

MUNICIPAL COUNCIL OF MALINDI



APPROVAL OF DEVELOPMENT APPLICATIONS

It has been noted that developers within the jurisdiction of the Municipal Council of Malindi have been carrying out developments without due regard to the Physical Planning Act Cap 28; Section 166 of the Local Government Act Cap 265 and the relevant Building Regulations and Codes.

Sections 29 – 34 of CAP 286 (THE Act) clearly stipulates that all forms of developments as defined by Section 3 of the Act MUST be submitted to the Council for approval or otherwise. The Act further empowers the council to take out appropriate measures including demolition of erected structures and filing of criminal proceedings against those in contravention of the above clear provisions.

In addition, the Land Registrar is enjoined by Section 37 of the said Act to decline the registration of documents related to land where development permission has not been obtained.

For clarity and avoidance of doubts, the following activities are deemed to be developments requiring development permission from the Council. It is immaterial whether the land tenure is freehold or leasehold.

- (i) All forms of land subdivisions whether into two or more
- (ii) Change of land use from the original use (as initially allocated)
- (iii) Erection of structures and carrying out various works, structures include; perimeter walls, buildings
- (iv) Deposit of refuse, scrap or waste materials etc
- (v) Display of advertisements

Most developers especially within Malindi town, Watamu township, Mayungu, Kijiwetanga have carried or carrying out the above forms of developments without development permission from the Council and, or certificate of compliance from the District Physical Planning Officer. In clear cases, developers are subdividing their plots, erecting walls/buildings and turning residential plots/buildings into commercial (cottages, hotels, villas), industrial recreational etc. uses without regard to the existing law.

To deal with this flagrant disregard of the relevant statutes, the Council has resolved to invoke the provision of Sections 38, 39, 43 and 46 of the Physical Planning Act Cap 286 (enforcement and entry powers), and Sections 162 (g) (l) (m – n), 165 (a) section 265 of the Local Government Act Cap 265.

Further, it has been decided that those willing to amicably regularize their developments be given a grace period of 30 days from date hereof.

Developers willing to comply with the law are advised to obtain development application forms (PP.A 1) from the Council, complete them and return the same with all the relevant drawings, subdivision schemes/mutations, plans as the case may be.

Development permission will be granted in the prescribed form PPA2 once the submitted application, PPA 1, is processed and certificates of compliance issued thereof by the District Physical Planning Office for the relevant developments.

(GEOFFREY C.K. KATSOLLEH)
TOWN CLERK

Dated 11th April 2008