Legal Notice No……

FINANCE ACT, 2013
(*No.* *of 2013*)

IN EXERCISE of powers conferred by section 16 of the of the Finance Act, 2013 as read with section 159 of the Public Finance Management Act, 2012 the County Executive Committee Member for finance makes the following Regulations -

THE FINANCE (CRITERIA FOR WAIVER OR EXEMPTION OF TAXES, FEES OR CHARGES) REGULATIONS, 2013

Short Title and commencement.

1. These regulations may be cited as the Finance (Criteria for Waiver or Exemption of Taxes, Fees or Charges) Regulations, 2013 and shall come into operation on publication in the County Gazette.

Interpretation

2. In this Regulations, unless the context otherwise requires-

"Act" means Finance Act, 2013;

"person with disability" means a person who has a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on social, economic or environmental participation and is registered with the National Council of Persons with Disabilities;

"State Officer" has the meaning assigned in Article 260 of the Constitution;

"County" the County Government of Kiambu;

"Committee" means a Committee established under Regulation 4;

"County Executive Member" means the County Executive Member responsible for matters relating to finance.

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Application for waiver.

3. (1) A person who intends to seek for a waiver or exemption of taxes, fees or charges shall make an application to the Committee.

(2) A person shall, in making an application under paragraph (1) provide the following information-

(i) the date of application;

(ii) the applicant's Personal Identification Number (PIN);

(iii) the type of business carried on by the applicant;

(iv) the estimate of the monthly income (both from the business and other sources);

(v).the specific tax, fees or charges applied for waiver or exemption and shall include outstanding principal, penalty or interest and total where applicable.

Establishment of a Committee.

4.(1) There is established a County Exemptions Committee for the consideration of applications for waivers or exemptions under these Regulations.

(2) The Committee shall consist of a county public officer appointed by the County Executive Member for finance from the departments responsible for finance, lands, trade and social services.

(3) The Committee may co-opt into the committee, such persons not exceeding two persons whose knowledge and skills are found necessary for the performance of the functions of the Committee.

Criteria for waiver.

5.(1) The Committee shall consider the applications submitted to it under regulation 3 and submit its recommendations to the County Executive Committee Member responsible for finance for approval.

(2) In considering an application under paragraph (1), the Committee shall take into consideration the criteria or waiver specified in the Schedule.

Approval of the waiver or exemption by the County Executive Committee Member.

6. The County Executive Committee Member for finance may, upon recommendation by the Committee, waive or exempt any person from paying rates, fees, charges, or permit if satisfied that the evaluation of the application has been carried in a fair and transparent manner and approval of the waiver or exemption is in public interest or on humanitarian grounds.

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Withdrawal of waiver or exemption.

7. (1). The County Executive Committee Member may revoke the waiver or exemption if the exemption was based on incorrect information.

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(2) A person who knowingly presents incorrect or misleading information or documentation for the purpose being granted an exemption or waiver of taxes, fees, or charges under this regulations commit an offence and is liable, on conviction, to a fine not exceeding two hundred thousand or imprisonment of a term not exceeding six months or to both.

Exemption or waiver not to apply.

8. A State Officer may not be excluded from payment of a tax, fee or charge by reason of the office of the State Officer or the nature of work of the State Officer.

Keeping of records.

9. The County Treasury shall maintain a public record of each waiver or exemption together with reasons of each and report in accordance with the provisions of section 164 of the Public Financial Management Act, 2012

SCHEDULE (Reg. 5(2))

CRITERIA FOR GRANTING EXEMPTION

1. (a) In considering an application for waiver or exemption of rent on a plot, stall, house or property within the County, the Committee shall take into consideration the following criteria–

(i) the inability of the applicant to pay the rent due to costs associated with sickness of an immediate family member, natural calamity or any other reasonable cause; or

(ii) whether the applicant falls within the category of a minority group or marginalized group and the property is for use by the group for raising money for welfare of the members.

(b) The waiver of the rent under subparagraph (a) shall be for a period not exceeding six months.

2. In considering an application for waiver or exemption of rates or penalties, the Committee shall take into consideration the following criteria -

(a) the nature of the institution and the services offered by the institutions including but not limited to -

(i) a public institution under the County such as hospitals, dispensaries, public schools among others;

(ii) a church, mosque, or any other property owned by a religious institution except commercial property;

(iii) charitable institutions' land or property other than commercial property where rates shall be payable; or

(b) whether the applicant is elderly or orphaned with no financial support;

(c) voluntary disclosure subject to payment of the principal amount in full;

(d) whether the applicant is a person with disabilities if the property is not used for commercial purposes and if used for commercial purposes, the market values of the business is less than one million.

(e) any reasonable ground for inability to pay that may be submitted by the applicant.

3. In considering an application for waiver or exemption of fees or charges the Committee take into account the following criteria -

(a) whether the applicant-

(i) is experiencing financial difficulties in paying the fees or charges due to natural disasters such as fire, flood, election violence, riots or any other reasonable cause;

(ii) is a person with disability with a monthly total income of less than fifty thousand shillings;

(iii) is elderly or orphaned with no other financial support; or

(b) public events such as school festivals or national holiday celebrations or any other public event.

4. In considering an application for waiver or exemption of permit fees, the Committee shall take into consideration the following criteria –

(a) whether the applicant-

(i) is a person with disability with a monthly total income of less

than fifty thousand shillings;

(ii) is elderly or orphaned with no other financial support; or

(b) public events such as school festivals or national holiday celebrations or any other public event.

5. In considering an applications for waiver or exemption for Single Business Permit the Committee shall take into account whether the applicant is--

(a) a person with disability for a total market value of business not exceeding five hundred thousand shillings.

(b) an elderly or orphan with no financial support.

Made on the ……, 2013

Mary Nguli
County Executive Committee Member for finance.