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 County Executive Committee Member for Finance makes the following Regulations:—

THE PUBLIC FINANCE MANAGEMENT (NYERI COUNTY EXECUTIVE CAR LOAN AND MORTGAGE (STAFF) SCHEME FUND) REGULATIONS, 2017

PART I—PRELIMINARY

1. These Regulations may be cited as the Nyeri County Executive Car Loan and Mortgage (Staff) Scheme Fund Regulations, 2017.

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

“Borrower” means a person in receipt of a car loan or mortgage out of the Fund;

“Committee” means the Nyeri County Executive 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 Nyeri County Executive Car Loan and Mortgage (Staff) Scheme Fund established under Regulation 3;

“Loan Agreement” means an agreement between the Officer administering the Fund and a Member of the Scheme;

“Committee” means the Loans Management Committee established under Regulation 6;

“Member of the Executive Committee” means a member elected and appointed in accordance with Article 180 and Article 179(2) (b) of the Constitution of Kenya respectively;

“Member of the Scheme” means a staff of the County Executive Committee, Staff of the County Government of Nyeri, Members of the County Public Service Board, Chief Officers and Staff of the County Public Service;
"County Government" means the County Government of Nyeri specified in the first schedule to the Constitution;

"Officer Administering the Fund" means the Chief Officer for the time being responsible for Finance;

"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;

"Staff" means an employee of the County Government employed on permanent and pensionable or contractual terms; and

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

3. There is established a Fund to be known as the Nyeri County Executive Car Loan and Mortgage (Staff) Scheme Fund.

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property and/or to purchase a motor vehicle for personal use by members of the Scheme.

5. The Fund shall consist of —

(a) the initial capital of the Fund which shall be the monies standing to the credit of the account on the date of the coming into operation of these Regulations;

(b) such monies as may be appropriated by the County Assembly;

(c) sums received as contributions, gifts or grants from any lawful sources; or

(d) monies arranged from other financial institutions through an agreement entered into between the County Executive Member responsible for Finance and the financial institution.

6. (1) There is established a Nyeri County Executive (Car and Mortgage) Loans Management Committee, which consists of—

(a) the County Executive Committee Member responsible for Finance or his/her designate who shall be the chairperson;

(b) one member of the County Executive Committee elected by members of the County Executive Committee;
(c) the Chief Officer in charge of Land and planning;
(d) the Chief Officer responsible for finance who shall be the Fund Administrator;
(e) the officer in charge of human resource services in the County Public Service;
(f) the Chief officer responsible for Public Works Officer;
(g) the Secretary County Public Service Board or his/her designate;
(h) the County Attorney.

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

(3) The Committee shall administer the Fund and shall review applications for loans in accordance with the existing terms and conditions of borrowing.

(4) Notwithstanding Sub-regulation (3) above, the Executive Committee Member responsible for Finance may, if he/she considers it appropriate to do so, appoint a mortgage institution to administer the Fund.

(5) The Committee may appoint a secretariat from among the staff members to attend its meetings and assist it with its operations.

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

(7) The quorum for a meeting of the Committee shall be the Chairperson and any four Members.

(8) The Committee shall consider and may approve loan applications presented by the officer administering the Fund.

7. The functions of the Loan Management Committee shall be to—

(a) process and approve loans in accordance with these regulations;
(b) liaise with the financial institution where necessary to set up a Fund for the disbursement of the loans;
(c) oversee the management of the Fund;
(d) monitor and evaluate the performance of the Fund;
(e) approve annual work programmes and procurement plans for the Fund;

(f) recommend the investment of any surplus funds not immediately required in securities approved by the County Government, for the purposes of realizing the objects and purpose for which the Fund is established;

(g) cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund;

(h) receive any gifts, donations, grants or endowments made to the Fund;

(i) consider and recommend approval of the financial statements to the officer administering the Fund;

(j) recommend as when required the procurement of a financial institution to administer the Fund on its behalf;

(k) perform any other functions that are ancillary to the objects and purpose for which the Fund is established; and

(l) determine its own procedures for conducting its business.

8. (1) A car loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle for personal or official use by the applicant and not for commercial purposes where a member draws profits from the use of the vehicle.

(2) Similarly, a mortgage obtained from the fund shall only be used for purchase, development, renovation or repair of residential property.

9. (1) An application for a loan under these Regulations shall be forwarded to the fund administrator and shall where appropriate be accompanied by the following documents—

(a) In the case of a mortgage—

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

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

(iii) copies of the designs of the proposed residential property duly approved by the relevant authorities within whose area it is to be situated or a copy of the valuation report in the case of an already developed
property; and/or

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

(b) In the case of a car loan—

(i) a recent official search;

(ii) a certified copy of the sale agreement relating to the motor vehicle; and/or

(iii) a copy of a valuation report where the motor vehicle being purchased is a second hand.

(2) Upon receipt of the loan application, the fund administrator shall satisfy that the documents in sub-regulation (1) above are in order and are proper, and that the applicant is able to repay the loan applied for within the timelines specified by the Salaries and Remuneration Commission, and where so satisfied shall forward the application to the Committee for approval.

(3) The applicant shall bear the cost of valuation, stamp duty and other legal fees;

(4) Where a borrower fails to comply with the requirements of sub regulation (3) 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.

(5) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the County Government.

10. (1) A loan granted to a member of the scheme under these regulations shall carry an interest rate of three per centum (3%) per annum on a reducing balance.

(2) The interest shall be credited to the capital fund as a revolving fund.

11. (1) A loan approved under these Regulations 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) Notwithstanding the provisions of sub-Regulation (1) above, a person disbursing the funds shall confirm that the borrower has complied with regulations 9 and 14 of these Regulations.
(3) For the purposes of these Regulations:—

(a) a loan shall not be given to a member of the scheme to purchase a used vehicle that is more than eight years old from the date of manufacture or as may be determined from time to time;

(b) Similarly, 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 the lease is at least forty-five years beyond the final loan repayment date.

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

(5) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the County Government and the member of the scheme and shall be kept in the custody of the Fund Administrator until the loan is repaid in full by the member of the scheme.

12. (1) The loan amount that a member of the Scheme may receive shall be the value of the property and/or the motor vehicle that the member of the Scheme proposes to purchase and/or develop subject to the maximum amounts set by the Salaries and Remuneration Commission.

(2) For the purposes 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 a Government Department dealing with similar matters.

13. (1) A loan advanced under these regulations shall be repaid in full over the period of service of the member of the Scheme, but in any case not exceeding five years in the case of a car loan and twenty years in the case of a mortgage.

(2) During the loan repayment period the borrower shall—

(a) In the case of a Mortgage—

(i) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property;

(ii) 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 committee;
(iii) provide a transfer deed duly signed by the borrower and a letter authorizing the committee to sell the property in the case of default;

(iv) ensure that the mortgage is used for residential purposes only;

(v) 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 committee.

(b) In the case of a motor vehicle—

(i) ensure that the motor vehicle is used for personal purposes and not commercial purposes;

(ii) not mortgage, surrender the motor vehicle or sell or agree to sell or part with possession of the motor vehicle;

(iii) take out and maintain a comprehensive insurance policy in respect of the motor vehicle and send the proof of such payments to the committee;

(iv) provide a transfer deed duly signed by the borrower and a letter authorizing the committee to sell the motor vehicle in the case of default; and

(v) maintain the motor vehicle in a satisfactory state of repair.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be approved by the committee.

14. (1) A borrower shall—

(i) in the case of a mortgage take out and maintain a mortgage protection policy and a fire policy;

(ii) in the case of a car loan take out and maintain a comprehensive motor car insurance policy.

(2) Prior to taking out an insurance policy stipulated in (1) above, the borrower shall confirm that the insurance firm is approved by the Committee;

(3) The cost of insurance shall be paid out of the Fund and debited in such borrower’s account.

(4) The originals of all documents relating to the mortgage property and/or motor vehicle financed by a loan from the Fund
shall be kept in safe custody by the officer administering the Fund.

15. The committee may call in a loan and in default sell the charged property or the motor vehicle by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument.

16. Upon full repayment of the loan, a signed loan discharge certificate shall be issued to the borrower.

17. (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 months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him or her specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the County Executive Member responsible for Finance 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 him or her 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 as at the end of the financial year concerned.

18. The responsibilities of the mortgage institution, if any, appointed under these Regulations 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 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 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 loan and on behalf of the Committee 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.

19. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the committee and in the contract between the mortgage institution and the committee.

(2) Subject to these Regulations, the Committee shall issue guidelines on—

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

(b) the purchase of a developed residential property under these 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.

Made on the 10th May, 2017.

CHARLES G. GITHINJI,
County Executive Committee Member for Finance and Economic Planning.
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 County Executive Committee Member for Finance makes the following Regulations:

THE PUBLIC FINANCE MANAGEMENT (NYERI COUNTY ASSEMBLY STAFF CAR LOAN AND MORTGAGE (STAFF) SCHEME FUND) REGULATIONS, 2017

PART I — PRELIMINARY

1. These Regulations may be cited as the County Assembly of Nyeri Car Loan and Mortgage (Staff) Scheme Fund Regulations, 2017 and shall come into operation upon gazettement in the Kenya Gazette.

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

   “Board” means the County Assembly Service Board established under Section 12 of the County Governments Act;

   “borrower” means a person in receipt of a car loan or mortgage out of the Fund;

   “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 County Assembly Car loan and Mortgage (Staff) Scheme Fund established under Regulation 3;

   “Loan Agreement” means an agreement between the Officer administering the Fund and a Member of the Scheme;

   “Member of the Scheme” means a Staff of the County Assembly of Nyeri appointed pursuant to section 12 (7) (b) of the County Government Act, 2012;

   “Nyeri” means the Nyeri County as specified in the first schedule to the Constitution;

   “Officer Administering the Fund” means the Clerk of the County Assembly of Nyeri;

   “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; and

“Valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).

3. There is established a Fund known as the County Assembly of Nyeri Car Loan and Mortgage (Staff) Scheme Fund.

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property and/or to purchase a motor vehicle for personal use by members of the Scheme.

5. The Fund shall consist of—

(a) the initial capital of the Fund which shall be the monies standing to the credit of the account on the date of the coming into operation of these Regulations;

(b) such monies as may be appropriated by the County Assembly;

(c) sums received as contributions, gifts or grants from any lawful sources; or

(d) monies arranged from other financial institutions through an agreement entered into between the board and the financial institution.

6. (1) There is established a Loan Management Committee to be known as the County Assembly of Nyeri Car Loan and Mortgage (Staff) Management Committee, which consists of—

(a) the Deputy Clerk of the County Assembly who shall be the Chairperson;

(b) head of Human Resource and Administration who shall be the Vice Chairperson;

(c) the Principal Legal Counsel of the Assembly;

(d) one officer from the Department of Finance who shall be the fund manager;

(e) the Internal Auditor of the County Assembly;

(f) one member of staff of the Assembly elected by all staff who shall not be below CASB 7;

(2) The officer administering the Fund shall be an *ex officio* member of the Committee and the secretary to the Committee.
(3) The Committee shall administer the Fund and shall review applications for loans in accordance with the existing terms and conditions of borrowing.

(4) Notwithstanding Sub-regulation (3) above, the Board may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund.

(5) The Committee may appoint a secretariat from among the staff members to attend its meetings and assist it with its operations.

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

(7) The quorum for a meeting of the Committee shall be the Chairperson and any four Members.

(8) The Committee shall consider and may approve loan applications presented by the officer administering the Fund.

7. (1) The functions of the Loan Management Committee shall be to—

(a) process and approve loans in accordance with these regulations;

(b) liaise with the financial institution where necessary to set up a Fund for the disbursement of the loans;

(c) oversee the management of the Fund;

(d) monitor and evaluate the performance of the Fund;

(e) approve annual work programmes and procurement plans for the Fund;

(f) recommend the investment of any surplus funds not immediately required in securities approved by the Board, for the purposes of realizing the objects and purpose for which the Fund is established;

(g) cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund;

(h) receive any gifts, donations, grants or endowments made to the Fund;

(i) consider and recommend approval of the financial.
statements to the officer administering the Fund;

(j) recommend as when required the procurement of a financial institution to administer the Fund on its behalf

(k) perform any other functions that are ancillary to the objects and purpose for which the Fund is established; and

(l) determine its own procedures for conducting its business.

8. (1) A car loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle for personal or official use by the applicant and not for commercial purposes where a member draws profits from the use of the vehicle.

(2) Similarly a mortgage obtained from the fund shall only be used for purchase, development, renovation or repair of residential property.

(3) A member of the Scheme who, prior to the commencement of these Regulations had purchased a motor vehicle or a property stipulated under Sub-regulation (1) and (2) on loan from a financial institution, may apply for loan under these Regulations to offset any remaining balance or to have the loan transferred from the financial institution to the loan scheme under these Regulations.

9. (1) An application for a loan under these Regulations shall be forwarded to the fund administrator and shall where appropriate be accompanied by the following documents –

(a) In the case of a mortgage—

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

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

(iii) copies of the designs of the proposed residential property duly approved by the relevant authorities within whose area it is to be situated or a copy of the valuation report in the case of an already developed property; and/or

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

(b) In the case of a car loan—
(i) A recent official search;

(ii) a certified copy of the sale agreement relating to the motor vehicle; and/or

(iii) a copy of a valuation report where the motor vehicle being purchased is a second hand.

(2) Upon receipt of the loan application, the fund administrator shall satisfy that the documents in sub-regulation (1) above are in order and are proper, and that the applicant is able to repay the loan applied for, and where so satisfied shall forward the application to the Committee for approval.

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

(4) Where a borrower fails to comply with the requirements of sub regulation (3) 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.

(5) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the Board.

10. (1) A loan granted to a member of the scheme under these regulations shall carry an interest rate of three per centum per annum on a reducing balance.

(2) The interest shall be credited to the capital fund as a revolving fund.

11. (1) A loan approved under these Regulations 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) Notwithstanding the provisions of sub-regulation (1) above, a person disbursing the funds shall confirm that the borrower has complied with regulations 9 and 14 of these Regulations.

(3) For the purposes of these Regulations—

(a) a loan shall not be given to a member of the scheme to purchase a used vehicle that is more than eight years old from the date of manufacture or as may be determined from time to time;

(b) similarly, 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 the lease is at least forty-five years beyond the final loan repayment date.

(4) The Board shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

(5) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Board and the member of the scheme and shall be kept in the custody of the Fund Administrator until the loan is repaid in full by the member of the scheme.

12. (1) The loan amount that a member of the Scheme may receive shall be the value of the property that the member of the Scheme proposes to purchase and/or develop subject to the maximum amounts set by the Salaries and Remuneration Commission as provided in the schedule to these Regulations;

(2) For the purposes 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 a Government Department dealing with similar matters.

13. (1) The repayment period for the loans obtained under these regulations shall be as determined by the committee upon guidance by the salaries and remuneration commission.

(2) During the loan repayment period the borrower shall—

(a) In the case of a Mortgage—

(i) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property;

(ii) 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 committee;

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

(iv) ensure that the mortgage is used for residential purposes only;
(v) 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 committee.

(b) In the case of a motor vehicle—

(i) ensure that the motor vehicle is used for personal purposes and not commercial purposes;

(ii) not mortgage, surrender the motor vehicle or sell or agree to sell or part with possession of the motor vehicle;

(iii) take out and maintain a comprehensive insurance policy in respect of the motor vehicle and send the proof of such payments to the committee;

(iv) provide a transfer deed duly signed by the borrower and a letter authorizing the committee to sell the motor vehicle in the case of default; and

(v) maintain the motor vehicle in a satisfactory state of repair;

(3) All residential properties purchased through the Fund shall be constructed of such material as may be approved by the committee.

14. (1) A borrower shall—

(a) in the case of a mortgage take out and maintain a mortgage protection policy and a fire policy;

(b) in the case of a car loan take out and maintain a comprehensive motor car insurance policy;

(2) Prior to taking out an insurance policy stipulated in (1) above, the borrower shall confirm that the insurance firm is approved by the Committee.

(3) The cost of insurance shall be paid out of the Fund and debited in such borrower’s account.

(4) The originals of all documents relating to the mortgage property and/or motor vehicle financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

15. The committee may call in a loan and in default sell the charged property or the motor vehicle by public auction or private treaty where the borrower is in breach of the terms under
the loan agreement or the covenant contained in the charge of the mortgage instrument.

16. Upon full repayment of the loan, a signed loan discharge certificate shall be issued.

17. (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 months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him or her specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board 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 him or her 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 as at the end of the financial year concerned.

18. The responsibilities of the mortgage institution, if any, appointed under these Regulations 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 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 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 loan and on behalf of the Committee 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.

19. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the committee and in the contract between the mortgage institution and the committee.

(2) Subject to these Regulations, the Committee shall issue guidelines on—

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

(b) the purchase of a developed residential property under these 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.
SCHEDULE OF CAR LOAN THRESHOLD

<table>
<thead>
<tr>
<th>Beneficiaries</th>
<th>Maximum Loan amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Service Grades S, T, U and equivalent grades in public service</td>
<td>Up to KSh. 5 million</td>
</tr>
<tr>
<td>Civil Service Grades P, Q, R and equivalent grades in public service</td>
<td>Up to KSh. 4 million</td>
</tr>
<tr>
<td>Civil Service Grades K, L, M, N and equivalent grades in public service</td>
<td>Up to KSh. 1.5 million</td>
</tr>
<tr>
<td>Civil Service Grades G, H, J and equivalent grades in public service</td>
<td>Up to KSh. 800,000</td>
</tr>
<tr>
<td>Civil Service Grades A, B, C, D, E, F and equivalent grades in public service</td>
<td>Up to KSh. 600,000</td>
</tr>
</tbody>
</table>

Made on the 10th May, 2017

CHARLES G. GITHINJI (Dr.),
County Executive Committee Member for Finance and Economic Planning.
LEGAL NOTICE NO. 3

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 County Executive Committee Member for Finance makes the following Regulations:—

THE PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY OF NYERI CAR LOAN AND MORTGAGE (MEMBERS) SCHEME FUND) REGULATIONS, 2017

PART — PRELIMINARY

1. These Regulations may be cited as the County Assembly of Nyeri Car Loan and Mortgage (Members) Scheme Fund Regulations, 2017 and shall come into operation upon gazettement in the Kenya Gazette.

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

“Board” means the County Assembly Service Board established under Section 12 of the County Governments Act;

“Borrower” means a person in receipt of a car loan or mortgage out of the Fund;

“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 County Assembly Car loan and Mortgage (Members) Scheme Fund established under Regulation 3;

“Loan Agreement” means an agreement between the Officer administering the Fund and a Member of the Scheme;

“Member of the Scheme” means a Staff of the County Assembly of Nyeri appointed pursuant to section 12 (7) (b) of the County Government Act, 2012;

“Nyeri” means the Nyeri County as specified in the first schedule to the Constitution;

“Officer Administering the Fund” means the Clerk of the County Assembly of Nyeri;
"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;

"staff" means an employee of the County Assembly Service Board; and

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

3. There is established a Fund to be known as the County Assembly of Nyeri Car Loan and Mortgage (Members) Scheme Fund.

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property and/or to purchase a motor vehicle for personal use by members of the Scheme.

5. The Fund shall consist of—

(a) The initial capital of the Fund which shall be the monies standing to the credit of the account on the date of the coming into operation of these Regulations;

(b) Such monies as may be appropriated by the County Assembly;

(c) Sums received as contributions, gifts or grants from any lawful sources; or

(d) Monies arranged from other financial institutions through an agreement entered into between the board and the financial institution.

6. (1) There is established a Loan Management Committee to be known as the County Assembly of Nyeri Car Loan and Mortgage (Members) Management Committee, which consists of—

(a) the Vice-Chairperson of the Board who shall be the Chairperson;

(b) two other Members of the Board appointed by the Board;

(c) the Whip of the Majority Party;

(d) the Whip of the Minority Party;

(e) one Member of the County Assembly elected by the members of County Assembly;
(f) two members of staff appointed by the Board;

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

(3) The Committee shall administer the Fund and shall review applications for loans in accordance with the existing terms and conditions of borrowing.

(4) Notwithstanding Sub-regulation (3) above, the Board may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund.

(5) The Committee may appoint a secretariat from among the staff members to attend its meetings and assist it with its operations.

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

(7) The quorum for a meeting of the Committee shall be the Chairperson and any four Members.

(8) The Committee shall consider and may approve loan applications presented by the officer administering the Fund.

7. The functions of the Loan Management Committee shall be to—

(a) process and approve loans in accordance with these regulations;

(b) liaise with the financial institution where necessary to set up a Fund for the disbursement of the loans;

(c) oversee the management of the Fund;

(d) monitor and evaluate the performance of the Fund;

(e) approve annual work programmes and procurement plans for the Fund;

(f) recommend the investment of any surplus funds not immediately required in securities approved by the Board, for the purposes of realizing the objects and purpose for which the Fund is established;

(g) cause to be kept all proper books and records of account of the income, expenditure, assets and
liabilities of the Fund;

(h) receive any gifts, donations, grants or endowments made to the Fund;

(i) consider and recommend approval of the financial statements to the officer administering the Fund;

(j) recommend as when required the procurement of a financial institution to administer the Fund on its behalf

(k) perform any other functions that are ancillary to the objects and purpose for which the Fund is established; and

(l) determine its own procedures for conducting its business.

8. (1) A car loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle for personal or official use by the applicant and not for commercial purposes where a member draws profits from the use of the vehicle.

(2) Similarly, a mortgage obtained from the fund shall only be used for purchase, development, renovation or repair of residential property.

9. (1) An application for a loan under these Regulations shall be forwarded to the fund administrator and shall where appropriate be accompanied by the following documents—

(a) In the case of a mortgage—

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

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

(iii) copies of the designs of the proposed residential property duly approved by the relevant authorities within whose area it is to be situated or a copy of the valuation report in the case of an already developed property; and/or

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

(b) In the case of a car loan—

(i) a recent official search

(ii) a certified copy of the sale agreement relating to the
motor vehicle; and/or

(iii) a copy of a valuation report where the motor vehicle being purchased is a second hand.

(2) Upon receipt of the loan application, the fund administrator shall satisfy that the documents in sub-regulation (1) above are in order and are proper, and that the applicant is able to repay the loan applied for, and where so satisfied shall forward the application to the Committee for approval.

(3) The applicant shall bear the cost of valuation, stamp duty and other legal fees—

(a) where a borrower fails to comply with the requirements of sub regulation (3) 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.

(b) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the Board.

10. (1) A loan granted to a member of the scheme under these regulations shall carry an interest rate of three per centum (3%) per annum on a reducing balance.

(2) The interest shall be credited to the capital fund as a revolving fund.

11. (1) A loan approved under these Regulations 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) Notwithstanding the provisions of sub-Regulation (1) above, a person disbursing the funds shall confirm that the borrower has complied with regulations 9 and 14 of these Regulations.

(3) For the purposes of these Regulations—

(a) a loan shall not be given to a member of the scheme to purchase a used vehicle that is more than eight years old from the date of manufacture or as may be determined from time to time;

(b) similarly, 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 the
lease is at least forty-five years beyond the final loan repayment date.

(4) The Board shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

(5) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Board and the member of the scheme and shall be kept in the custody of the Fund Administrator until the loan is repaid in full by the member of the scheme.

12. (1) The loan amount that a member of the Scheme may receive shall be the value of the property and/or the motor vehicle that the member of the Scheme proposes to purchase and/or develop subject to the maximum amounts set by the Salaries and Remuneration Commission.

(2) For the purposes 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 a Government Department dealing with similar matters.

13. (1) A loan advanced under these regulations shall be repaid in full over the period of service of the member of the Scheme, but in any case not exceeding five years.

(2) During the loan repayment period the borrower shall—

(a) In the case of a Mortgage:-

(i) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property;

(ii) 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 committee;

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

(iv) ensure that the mortgage is used for residential purposes only;

(v) 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 committee.

(b) In the case of a motor vehicle—

(i) ensure that the motor vehicle is used for personal purposes and not commercial purposes;

(ii) not mortgage, surrender the motor vehicle or sell or agree to sell or part with possession of the motor vehicle;

(iii) take out and maintain a comprehensive insurance policy in respect of the motor vehicle and send the proof of such payments to the committee;

(iv) provide a transfer deed duly signed by the borrower and a letter authorizing the committee to sell the motor vehicle in the case of default; and

(v) maintain the motor vehicle in a satisfactory state of repair;

(3) All residential properties purchased through the Fund shall be constructed of such material as may be approved by the committee.

14. (1) A borrower shall—

(a) in the case of a mortgage take out and maintain a mortgage protection policy and a fire policy;

(b) in the case of a car loan take out and maintain a comprehensive motor car insurance policy.

(2) Prior to taking out an insurance policy stipulated in (1) above, the borrower shall confirm that the insurance firm is approved by the Committee;

(3) The cost of insurance shall be paid out of the Fund and debited in such borrower’s account.

(4) The originals of all documents relating to the mortgage property and/or motor vehicle financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

15. The committee may call in a loan and in default sell the charged property or the motor vehicle by public auction or private treaty where the borrower is in breach of the terms under
the loan agreement or the covenant contained in the charge of the mortgage instrument.

16. Upon full repayment of the loan, a signed loan discharge certificate shall be issued to the borrower.

17. (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 months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him or her specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board 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 him or her 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 as at the end of the financial year concerned.

18. The responsibilities of the mortgage institution, if any, appointed under these Regulations 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 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 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 loan and on behalf of the Committee 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.

19. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the committee and in the contract between the mortgage institution and the committee.

(2) Subject to these Regulations, the Committee shall issue guidelines on—

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

(b) the purchase of a developed residential property under these 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.

Made on the 10th May, 2017.

CHARLES G. GITHINJI,

*County Executive Committee Member for Finance and Economic Planning*