LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the Machakos County Executive Committee Member for Finance and Revenue Collection makes the following Regulations:—

THE MACHAKOS COUNTY (BURSARY FUND) REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

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2—Interpretation.

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PART I—PRELIMINARY

1. These Regulations may be cited as the Machakos County (Bursary Fund) Regulations, 2014.

2. In these Regulations, unless the context otherwise requires—

“Applicant” means a student of a secondary school, polytechnic, college or university who applies for a bursary under these regulations;

“Chief Officer” means the Machakos chief officer responsible for matters relating to education;

“Committees” means the County Bursary Committee and the Ward Bursary Committee;

“County Assembly” means the Machakos County Assembly;

“County Bursary Committee” means the Committee established under Regulation 9;

“County” means Machakos County;

“Fund” means the Machakos County Bursary Fund established under Regulation 3;

“indigent person” means a person who cannot afford to pay for their education and includes the poor, vulnerable, persons with disability and marginalized persons.

“Ward Bursary Committee” means the Committee established under Regulation 11.

PART II—ESTABLISHMENT OF THE FUND

3. There is established a Fund to be known as the Machakos County Bursary Fund.

4. The object and purpose of the Fund is to provide for a bursary scheme for the provision of financial assistance to needy students.
5. The Fund shall consist of—

(a) monies appropriated by the County Assembly for that purpose;
(b) sums received as contributions gifts or grants;
(c) monies earned or realized from any investment of the Fund;
(d) such other monies as may be payable or vested in the Fund.

PART III—ADMINISTRATION OF THE FUND

6. (1) The Fund shall be administered by the chief officer for the time being responsible for matters relating to education.

(2) The County Executive Committee member responsible for matters relating to education may second such staff as may be necessary for the efficient discharge of the functions of the Fund under these Regulations.

(3) In administering the Fund the chief officer—

(a) shall be the secretary to the County Bursary Committee;
(b) shall be responsible for the day to day activities of the Fund;
(c) shall supervise the administration of the Fund;
(d) may recommend to the County Bursary Committee the imposition of necessary conditions on the administration of the Fund;

7. The chief officer shall cause to be kept books of accounts and other books and records in relation to the Fund.

8. (1) The chief officer shall within three months after the end of a financial year prepare a statement of accounts for the Fund’s for that financial year and transmit it to the Auditor-General.

(3) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

(2) The chief officer shall furnish such additional information as may be required by the Auditor-General.

PART IV—ESTABLISHMENT OF BURSARY COMMITTEES

9. (1) There is established a committee to be known as the County Bursary Committee.

(2) The Committee shall consist of—

(a) the County Executive Committee member responsible for matters relating to education who shall be the chairperson of the committee;
(b) the chief officer who shall be the secretary of the Committee;
(c) the officer of the national government responsible for matters relating to education in the county;

(d) one person with experience in education matters;

(e) one person representing faith based organizations involved in education matters in the county;

(f) two persons who ordinarily reside in the County representing marginalized groups.

(3) The persons referred to in paragraphs (2) (d), (2) (e) and (2) (f) shall be nominated by the chief officer responsible for matters of education in the county.

(4) In nominating the persons referred to in paragraphs (2) (d), (2) (e) and (2) (f) the chief officer shall take into consideration gender balance in the committee.

(5) The persons referred to in paragraphs (2) (d), (2) (e) and (2) (f) shall serve for a fixed term of three years and they shall be eligible for nomination for one further term of three years.

10. (1) The functions of the County Bursary Committee are to—

(a) raise monies for the Fund;

(b) determine, approve and review the policies for administering the Fund;

(c) monitor the application of the Fund by the Ward Bursary Committee and assess if the Fund is being administered in accordance with the Fund’s object and purpose;

(d) receive and consider appeals from the Ward Bursary Committees;

(e) prepare and forward reports on the Fund to the County Assembly;

(f) undertake such other activities as are necessary for the effective to application of the Fund.

11. (1) There is established for each ward a committee to be known as the Ward Bursary Committee.

(2) The Committee shall consist of—

(a) one person with experience in education matters who ordinarily resides in the ward who shall be the chairperson;

(b) the county officer responsible for matters relating to education in the ward who shall be the secretary;

(c) the elected member of the County Assembly from the ward;

(d) one person representing faith based organizations involved in education matters in ward;

(e) three persons who ordinarily reside in the ward representing marginalized groups.
3. The persons referred to in paragraphs (2) (a), (2) (e) and (2) (f) shall be nominated by the chief officer responsible for matters of education in the county.

4. In nominating the persons referred to in paragraphs (2) (a), (2) (e) and (2) (f) the chief officer shall take into consideration gender balance in the Committee.

5. The persons referred to in paragraphs (2) (a), (2) (e) and (2) (f) shall serve for a single term of three years and they shall be eligible for nomination for one further term of three years.

12. The functions of the Committee are to—
   
   (a) apply the Fund in accordance with its object and purpose;
   (b) receive and consider applications for bursaries;
   (c) undertake such other activities as are necessary for the effective application of the Fund;

13. (1) A member of the County Bursary Committee or the Ward Bursary Committee may resign from the Committee by giving a notice in writing addressed to the County Executive Member responsible for matters relating to education.

   (2) A member of the County Bursary Committee or the Ward Bursary Committee may be removed from the respective committee if that member—
   
   (a) is absent from three consecutive meetings of the Committee without good cause; or
   (b) is in serious violation of these Regulations or any other law;
   (c) is guilty of gross misconduct;
   (d) is physically or mentally incapable of performing the functions of the Committee;
   (e) is adjudged bankrupt.

14. The County Bursary Committee and each Ward Bursary Committees Committee shall regulate its own procedure and may make its own rules of procedure.

15. (1) The meetings of the Committees shall be convened by the secretary.

   (2) The County Bursary Committee and each Ward Bursary Committee shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

   (3) A meeting of the County Bursary Committee and the Ward Bursary Committee shall be presided over by the respective chairperson or in the absence of the chairperson by a member chosen for that purpose.
16. Members of the Committees shall be paid such allowances as may be determined by the County Executive Committee member responsible for matters relating to education after consultation with Salaries and Remuneration Commission.

17. The quorum for meetings of the Committees shall be the three members.

18. A question before a Committee shall be decided by a majority vote of the members present and forming a quorum.

PART V—APPLICATIONS FOR GRANT OF BURSURIES

19. In determining whether an applicant is to be granted a bursary a committee shall consider the applicant’s vulnerability including where the applicant is—

(a) an orphan whether totally or partially;
(b) a person with disability;
(c) from an indigent family.

20. (1) An application for a bursary shall be made to the Ward Bursary Committee in the prescribed form.

(2) An application for a bursary may be made by the student in person, the applicant’s parent, guardian or representative.

21. The Chief officer shall—

(a) receive and compile the list of approved applications;
(b) disburse the bursaries according to the lists approved and forwarded by the Ward Bursary Committees;
(c) report to the County Bursary Committee on the status of the Fund.

22. (1) The Ward Bursary Committee shall make a decision on every application without undue delay but not later than 21 days after the expiry of the deadline for the submission of applications.

(2) The Ward Bursary Committee shall notify the applicant of its decision in writing.

(3) A notification for grant of a bursary shall contain the following information—

(a) the amount granted;
(b) the period for which the bursary is awarded;
(c) the right to appeal to the County Bursary Committee.

(4) A notification for refusal of a bursary shall contain the following information—

(d) the reasons for refusal to award a bursary;
(e) the right to appeal to the County Bursary Committee.
23. (1) The Ward Bursary Committee may take such measures as may be necessary to verify the information provided by an applicant including—

(a) seeking further information from the applicant;
(b) visiting the applicant’s home or place of residence;
(c) requiring the appearance in person of the applicant or other person who the Ward Bursary Committee deems to have information which can guide it in determining the application.

(2) A Committee may, where it finds that an applicant has made a false declaration in the application—

(a) terminate the grant of the bursary;
(b) recover such sums as may be due to it from the applicant;
(c) refer the applicant to the relevant authorities for legal action.

24. An applicant who is aggrieved by the decision of the Ward Bursary Committee may appeal to the County Bursary Committee.

25. An applicant who is aggrieved by the decision of the County Bursary Committee may apply for judicial review at the High Court.

Made on the 4th March, 2014.

ELIZABETH NZYOKI,
Machakos County Executive Committee Member
for Finance and Revenue Collection.

LEGAL NOTICE NO. 2

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the Machakos County Executive Committee Member for Finance and Revenue Collection makes the following Regulations:—

THE MACHAKOS COUNTY (CAR LOAN SCHEME FUND)
REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

Regulations

PART I—PRELIMINARY

1—Citation.
2—Interpretation.

PART II—ESTABLISHMENT OF THE FUND

3—Establishment of the Fund
4—Object and purpose of the Fund
5—Initial Capital of the Fund
PART III—THE LOANS MANAGEMENT COMMITTEE

6—Loans Management Committee
7—Administration of the Fund
8—Operation of the Fund
9—Conditions for disbursement of funds
10—Temporary release of log-book
11—Loan amounts
12—Interest rate
13—Repayment period
14—Insurance
15—Loan discharge
16—Winding up of the Fund

PART I—PRELIMINARY

1. (1) These Regulations may be cited as the Machakos County Assembly (Car Loan Scheme Fund) Regulations, 2014 and shall come into operation on publication in the Gazette.

(2) Before coming into operation, these Regulations shall be approved by the County Executive Committee and the Assembly pursuant to section 116 (1) of the Public Finance Management Act, 2012.

2. In these Regulations, unless the context otherwise requires—
   “Assembly” means the Machakos County Assembly;
   “Board” means the Machakos County Assembly Service Board established under section 12 of the County Government Act;
   “Committee” means the Loans Management Committee established under regulation 6;
   “financial year” means the period of twelve months ending on the 30th June in each year;
   “Fund” means the Machakos County Assembly (Car Loan Scheme) Fund established under Regulation 3;
   “member of the Scheme” means a member of the Machakos County Assembly or an officer of the Assembly; and
   “Officer administering the Fund” means the Clerk of the Machakos County Assembly.

PART II—ESTABLISHMENT OF THE FUND

3. There is established a Fund to be known as the Machakos County Assembly (Car Loan Scheme) Fund.
4. The object and purpose of the Fund shall be to—
(a) provide car loan facilities for purchasing personal motor vehicles to Members and staff of the Assembly; and

(b) raise funds for the implementation of the objective stated under paragraphs (a).

5. The capital of the Fund shall consist of—

(a) the initial capital of Kshs130 million shillings paid out of the vote of the County Assembly Service Board for the 2013/14 financial year and such other funds as may be voted in subsequent financial years; and

(b) all monies that shall be paid into the Fund.

(2) County Assembly may appropriate additional monies to the Fund.

(3) The Fund shall be administered as a separate account in the County Assembly Fund and shall be operated by the officer administering the Fund.

PART III—THE LOANS MANAGEMENT COMMITTEE

6. (1) There is established a Committee to be known as the Loans Management Committee, which shall consist of—

(a) the Leader of the Majority Party of the County Assembly who shall chair the Committee;

(b) the Leader of the Minority Party of the County Assembly;

(c) the Majority Party Whip of the County Assembly;

(d) the Chairperson of the Budget and Appropriation Committee

(e) the Minority Party Whip of the County Assembly

(f) a person appointed pursuant to section 12(3)(d) of the County Government Act;

(g) two members of the County Assembly, being one man and one woman appointed by the County Assembly; and

(h) the Clerk of the County Assembly

(2) The Officer administering the Fund shall be an ex-officio member of the Committee and the secretary to the Committee.

(3) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by a member designated by the chairperson and shall be convened at such times as may be necessary for the discharge of the Committee’s functions.

(4) The quorum for meetings of the Committee shall be the chairperson and any four members.

(5) The Committee shall consider and may approve the loan applications presented to it by the officer administering the Fund.
7. (1) The Clerk of the Assembly shall be the officer administering the Fund and shall be responsible to the Committee for day to day management and administration of the Fund;

(2) The Officer administering the Fund shall ensure that money held in the fund, including any earnings and accruals is spent only for the purposes for which the fund is established.

(3) The Officer administering the Fund with approval of the Committee may,

(a) impose conditions and restrictions on the use of the Fund;
(b) prepare accounts for the fund for each financial year;
(c) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General;
(d) shall furnish such additional information as may be required for the purpose of examination and audit by the Controller and Auditor-General; and
(e) present the financial statements to the county assembly.

(4) The Officer administering the Fund shall ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

(5) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

8. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall present to the officer administering the Fund, a duly completed application form as the Management Committee may prescribe.

(2) The Officer administering the Fund shall satisfy himself of the applicant’s financial status and capacity to repay the loan applied for and where so satisfied, shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall enter into an agreement in such form as the Committee may prescribe.

9. (1) A loan approved under regulation 7 shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee.

(2) The log-book of a motor vehicle funded under these Regulations shall be registered jointly between the Fund and the member of the Scheme and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the member of the Scheme.

(3) There shall be imposed an obligation on the borrower—
(a) not to sell or agree to sell or part with possession of the vehicle without the prior written consent of the Committee;

(b) to meet and pay all insurance and any other outgoing payments in respect of the vehicle and provide the proof of such payments to the Committee; and

(c) to provide a transfer form duly signed by the borrower and a letter authorizing the Fund to sell the property in case of default in payment.

10. (1) A log-book kept in custody by the officer administering the Fund may be temporarily released to a member of the Scheme upon application in writing to the officer administering the Fund for purposes of renewal by that member of the necessary licenses.

(2) A log-book released under paragraph (1) shall be returned to the officer administering the Fund within seven working days from the date of such release.

(3) The officer administering the Fund shall acknowledge receipt of the log-book in writing.

11. (1) The loan amount that a member of the Scheme may receive shall be the value of the vehicle that the member of the Scheme proposes to purchase subject to the maximum amount of two million shillings or an amount to be approved by the Management Committee.

(2) For the purpose of these Regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from the Automobile Association of Kenya, or the Government department dealing with such matters.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member of the Scheme an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member of the Scheme to cater for an overhaul of the engine of the vehicle.

(4) No member of the Scheme shall receive a loan the repayment of which shall result in salary deductions exceeding seventy per cent of the monthly emoluments of the member of the Scheme.

(5) No vehicle may be imported from outside Kenya under the scheme if the year of manufacture is more than eight years from the date of the application.

12. (1) A loan granted to a member of the Scheme under these Regulations shall carry an interest rate of three per cent per annum or such other rate as the Committee may from time to time determine.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Fund.

13. (1) A loan advanced under these Regulations shall be repaid in full over such a period as the officer administering the fund may determine which shall be not more than—
(a) two months before the end of service of the respective office of the member of the assembly irrespective of whether the vehicle purchased is new or old; or

(b) the remainder of the period remaining before retirement in the case of a member of staff of the Assembly.

(2) Where a member of the scheme leaves office at any time before full payment of the loan, the Fund shall recover the balance of the loan from the member’s benefits.

14. (1) A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme.

(2) Where a member of the Scheme is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the Fund subject to an approved limit, but subsequently annual premiums shall be paid by the member of the Scheme.

(3) A member of the Scheme who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the fund for a loan which shall be repaid within a period of one year (1) year.

(4) Every loan granted under these Regulations shall be insured for the benefit of the member of the Scheme and the premium in respect thereof shall be debited to the account of the member of the Fund.

15. (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the Committee shall be issued to the member of the Scheme and a copy thereof shall be forwarded to the Registrar of Motor Vehicles.

(2) The loan discharge certificates shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle pursuant to Regulation 8.

16. (1) The County Executive Committee member may, with the approval of the Assembly wind up the Fund.

(2) On the winding up of the Fund—

(a) the officer administering the Fund shall pay any amount remaining in the Fund into the County Exchequer Account; and

(b) the County Executive Committee shall, with the approval of the Assembly, pay any deficit in the Fund from the County Exchequer Account.

ELIZABETH MUTHEU NZIOKA,
Machakos County Executive Committee Member for Finance