

SPECIAL ISSUE

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LEGAL NOTICE NO. 3

THE MACHAKOS COUNTY WARD DEVELOPMENT FUND ACT

(No. 2 of 2014)

IN EXERCISE of the powers conferred by section 45 (1) of the Ward Development Fund Act 2014, the County Executive Member responsible for the matters relating to the Ward Development Fund makes the following Regulations—

**THE MACHAKOS COUNTY (WARD DEVELOPMENT FUND) REGULATIONS
2016**

Citation.

1. These regulations may be cited as the Ward Development Fund Regulations 2015.

Interpretation.

2. In these regulations unless the context otherwise requires—

“Accountant” means an officer appointed by the County Management Committee to that position;

No. 2 of 2014.

“Act” means the Machakos County Ward Development Act, 2014;

“County Assembly Select Committee” means the committee established under section 36 of the Act;

“County Executive Committee member” means the County Executive Committee member responsible for matters relating to finance;

“County Management Committee” means the committee constituted under the section 5 of the Act;

“Financial Year” means the period of twelve months ending on 30th June of each year;

“Open Public Meeting” means a gathering of the residents of a Ward convened under Section 33 (5) of the Act for purposes of electing members of a Ward Development Fund Committee or to deliberate on development matters in the Ward.

“officer of the Fund” has the meaning assigned to it by the Act;

“presiding officer” means the officer of the Fund in the Ward;

“project” means a project initiated and implemented pursuant to the provisions of the Act;

No. 1 of 2013.

“village” means a unit of a Ward which is equivalent of a sub location under the National Government Coordination Act, 2013;

Approval of Nominees to the County Management Committee.

3. (1) The County Assembly shall, within twenty one days after receiving the names of the persons appointed to the County Management Committee from the County

Executive Committee member, consider the nominations with regard to the principles under Article 73(2) of the Constitution of Kenya, 2010 and approve or reject any of them.

(2) Upon approval of the nominees by the County Assembly, the County Executive Committee member shall, within fourteen days of receiving the approval, cause the names of the approved persons to be published in the Kenya Gazette.

(3) Wherever there is a vacancy in the membership of the County Management Committee, the County Public Service Board shall within twenty-one days of the vacancy arising submit to the County Executive Committee member the names of the persons appointed to fill the vacancy for onward transmission to the County Assembly for approval.

Function of the Ward Development Fund Committee.

4. The Ward Development Fund Committee established under section 33 of the Act in every Ward shall—

- (a) consider project proposals from the villages in the Ward and any other projects which the Ward Development Fund Committee considers beneficial to the Ward in line with the County Integrated Development Plan;
- (b) consult with the relevant government departments to ensure that cost estimates for the projects are realistic;
- (c) rank project proposals in order of priority while ensuring that the Ward's ongoing projects are given priority;
- (d) ensure that projects proposed for funding are in line with the requirements of the Act and relevant County documents and circulars;
- (e) monitor the implementation of projects in each Ward;
- (f) ensure prudent management of the Fund;
- (g) undertake any other assignment delegated to it by the County Management Committee.

Election of Members of the Ward committees.

5. (1) The officer of the Fund shall convene an open public meeting for the election of members of the Ward Development Fund Committee and cause public notices of the meeting to be displayed in all public places in every ward at least fourteen (14) days prior to the date of the election.

(2) The notices shall specify the date and the designated areas within the respective wards where the meeting to elect the members to the Ward Development Fund Committee will be held.

(3) The open public meetings held in a ward for the purpose of electing members of the Ward Development Fund Committee shall be held at the designated areas within the Ward.

(4) The officer of the Fund in the Ward shall preside over the open public meetings and record the attendance and all proceedings of the meetings and election.

Qualifications for nomination of Ward Development Fund Committee members.

6. Subject to the provisions of the Act, a person qualifies to be elected as a member of the Ward Development Fund Committee if that person—

- (a) is a citizen of Kenya;
- (b) resides within the Ward;

- (c) has at least a primary certificate of education;
- (d) possesses basic reading and writing skills in any of the official languages; and
- (e) is of high integrity.

Procedure for electing Ward Development Fund Committee Members.

7. (1) The election of the seven persons referred to in Section 34(1) of the Act shall be conducted in the following manner—

- (a) after convening an open public meeting for the election of the members of the Ward Development Fund Committee, the officer of the Fund shall make record the details of the participants including their names, national identification card numbers and the village of origin;
- (b) the mode of election and the name of the officer of the Fund shall be included in the record of election proceedings documented by the officer of the Fund;
- (c) The participants shall elect the seven persons from each village as required under Section 34(1) of the Act;
- (d) the officer of the Fund shall announce results of the voting exercise immediately after the elections and the same shall be authenticated by the county government representative overseeing the meeting.
- (e) the Officer of the Fund shall forward the names of the persons elected to the officer of the Fund in the ward as required under section 33(2) (c) of the Act.

(2) The persons appointed as committee members shall be required to uphold the principles under Chapter six of the Constitution including—

- (a) accountability for administrative acts;
- (b) transparency;
- (c) observing due care and diligence in provision of public service.

The Chairperson of the Ward Development Fund Committee.

8. (1) The chairperson of the Ward Development Fund Committee shall be nominated in accordance with section 34(1) (a) of the Act.

(2) The chairperson of the Ward Development Fund Committee shall—

- (a) in consultation with the secretary convene Ward Development Fund Committee meetings;
- (b) preside over the Ward Development Committee meetings;
- (c) in consultation with the Sub-County administrator convene regular open public meetings for project identification and review;
- (d) submit Ward project proposal to the County Management Committee;
- (e) co-ordinate the compilation of project status every six months.

The Secretary to the Ward Development Fund Committee

9. (1) Subject to section 33 (1) (f) the Sub county Administrator, Deputy or Assistant sub-county Administrator or other county administration officer responsible for the Ward shall be the secretary of the Ward Development Fund Committee.

(2) The secretary of the Ward Development Fund Committee shall—

- (a) circulate notices of meetings and their agenda;

- (b) accurately record proceedings of all Ward Development Fund Committee meetings and keep safe custody of the same;
- (c) receive and undertake the correspondence for the Ward Development Fund Committee.

The Treasurer to the Ward Development Fund Committee.

10. (1) The Ward Development Fund Committee shall elect a treasurer from one of its members appointed pursuant to the Act.

(2) The treasurer of the Ward Development Fund Committee shall—

- (a) be a signatory to the Bank account;
- (b) in consultation with the accountant, table the annual administration, monitoring and evaluation budget to the Committee for approval.

Hand over.

11. (1) The officer of the Fund shall preside over handover from one Ward Development Fund Committee to the next, and a report on the handover shall be submitted to the County Management Committee within fourteen days.

(2) The handover referred to in paragraph (1) shall be in accordance with guidelines issued by the County Management Committee.

Guidelines.

12. The Executive Committee member, in consultation with the County Management Committee may issue guidelines from time to time to enable the smooth election of members of the Ward Development Fund Committee.

Schedule of meetings.

13. At the beginning of every financial year, the secretary, in consultation with the chairperson of the Ward Development Fund Committee shall prepare and circulate to all members a list of the schedule of meetings to be held by the Ward Development Fund Committee in accordance with the Act and which shall be deliberated on by the members during their first meeting.

Meetings of the Ward Development Fund Committees.

14. (1) The secretary, in consultation with the chairperson shall issue at least fourteen days written notice for the meetings of the Ward Development Fund Committee including the agenda of matters to be discussed at the meeting.

(2) Notwithstanding paragraph (1) the chairperson shall, upon requisition in writing by at least five members convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(3) The quorum for a meeting of the Ward Development Fund Committee shall be five members.

(4) Meetings of the Ward Development Fund Committee shall be held in the Ward office or at a public institution within the Ward that is accessible to all members.

(5) The chairperson shall preside over meetings of the Committee but where the chairperson is absent, members shall elect a member of the committee to chair the meeting.

(6) A member elected under paragraph (5) shall have all the powers of the chairperson with respect to that meeting and the business transacted thereat.

(7) The secretary of the Ward Development Fund Committee shall ensure that all the proceedings and business of the committee at every meeting are recorded in minutes.

(8) The minutes referred to in paragraph (7) shall be authenticated by the chairperson and secretary by endorsing each page of the minutes and shall be made available for inspection to the members of the Ward Development Fund Committee and other persons authorized by relevant laws.

(9) If a member of the Ward Development Fund Committee has a direct or indirect personal interest in a matter being considered or is to be considered by the Committee, the member shall, as soon as is possible after the relevant facts concerning the matter have come to knowledge of the member, disclose the nature of the interest to the Committee.

(10) The disclosure of interest made by a member of a committee under paragraph (9) shall be recorded in the minutes of the meeting of the Committee and the member shall not participate in that particular meeting.

Ward Development Fund Committee -Sub Committee

15. (1) At its first meeting, the Ward Development Fund Committee shall establish such sub-committees as it may consider necessary for the conduct of its operations.

(2) When forming the sub-committees the Ward Development Fund Committee shall ensure representation and gender balance.

(3) Notwithstanding paragraph (1), every Ward Development Fund Committee shall establish—

- (a) Ward Development Fund Tender Sub-Committee which shall be in line with the public procurement and disposal laws and regulations for the time being in force;
- (b) the Monitoring and Evaluation Subcommittee;
- (c) the Ward Development Fund Bursary Sub-committee.

Administration of Bursary funds.

16. The Ward Development Fund Committee shall—

- (a) develop a criteria for equitable and fair award of bursary fund in the Ward;
- (b) ensure that the funds allocated are reasonable;
- (c) effectively manage the monies allocated for bursaries;
- (d) ensure timely disbursement of the bursaries in accordance with the bursary allocation guidelines developed by the County Management Committee;
- (e) ensure continuity in the award of bursary to beneficiaries;
- (f) prepare a report at the end of every financial year showing the total number of beneficiaries and their progress after award of bursary;
- (g) disseminate information on the bursaries within the Ward.

Budget, Procurement Plan and Work plan for Funds.

No 18 of 2012

17. (1) The officer of the Fund shall prepare a detailed budget proposal, procurement plan and work plan for development projects in the Ward in accordance with the Act and the Public Finance Management Act, 2012 and present them to the Ward Development Fund Committee for approval with or without amendments.

(2) The approved budget proposal, procurement plan and work plan of the Ward development projects shall be forwarded to the County Management Committee for approval.

(3) The Ward Development Fund Committee may revise the budget, procurement and work plan referred to in paragraph (1).

(4) The Budget referred in paragraph (1) shall show all the Ward Development Fund Committee's capital and non-capital expenditure.

(5) At the end of every financial quarter, the officer of the Fund shall submit returns showing the implementation of the budget referred to in paragraph (1) to the County Management Committee.

Project Identification meetings.

18. (1) The chairperson of a Ward Development Fund Committee shall convene open public meetings to be held pursuant to section 33(5) for the purposes of identification and listing of development concerns in the Ward by displaying public notices at least fourteen(14) days prior to the date of the meetings.

(2) The notice shall indicate the time, place and venue of the open public meeting.

(3) The officer of the Fund shall guide the public meeting in deliberation and the identification of their development priorities and shall forward the final list prepared at the meeting to the Ward Development Fund Committee for consideration.

(4) Upon receipt of the list of development priorities from all the villages within the Ward, the Ward Development Fund Committee shall consider the lists and rationalize and consolidate the lists.

(5) The Ward's prioritized list of consolidated projects shall be submitted to the County Management Committee within twenty one days of approval by the Ward Development Fund Committee.

(6) Whenever the County Management Committee does not approve projects submitted to it by a Ward Development Fund Committee for whatever reason, it shall return the same to the respective Ward Development Fund Committee in writing stating the reason for the rejection and request for re-submission of suitable projects to be done.

(7) The list of approved projects shall be displayed on public notice board of the County Management Committees in every ward within fourteen days of receipt of such list from the County Management Committee.

(8) Without prejudice to the generality of section 24 of the Act, and in identifying and prioritizing the projects for the Ward, the Ward Development Fund Committee shall ensure that the value of each project to be funded under the Fund is below three million Kenya shillings.

(9) Despite the provisions of paragraph (8) the County Management Committee may, upon application by any Ward Development Fund Committee authorize the funding of a project whose value exceeds the ceiling set in paragraph (8).

Monitoring and Evaluation of Projects.

19. (1) The County Management Committee shall issue guidelines for monitoring and evaluation pursuant to the Act.

(2) The Monitoring and Evaluation Sub-committee shall carry out quarterly monitoring and evaluation of projects in the Ward.

(3) The officer of the Fund shall prepare and submit Monitoring and Evaluation report to the Ward Development Fund Committee for deliberation and thereafter submit to the County Management Committee.

(4) Ward Development Fund Committees shall establish measures to ensure sustainability of projects funded under the Act.

(5) Ward Development Fund Committees shall ensure that, all projects are completed within the financial year that they were funded.

Procurement by Ward Development Fund Committees and Project Management.

20. The public procurement and disposal laws in force and the regulations thereunder shall apply with respect to any procurement by the Ward Development Fund Committees and Project Management Committees.

Opening of Ward Bank Accounts.

21. (1) Where a bank account is required to be opened under the Act, the Ward Development Fund Committees shall only open such Account in approved Banks upon official introduction by the Executive Committee member.

(2) Ward Development Fund Committees shall only change the approved bank accounts upon approval by the County Management Committee and shall only transact in the new account upon closure of the previously used account.

(3) The signatories to the Ward Development Fund Committee Bank Account shall be the—

- (a) chairperson;
- (b) treasurer and
- (c) officer of the Fund.

Ward Fund Office.

22. (1) Each Ward Development Fund Committee shall have one designated office within the Ward which shall be easily accessible.

(2) The officer administering the Fund shall be the custodian of all the assets of the Ward Development Fund.

(3) Before initiating construction or a lease of a Ward office, the Ward Development Fund Committee shall seek and obtain the approval of the County Management Committee.

Employees of the Ward Development. Fund Committee.

23. (1) The terms of service for employees of the Ward Development Fund Committee shall conform to the employment laws for the time being in force.

(2) The employees of the Ward Development Fund Committee shall be responsible to the officer of the Fund for the performance of their day to day duties and who shall avail all their records to the County Management Committee and update them regularly.

(3) The County Management Committee shall issue guidelines on the terms of service under paragraph (1) to ensure smooth operations of the Fund.

Allowances

24. Upon the advice of the County Public Service Board, the County Executive Committee member shall in accordance with the Act issue guidelines on allowances payable to the Members of the Ward Development Fund Committee, Projects Committees and any other person involved in the management of the Fund.

Guidelines.

25. The Executive Committee member may, from time to time, issue guidelines for the full implementation of this Act.

Made on the 5th February, 2016.

ELIZABETH NZYOKA,
*Machakos County Executive Committee Member,
Finance and Revenue Collection.*