will, where appropriate provide plans at suitable scales indicating the appropriate provisions and disposition of-
 - (a) main roads, footways, cycle-ways, railways, monorail, ferry routes and other means of transportation;
 - (b) drainage and utility reserves, area where urban development is restricted or prohibited, green belts, wooded and amenity areas to be preserved;
 - (c) resident's zones (A, B, C & D as appropriate) and the type, form and intensity for development permitted in them, their residential densities and design populations;
 - (d) mixed use, commercial, residential zones and type, form and intensity of development permitted in them and their design populations;
 - (e) commercial zones and type, form and intensity of development permitted in them and their design population;
 - (f) industrial zones (a, b, c & d as appropriate) and the types, forms and intensities of uses permitted by them;
 - (g) district, government, institutional and community use zone and the type of uses permitted in them, where specific use have been determined for sites, these should be annotated;

- (h) district open space zones and the recreational facilities provided in them;
 - (i) specified use zones which should indicate those major uses which are likely to provide public comment or objection or which have extraordinary, restrictions such as cemeteries, abattoirs, refuse tips and reclamations, petrol fitting and gas stations.
 - (j) schedules of design populations and residential densities for all zones with residential elements and the design population for total areas.
6. They shall provide schedules, regulations and standards to-
- (a) the provision to be made at local level within any or all of the above-mentioned zones for;
 - (i) local community facilities (including educational),
 - (ii) local open spaces and recreational area,
 - (iii) local pedestrian and vehicle access,
 - (iv) any other local facilities as may be appropriate,
 - (b) land sub-division and building partitioning regulations;
 - (c) planning, building regulations for all zones including site coverage, building heights, building lines and pilot ratios;
 - (d) regulations relating to excavation and contouring of the ground, the provision of landscaping, fences, wall or barriers;
 - (e) regulation controlling advertising displays and urban furniture;
 - (f) regulations relating to the location, design and appearance of roads, streets, pedestrian ways, railways, monorails, cycle-ways and water ways;
 - (g) regulations controlling effluents; and
 - (h) such other regulations as any be necessary or appropriate in the District.

7. They indicate the assessed scale, sequence and timing of development and population growth and the priorities for the provision of excess and community facilities.

THIRD SCHEDULE

LOCAL AND TOWN PLANS

1. Functions

Functions of local or town plans includes the following:-

- (a) to complement parts or all of Districts Plans and to indicate in great detail and on plans at large seals the disposition of all uses and facilities that are required for comprehensive and complete development for a specified area and design population; and
- (b) to provide guidance for the administration of the proposed development permit and building control system.

2. Requirements

Requirement for Local and Town plans:-

- (a) the Local and Town plans must conform with all the requirements and minimum standards of operative State and Metropolitan Master plan in so far as they pertain to the area;
- (b) the Local and Town plan must comply with all the requirements and standards of Operative District Plans for the area, where they exist;
- (c) all development plans prepared by the relevant agency or any other agency, corporate body or individual must be processed for statutory approval after adoption at the district level.

3. Scope

Matters to be shown on Local or Town plans or included in their schedules will be :-

- (a) roads, footways, cycle-ways and other means of transportation;
- (b) drainage and utility reserves, areas not to be used for development green belts and amenity areas;

- (c) zones for various classes of uses;
- (d) possible patterns of land sub-divisions;
- (e) specific sites for state Government's institutional and community facilities;
- (f) specific area for open space and recreational uses;
- (g) sites for other specified uses;
- (h) the design population and net site and gross residential densities;
- (i) the number of dwelling units and their total gross floor area, residential plot ratios, site coverage etc., relating to residential buildings sites should also be shown;
- (j) sites formation requirements, level and key distinctions of building platforms and formed sites, roads and drains, extent of cutting, better slopes, and other necessary engineering information;
- (k) such other matters as may be necessary to indicate the type and form of actual development of the area.

4. Notes

- (a) these plans indicate optional layouts of their areas providing all the required facilities. Private developers or other interested parties could produce equally suitable layouts in their draft Comprehensive Development Plans which may be more attractive to their sponsors for financial or other reasons and this will be processed for statutory approval.
- (b) should each alternative option arise, they should not be dismissed but considered on merits and accepted if they would expedite development and meet a demand.
- (c) the machineries for reviewing and amending adopted outline Local and town Plans shall be onerous.

FOURTH SCHEDULE

TYPES OF PLANS

1. Building Development Plans

- (a) Building Development Plans are the documents attached to application for Development Permit and complete written statements, schedules and plans which are submitted with application for-

- (i) permit to use and develop land or buildings,
- (ii) approval of partition of land and buildings,
- (iii) departures from approved plans or operatives planning schemes; or
- (iv) approval of temporary non-conforming uses.

(b) The functions of the Building Development Plans portrays as clearly as possible all the intended uses and proposed development on the site and the effect they will have on adjacent developments and the neighbourhood in which they are situated. These matters must be taken into account when the applications are being considered.

(c) Persons authorized to prepare Building Development Plan-

- (i) all development plans and planning application shall be prepared under the supervision of qualified relevant professional bodies registered to practice in Nigeria,
- (ii) the relevant professionals registered to practice in Nigeria will be responsible for the reliability, accuracy, feasibility and correctness of any building development plans which bear their signature and which are submitted to the relevant authority for approval.

2. Location Plan

All development plan will be accompanied by location plan on a convenient scale indicating its where about in relation to their developments and existing and proposed main roads, drainage, channels, major community facilities and the likes, co-ordinates of the boundaries of the site and its total area must be given.

3. Layout Plans: Estate Development Regulations

(1) Layout Plans indicate the physical layout of the area and show the location and dimensions of roads, foot ways, drainage channels and the site for various uses intended according to a standard notation. Levels should be indicated on the roads, drains, buildings and other sites. Cutting slopes, batters, walls and other physical features should be

indicated. All sites should be serially numbered and clearly defined with accompanying schedule.

(2) Schedule indicates the areas and uses of all sites, including roads, footways, reserves etc., and the building coverage, building lines, plot ratios and gross floor areas of all buildings to be erected on them. They also indicate the occupancy rates assumed by gross floor area per person, and the residential densities and design populations for the proposed developments.

(3) Every layout plan will be prepared and endorsed by a town planner registered to practice in Nigeria.

4. Layout Engineering Plans

These will be included for all development plans, involving site formation works, construction of roads, footways, drains, walls. Sewage works and service reticulation. They indicate the location and levels of all the above-mentioned elements and others that may be proposed in the development and provide specifications for their construction. Where standard approved elements are used, no specification would be required.

FIFTH SCHEDULE

PLANNING BRIEFS

1. Functions

- (1) The function of planning brief is to provide-
- (a) framework and a reliable indication of the intended uses;
 - (b) the extent of various types of development;
 - (c) the design population of major physical elements; and
 - (d) the areas of their jurisdiction.

For those responsible for preparing draft district plans and comprehensive development plans.

- (2) Planning briefs will also serve to identify-
- (a) constraints

- (b) proposed public works which will directly affect or influence the form of development in the area; and
- (c) all relevant available data to be considered and used in the preparation of plans

2. Preparation

Planning briefs are to be prepared by the state relevant agency within the frameworks and requirements of comprehensive development plans, in the case of government proposals and prepared by the developers in the case of private projects.

3. Issuance of Planning Briefs

- (1) They will be issued by the relevant agency and the developer or its representative, as the case may be.
- (2) A definition of the area covered by the planning brief by co-ordinates and area will be given.
- (3) They will provide an indication of the appropriate timing and development in relation to comprehensive development programmes and the provision of access to services and community facilities;
- (4) They indicate whether or not it is appropriate to proceed with more detailed planning at a particular time.
- (5) A description of the intended functions of the area will be given.
- (6) The intended population for the area and its likely household and income structure will be given.
- (7) Any relevant information that may be available or should be obtained by surveys on existing physical conditions, populations and uses will be identified.
- (8) Known constraints on developments due to flooding ground conditions, reclamation, fillings, ground water table level etc., will be stated.
- (9) Constraints identified for environmental, ecological and amenity reasons will be stated.
- (10) The location of existing or proposed public works which will affect the use and planning of the area, such as major highways, canals,

drainage reserves, railways, overhead power transmission lines and the likes will be given.

(11) Regional reserves and facilities which must be provided for the planning of the area will be identified.

(12) The type and extent of the major uses which should be provided to produce a balanced development will be broadly stated.

(13) The provisions that should be made for open spaces, recreation facilities, schools, other community facilities, shopping and marketing will be stated.

(14) An indication of the level of services that should be provided and when they will be available to the area will be given.

(15) An indication of the types of housing and residential occupancies and densities that would be appropriate in the area will be stated.

(16) The amount and type of commercial, shopping and industrial uses which should be provided the planning of the area will be identified.

(17) Any other relevant information which may be available and could assist in the planning of the area will be identified.

(18) Regulation of proceedings.

4. Proceedings at meetings

- (1) Subject to the provisions of this Law, the relevant agency may make standing orders regulating its proceedings or any of the committee it may set up of it.
- (2) Quorum will be simple majority of the members of the relevant agency.

5. Authority to obtain advice

Where the relevant agency decides to obtain the advice of any person on a particular matter, it may invite such persons as it deems fit.