Legal Notice No 1

THE PUBLIC FINANCE MANAGEMENT (UASIN GISHU COUNTY STAFF MORTGAGE AND CAR LOANS SCHEME FUND) REGULATIONS 2015

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IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act 2012 the County Executive Member for Finance and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (UASIN GISHU COUNTY STAFF MORTGAGE AND CAR LOANS SCHEME FUND) REGULATIONS 2015

Citation

1 These Regulations may be cited as the Public Finance Management (UasinGishu County Staff Mortgage and Car Loans Scheme Fund) Regulations 2015

Interpretation

2 In these Regulations unless the context otherwise requires—

borrower means a person in receipt of a loan out of the Fund

Administration Committee means the Loans Management Committee established under regulation 5

financial year’ means the period of twelve months ending on the 30th June in each year

fund means the Uasin Gishu County (members) mortgage loan scheme fund established under section 116(1) Public Finance Management Act

‘member of the Scheme’ means the Uasin Gishu County Staff (Both State and Public Officers)

Officer Administering the Fund means the Chief Officer Public Service Management

property means a residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed

valuer means a person registered as a valuer under the Valuers Act (Cap 532)

Chief Officer means the Chief Officer at the time being responsible for matters of Public Service

‘Loan’ means such funds advanced for purposes of either car purchase or mortgage for house

County Executive means County Executive Member for Finance

3(a) There is established the Uasin Gishu County Staff Mortgage and Car Loan Scheme Fund

(b) These regulations shall guide the implementation of the scheme established herein further to the circular issued by the Salaries and Remuneration Commission dated 14th December, 2014
Object and purpose of the Fund

3 The object and purpose of the Fund shall be to provide a mortgage loan scheme for the purchase, development, renovation or repair of residential property and/or car loan scheme for purchase of car by members of staff of the County (State Officers and Public Officers).

Capital of the Fund

4 (1) The initial capital of the Fund shall consist of the monies standing to the credit of the fund account on the date of the coming into operation of these Regulations.

(2) The County Executive Committee may appropriate additional monies to the Fund on availability of budgetary resources.

(3) The Fund shall be administered as a special account in the County Fund and shall be operated by the Officer Administering the Fund (Administrator).

(4) The interest accruing to the Fund shall, where such interest constitutes a surplus after meeting the requirements of regulation 16(1)(b) and be credited to the capital of the Fund.

The Administration Committee

5 (1) There is established a committee to be known as the Administration Committee, which shall consist of—

(a) the Chief Officer for Trade, Tourism and Industrialisation
(b) the Chief Officer for ICT and E-Government
(c) The Chief Officer for Roads, Public Works and Transport
(d) the Chief Officer for Environment, Water and Natural Resources and
(e) the Chief Officer for Finance and Economic Planning
(f) Chief Officer for Land and Housing
(g) Chief Officer Public Service Management
(h) Two representatives of employees under the County Public Service
(i) A member of the County Public Service Board

(2) (a) The Chief Officer Public Service Management shall be the secretary to the Committee and the Administrator of the Scheme.
(b) The one third gender rule must be observed in the composition of the Committee.

(3) The Committee shall administer the Fund and shall—

(a) process applications for loans in accordance with the existing terms and conditions of borrowing
(b) supervise the day-to-day running of the Fund
(c) table a report to County Executive for tracking of Fund Usage.
(4) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson by a member elected by members present to chair the session and shall be convened at such times as may be necessary for the discharge of the Committee's functions

(5) The quorum for a meeting of the Committee shall be the chairperson or any two members

Appointment of a mortgage institution

6 Notwithstanding regulation 5(3) the County Executive Committee may if it considers it appropriate to do so appoint a mortgage institution to administer the Fund on its behalf

Disbursement of Mortgage loans

7 (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the Officer Administering the Fund in such manner as the Committee may prescribe

(2) A Mortgage loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of residential property for the occupation of the applicant

(3) A Mortgage loan for the development of residential property may be granted at the discretion of the Committee

(a) to a member of the Scheme who is in possession of a title deed to the land on which the development is intended to be carried out or

(b) in two instalments for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property

(4) The amount of the first instalment granted for the purchase of land under paragraph (b) shall not exceed forty per cent of the maximum mortgage loan amount for which the member of the Scheme is eligible

Utilization of Mortgage loan monies

8 (1) A mortgage loan granted for the development of a residential property under these Regulations shall be released to the applicant in the following phases—

(a) the first disbursement based on the value of the land on which the residential property is proposed to be developed and

(b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant

Application for a Mortgage loan

9 (1) An application for a mortgage loan under these Regulations shall be accompanied by the following documents where appropriate

(a) copies of the designs of the proposed residential property duly approved by the
relevant county government department within whose area it is to be situated

(b) bills of quantities in respect of the proposed development, renovation or repair

(c) an official search of the title to the property intended to be purchased

(d) a certified copy of the sale agreement relating to the property

(2) The applicant shall bear the cost of stamp duty and other legal fees.

(3) Where a borrower fails to comply with the requirements of paragraph (2) within the stipulated time, the Officer Administering the Fund shall, upon giving the borrower fourteen days notice, deduct the amount due from the salary of that borrower in such instalments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the County Executive Committee in accordance with existing relevant regulations.

Leasehold property

10 Where the property intended to be purchased through a loan from the Fund is leasehold property, such loan shall be granted where the expiry date of such lease is at least fifteen years beyond the final loan repayment date.

Maximum loan disbursement

11 (1) The maximum loan to be granted under these Regulations shall be as stipulated in the SRC guidelines on staff benefits at the time of application for the loan.

(2) A loan granted to a borrower under these Regulations shall be funded at the rate of:

(a) ninety per centum of the value of the property where such property is situated in Nairobi and

(b) eighty per centum of such value where the property is situated in any other area and the borrower shall be required to deposit the balance thereof with the Fund.

(5) Subject to this regulation, a member of the County Executive Committee shall be eligible for the maximum amount of loan specified under sub-regulation (1) in each term of service to be accessed by the member in a maximum of two disbursements in that term.

Interest on Mortgage loans

12 (1) The interest chargeable on a mortgage loan shall be three per centum per annum on a monthly reducing balance.

(2) The interest charged under paragraph (1) of this regulation shall be met by the borrower.

Liens

13 (1) The Officer Administering the Fund shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to
have the County Government have its name entered in all documents of title for such property

(2) The borrower shall—

(a) not mortgage charge surrender the lease or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the management committee

(b) meet and pay all rates rents insurances and any other outgoings in respect of the property and send the proof of such payments to the Officer Administering the Fund and

(c) provide a transfer deed duly signed by the borrower and a letter authorizing the management committee to sell the property in case of default in payment

(3) All residential properties purchased through the Fund shall be constructed of such material as may be acceptable to the Management committee

(4) During the loan repayment period every borrower shall—

(a) ensure that the property is used for residential purposes only

(b) maintain the property in a satisfactory state of repair and

(c) not alter or make any structural alteration to the property carry out any valuation assessment or investigation relating to the property or title thereto as the case may be without the approval of the Management committee

(5) All legal documentation and disbursement of funds shall be supervised by the officer administering the Fund

Mortgage insurance

14 (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the Management committee the cost of which shall be paid out of the Fund and debited in such borrower’s account

(2) The originals of all documents relating to property financed by a mortgage loan from the Fund shall be kept in safe custody by the Officer Administering the Fund or Financial Institution as the case may be

Default in repayment

15 The Management committee may call in a mortgage loan and in default (1) revert interest rate on the loan to the commercial basis using Central Bank or government owned bank

(2) sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the mortgage loan agreement or the covenant contained in the charge of the mortgage instrument

Administration of the Fund

16 (1) The officer administering the Fund shall—

(a) supervise and control the administration of the Fund
(b) utilize the interest accruing thereto to defray operating expenses and may impose any reasonable restriction or other requirements concerning such use

(c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund,

(d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof a statement of accounts relating to the Fund prepared and signed by her/him specifying the income of the Fund and showing the expenditure incurred from the Fund in such details as the County Executive Committee may from time to time direct in accordance with the Public Finance Management Act

(e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor General and

(f) designate and appoint such staff as may be necessary to assist her/him in the administration of the Fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these Regulations

(2) 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

**Responsibilities of mortgage institution**

17 The responsibilities of the mortgage institution if any appointed under these Regulation 6 shall be—

(a) to operate individual accounts for each borrower which shall provide details of recoveries of the loan

(b) to charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges

(c) to disburse cheques for newly approved mortgage loans to various vendors after the necessary documentation is completed by the Committee

(d) to pay all outgoings and issue demand notices where necessary to members through the Officer Administering the Fund

(e) upon repayment of the mortgage loan interest and other expenses which may be outstanding to discharge the charge and release the security documents to the borrower and

(f) upon default to call in the mortgage loan and on behalf of the County Executive sell the charged property by public auction or private treaty in which event the Fund shall meet any shortfall between the loan outstanding and the proceeds of sale

**Car Loan and its Conditions**

18 (1) The County shall at its sole discretion grant loans to eligible employees as per the SRC circular existing during the application of the loan
(2) All applicants for car loan shall be addressed to Officer Administering the Fund adhering to the following terms and conditions

(a) The County will facilitate car loans through budgetary allocation when resources allow

(b) The loans will attract the interest rate of 3%

(c) The loan repayment period as prescribed by SRC guidelines during application of the loan

(d) Applications for the purchase of second-hand vehicles must be supported by a full Mechanical valuation Report from AA of Kenya. Second hand vehicles should be seven years and below

(e) Applicants must be holders of valid Driving License a copy of which will be attached to the application for the loan

(f) Once purchased the vehicle shall be registered in the joint names of the County and employee and a signed blank transfer form together with the log books also signed shall be submitted to the Officer Administering the Fund

(g) Employees are not permitted to sell the vehicle before the loan is fully settled

(h) All vehicles on loan shall be comprehensively insured through pool insurance arranged by procurement. The county shall make advance payments for insurance cover to the insurer and recover the premium paid from the employee in six (6) installments. Anti-theft devices as specified by the insurers will be mandatory for cars on loan. The employee will meet the cost of installation of such devices

(i) The employee granted the facility shall undertake in writing to repay the amount of the loan in full through check off

(j) In the event an employee has an accident with the vehicle and it is written off they may be considered for another loan on condition that the outstanding balance on the previous loan has been settled

(k) In the event that an employee with a Car Loan leaves the County either by Resignation Dismissal Retirement Termination or End of contract employee shall be subjected to existing SRC guidelines

(l) Approval of the loan will be subject to meeting the requirements of the scheme and availability of funds

(m) Where these are more applications than available funds employees will be considered on the first come first serve basis

(n) The loan will however not exceed the valuations of the car at the time of purchase

(o) Upon submission of the application with the required documents, the County will acknowledge receipt within three (3) working days
Eligibility

19 For member of staff in the County to be eligible for the Car Loan Facility the following will be required

1. The facility will be available to all employees subject to having completed one (1) year of service and being confirmed to their respective positions except for state officers

Employment Act, 2007 19(3)

2. Monthly repayments for the car loan will not exceed 2/3 of employees basic pay (As per the Employment Act 2007 19(3)) and

3. The applicant must meet all other lending conditions

20 A pool of Insurance Companies shall be selected and approved to offer insurance services to cars and mortgages

21 Members of the County Public Service Board shall be entitled to benefit from car loan and Mortgage under these regulations

Supplementary terms

22 (1) These Regulations shall be supplemented by such terms as may from time to time be detailed in the application form supplied by the Management committee

2. Subject to these Regulations the Management committee shall issue guidelines on—

(a) the purchase and development of land and residential properties under these Regulations

(b) the purchase of vehicles under this regulations

(c) the utilization of surplus Funds for the purchase and development of land and residential property under these Regulations and

(d) such other matters as may be necessary for the proper management and administration of the Fund

Dated the 24th November 2015

SHADRACK K SAMBAI

County Executive Committee Member for Finance and Economic Planning