

MANGAUNG
LOCAL MUNICIPALITY/PLAASLIKE MUNISIPALITEIT/LEKGOTLA LA MOTSE

BY-LAWS REGARDING THE MUNICIPAL FRESH PRODUCE MARKET

The proposed By-law relating to the Municipal Fresh Produce Market is hereby published in terms of the provisions of section 12(3) of the Local Government : Municipal Systems Act, 2000 (Act No 32 of 2000) for public comment and representations. A copy thereof may also be scrutinised at the following places:

- a. The notice boards on the ground floor of the Bram Fischer-building in Bloemfontein;
- b. On the Municipality's website at www.mangaung.co.za ;
- c. At Room number 313, 3rd Floor in the Bram Fischer Building , De Villiers Street 5 , Bloemfontein.

Any comments or representations on the proposed by-laws must be submitted to the City Manager in writing at Room 201, Bram Fischer Building, De Villiers Street, Bloemfontein or send by post to PO Box 3704, Bloemfontein 9300 or send via email to stephen.rautenbach@mangaung.co.za . All comments should reach the above persons on or before 10 March 2008. Any person who cannot write, may come during office hours on or before 10 March 2008 to Room 313 or 314, Bram Fischer Building, De Villiers Street, Bloemfontein where assistance with the transcribing of comments or representations will be provided.

Notice No 8 / 2008

TM MANYONI
CITY MANAGER

BY-LAWS

To provide for the regulation and management of activities on and in respect of the municipal fresh produce market, and to provide for matters in connection therewith

Preamble

WHEREAS the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the Constitution authorizes and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include municipal markets and any other matter assigned to it by national or provincial legislation, by making and administering by-laws for the effective administration of these matters;

BE IT THEREFORE ENACTED by the Municipal Council of the **MANGAUNG** Local Municipality as follows:-

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CHAPTER 1 INTERPRETATION

1. Definitions

- (1) In these by-laws unless the context otherwise indicates –
 - “**Act**” means the Agricultural Produce Agents Act, No. 12 of 1992 ;
 - “**article**”, “**produce**” or “**goods**” means any kind of fruit, vegetables, food, lucerne, lucerne meal, forage, bran, plants, trees, shrubs, flowers, decorative plants, ferns, artificial flowers or any other product, animal, bird or thin, that is commonly offered on the market;
 - “**consignment**” means any quantity of produce consisting of separate units of the same kind or different kinds or produce that are simultaneously entrusted to the General Manager or a fresh produce agent for sale on behalf of any person;

"container" means any box, tray, bag, package or other means of packing;

"Council" means the municipal council of the Mangaung Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;

"General Manager" means the person appointed by the Municipality to be in charge of the market, described as the market authority in the Act, or his duly appointed assignee;

"market" means the municipal fresh produce market situated on erf 21402, Maselspoort Road, which is the property of the municipality

"fresh produce agent" means an agent acting as such with regard to any product sold at the market on the basis that the risk of profit or loss at all times remains with the principal, and-

- (a) includes any director of a company, trustee of a trust or a member of a close corporation who acts as a fresh produce agent as aforesaid;
 - (b) any director of a company, or a member of a close corporation or a trustee of a trust who acts as a fresh produce agent as aforesaid;
- and it includes the General Manager when he is acting as a fresh produce agent;

"market note" means any document that is officially issued by the General Manager;

"market sale" means any sale which takes place on the market or which is otherwise authorised by the General Manager;

"medical officer of health" means the medical practitioner who is for the time being holding office under the Municipality as medical officer of health, and it includes any medical practitioner or inspector who is lawfully acting in that capacity or duly authorised to do so;

"municipality" means the Mangaung Local Municipality, and when referred to as -

- (a) an entity, means Mangaung Local Municipality as described in section 2 of the Systems Act; and
- (b) a geographic area, means the municipal area of Mangaung Local Municipality as determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998)

"no offer market note" means an official document which indicates that the produce to which it refers was not sold, because no bid or offer could be obtained therefore;

"no sale market note" means an official document which indicates that the produce to which it refers, was not sold at the highest bid or offer that was obtained therefore, or that the produce was not offered for sale;

"prepayment system" means a system whereby payment for goods occurs by swiping an electronic card through a particular deduction device, which withdraws from that card, the amount of the value of the purchases ;

"private treaty sale" means a sale negotiated and concluded between a fresh produce agent and the purchaser which sale is recorded in the books of the Council;

"salesman" means an authorised person in the employ of a fresh produce agent, who acts on behalf of such agent in any transaction on the market;

"selling price" means the amount for which any article or produce has been sold to a buyer;

"unit" means the quantity of any produce which forms the basis upon which the prices of such produce are calculated, except where produce is packed in a container, in which case such container shall constitute a unit;

"vendor" means a person who consigns or brings produce to a market for sale : Provided that when the General Manager conducts sales on behalf of agents, he shall not be regarded as a vendor.

- (2) In these by-laws, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

CHAPTER 2 MANAGEMENT OF ACTIVITIES ON THE MARKET

2. Locality and extent of the market

The market shall be conducted on erf 21402 Mazelspoort Road, as more fully described on plan L.G. 452/77.

3. Control and supervision

The control and conduct of the market shall be under the supervision of the General Manager in accordance with all relevant laws and by-laws of the Municipality.

4. Market hours

The market shall be open on such days and during such hours as the Council may determine from time to time.

5. Behaviour of persons on the market

No person shall on the market :

- (1) smoke in any part where a notice prohibiting smoking, is displayed;
- (2) light a fire, without the permission of the General Manager;
- (3) stand, sit or lie upon or against any article or container;
- (4) throw anything at any person or object;
- (5) without lawful reason tamper with or remove or cause to be removed, any article that is placed or exposed for sale, or any container, or any label on such article or container;
- (6) without the written permission of the General Manager and in compliance with the Municipality's applicable by-laws, erect any additional fence or buildings on premises hired from the Municipality, or convert existing buildings or erect partitions or install or extend existing water or electricity mains or fittings, or make any other changes to such premises;
- (7) cause or allow any matter likely to cause blockage or damage, to enter any drain or gulley, or cause or allow any sewerage, oil, waste water or other objectionable substance to flow into any storm water drain;
- (8) without the permission of the General Manager wash, sort, grade or clean fruit, vegetables or any other article
- (9) disrupt any legal activity in any way whatsoever or interfere with or molest any other person or force articles on a client, or interfere with the proper carrying on of any business;
- (10) enter or remain, or cause any vehicle, animal or other thing to enter or remain on any part on days or at times when the market is closed, save with the permission of the General Manager;
- (11) neglect or refuse to depart or to remove any article, vehicle, animal or other thing therefrom if lawfully instructed by the General Manager to do so;
- (12) neglect or refuse to place any vehicle under his control in the position assigned to such vehicle by the General Manager;
- (13) drive or ride any vehicle or animal in such a way as to endanger persons or property;
- (14) spit, cause a nuisance or loiter, or use any threatening, obscene, abusive, violent, offensive or disgusting language, or make any loud or disturbing noise;
- (15) organise or conduct a public meeting without the previous written consent of the General Manager;
- (16) have in his possession, bring, cause to be brought onto the market premises any intoxicating liquor without the permission of the General Manager;
- (17) consume, or be under the influence of intoxicating liquor;
- (17) touch, taste, smell, handle or move any article exposed for sale, in such a way as to make it liable to contamination;
- (18) wilfully damage or deface any property;
- (19) throw away or deposit in any place other than receptacles provided for the purpose, any fruit peel, vegetable leaves or refuse of any kind whatsoever.

6. Entry to the market

The General Manager may refuse to allow any undesirable person to enter the market or to bring there any animal, vehicle, article or other thing whatsoever, and may instruct any person to leave the market or to remove therefrom any animal, vehicle, article or other thing whatsoever, if in his opinion circumstances exist that justify such refusal or instruction.

7. Responsibility for articles brought on to the market

Any person who brings any article, vehicle, animal or other thing whatsoever on to the market, shall be responsible therefore and liable for any damage, injury, danger, obstruction or inconvenience that it may cause.

8. Rejection of articles

The General Manager may reject from the market or may reject for sale on the market, any article which is diseased, unsound, unwholesome or unfit for consumption or that is stored in a container that is likely to contaminate it or any other article with which it may come into contact. The General Manager may immediately take any such article or container into his possession for the purpose of its destruction : Provided that if a dispute about the condition of any such article or container arises, it shall not be destroyed unless the medical officer of health has issued a certificate authorising such destruction.

9. Removal of obstructions

Any person who places any article or other object in any part of the market so as to cause inconvenience or obstruction or so as to prevent the proper sweeping, washing or cleaning of the market premises, shall immediately remove such article or object when instructed to do so by the General Manager. Should any such person refuse or neglect to comply with such instruction, or should his address be unknown to the General Manager, the General Manager may without notice remove the obstruction, and no liability shall rest on him or on the Municipality for any damage, injury or loss which may be the result of such removal.

10. Liability for error

The Council shall not be liable for any error of description, shortage or excess in quantity or lack of quality in respect of any article sold on the market, except when negligence on the part of the Council can be proved.

11. Delivery notes

(1) Every person who brings or causes to be brought to the market, any article to be offered thereon, shall, immediately on its arrival, register such article with the General Manager and the fresh produce agent concerned, who shall issue or cause to be issued a delivery note signed by him and by such person showing the following :

- (a) the date of arrival;
- (b) the full name and address of the vendor;
- (c) the description of the article;
- (d) the description of the container;
- (e) the mass or quantity;
- (f) the variety and quality of products as may be determined by the General Manager from time to time;
- (g) the name or code mark of the fresh produce agent or consignee to whom such article is consigned;
- (h) the registration number of the vehicle, if any;
- (i) any other particulars that may from time to time be required by the General Manager.

(2) The General Manager or fresh produce agent shall furnish every such person or consignee to whom such article is consigned, with a copy each of the said delivery note, and must himself keep a copy.

12. Railway delivery notes

The General Manager may obtain from the South African Railway and Harbours Administration a copy of every delivery note or way-bill issued by the said administration, and any other particulars required by him, in respect of every article delivered at the market by the said administration, irrespective of whether such article has been transported by rail or by road. Every fresh produce agent shall, when so instructed by the General Manager, authorise the said administration to furnish the General Manager with a copy of every such note or bill relating to articles consigned to him.

13. Fresh produce agent to account to vendor

Every fresh produce agent shall sign for the receipt of every article or consignment delivered to him at the time when it is delivered, and shall be responsible to the vendor for the quantity shown

on the delivery note and shall account to the vendor for such quantity in such manner as may be determined by the General Manager.

14. Offloading on arrival

Every article offered on the market shall on arrival be handed either to the General Manager or a fresh produce agent, who shall immediately make all arrangements deemed necessary by the General Manager to offload it and to place such article in the space or enclosure that is provided therefore.

15. Stacking, arranging and displaying

Every fresh produce agent shall make all arrangements deemed necessary by the General Manager to place, stack, arrange and display all articles received by him, at such time as the General Manager may determine and in such a way that they will have an orderly appearance, be conspicuous to intending buyers and adequately separated from other articles, whether or not the articles be of the same commodity or come from the same vendor or not. The General Manager may at any time direct a vendor or fresh produce agent to remove some or all of such articles to another space or area, or to re-stack, or re-arrange them anew or to re-display them.

16. Marking of containers

Every container shall be marked with the name and address of the owner, in clear and legible capital letters, on such container itself or on a label securely attached to it. All other names, addresses or marks, except the name, address or mark of the consignee and such other marks or labels as are required by law to appear thereon, shall be obliterated. No article may be displayed for sale, offered for sale or sold unless the container is marked as such.

17. Separation of produce

Every fresh produce agent shall remove or effectively separate all produce from any article received by him, which at any time is, or shows signs of being, deteriorated or damaged, and shall re-sort or repack such produce if, in the opinion of the General Manager, it is necessary to do so.

18. Variation in quality

No person shall bring or offer on the market any produce which is so packed that the produce at the top or sides of the container is of a better quality or larger than the produce in the other parts of the container.

19. Selling by sample

No fresh produce agent shall display for sale or offer for sale or sell from sample any article unless at least 60 % of the entire consignment is on the recognised sales area or in the designated cold storage area of the market at the time of such display for sale, offer for sale or sale.

20. Variation between article and sample

No fresh produce agent shall display a sample of any article for sale or sell any article from sample, unless such sample is truly representative of the entire consignment. The General Manager may satisfy himself in such manner as he may determine that the entire consignment is truly represented by the sample so displayed or offered for sale or sold.

21. Responsibility for difference between article and sample

Every fresh produce agent shall be responsible for any damage, inconvenience or loss suffered by any person who buys from sample an article that differs basically from the sample displayed or offered for sale. The decision of the General Manager as to whether the sample displayed or offered is truly representative of the article sold, shall be final and binding.

22. Re-stacking of unsold produce

Every fresh produce agent shall at the conclusion of each day's sales, re-stack all unsold produce in such a way as to give it an orderly appearance and in a position from which it will be clearly visible to intending buyers during the following day's sales and shall take every reasonable precaution to prevent deterioration of or damage to any article remaining unsold.

23. Cleanliness of premises

Every person to whom there has been allocated any office, area, stand, stall or other place in, on or from which to carry on business, shall at all times keep such office, area, stand, stall or other place and any roadways, gangways or passages adjoining it, neat and clean and shall immediately remove therefrom anything which the General Manager instructs him to remove. The General Manager may at any time inspect any such office, area, stand, stall or other place and any such roadways, gangways or passages and any vehicles or containers therein or thereon.

24. Right to occupy or to trade

No person shall occupy or trade from any office, area, stand, stall or other place, unless he has obtained the prior permission of the Council, and has paid any rent or fee lawfully due in respect thereof in advance. No tenant shall sub-let such office, area, stand, stall or other place, without the written consent of the Council, or its assignee and appropriate agreements to be entered into where necessary.

25. Unauthorised activities

No person shall sell, or offer, introduce, hawk with or carry about for sale, any article on the market without the prior permission of the General Manager.

26. Commencement and closing of sales

(1) Sales shall commence and close on the times as may be determined by the General Manager.

27. Procedure before sales

No article shall be displayed or offered for sale or sold until the provisions of sections 11 and 12, or whichever may be applicable, have been complied with, or unless the deliverer of any article, and the fresh produce agent or other person to whom it has been delivered, have in their possession either the original or a true copy of the documents referred to in the said sections, whichever may be applicable. Any copy of the original shall be deemed to be a true copy, if it is certified as such by the General Manager.

28. Separate sales notes

Every fresh produce agent or consignee that offers articles, shall sell separately and obtain separate market sales notes for every consignment of produce received from, or offered for sale by him on behalf of vendors, notwithstanding the fact that such consignments may be of the same commodity and from the same consigner.

29. Vendors at sales

Except with the prior permission of the General Manager, no vendor shall assist or attempt to assist the General Manager or fresh produce agent with the display or sale of his goods or interfere with or obstruct them in any way. Any instruction that such vendor wants to give regarding such goods shall be given either verbally, or, if so directed by the General Manager, in writing before the sale begins.

30. Auctions by General Manager

Every article offered for sale by public auction shall be auctioned by the General Manager or by a person authorised by him to do so, and no other person shall organise or conduct or attempt to organise or conduct any auction.

31. Delivery note before auction

Before a sale by public auction begins, the fresh produce agent concerned shall hand to the General Manager a true copy of a properly completed delivery note in respect of the articles concerned. The General Manager shall retain all such delivery notes until the expiration of the time allocated to the fresh produce agent for selling the articles entrusted to him.

32. Declaration before auction

Before a sale by public auction begins, the fresh produce agent concerned shall declare to the General Manager the grade, quality, condition, variety and exact quantity of the articles offered for

sale. The General Manager shall announce the declaration so made, together with the minimum quantity to be purchased by each buyer, to all persons attending the sale, and such announcement shall constitute the conditions of sale, together with any other conditions as the General Manager may impose from time to time.

33. Market sales note at the auction

- (1) The General Manager shall at the time of a sale by public auction, prepare a market sales note, signed by him and having the following inscribed thereon :
- (a) the number of the delivery note;
 - (b) the full name of the vendor;
 - (c) the name or number of the fresh produce agent;
 - (d) the date on which the sale is held;
 - (e) a description of the article and container;
 - (f) the variety;
 - (g) the grade;
 - (h) the place of origin;
 - (i) the mass (where applicable) and/or quantity received;
 - (j) the quantity available for sale;
 - (k) the quality;
 - (l) the price per unit;
 - (m) the name or number of the buyer;
 - (n) the quantity purchased by each buyer;
 - (o) such other information as he may deem fit to add.
- (2) The General Manager shall provide the fresh produce agent concerned with a copy of every such market sales note as soon as the consignment or part thereof is sold or, if it is not sold, before the General Manager passes on to the next consignment.

34. Procedure at auction

- (1) Every article offered for sale by public auction, shall be deemed to be sold to the highest bidder after the auctioneer knocked down the bid in respect of such article; if the fresh produce agent is willing to accept the price so realised. If not, the fresh produce agent shall declare the reserve price to the auctioneer, and the auctioneer shall announce such price to all persons attending the sale, and the highest bidder may thereafter accept or reject such price. Thereafter, provided the highest bidder accepts the article at the reserve price and does not purchase the whole number, other persons attending the sale, may obtain their requirements at such declared reserve price. Once a price has been declared, as described, it may not be changed for a period of 24 hours, and the original conditions of sale may not be changed in any way, except with the prior permission of the General Manager.
- (2) If the fresh produce agent refuses to accept the highest bid obtained at the sale as a selling price for any article, he shall declare a reserve price. The highest bid, together with the reserve price, shall be inscribed on the market sales note by the auctioneer, and if no sale is made at the reserve price, the words "not sold" shall be inscribed by the auctioneer on the market sales note, which shall then be deemed to be a no sale market note.
- (3) If no offer is made for any article offered for sale, the auctioneer may issue a no offer market note in respect thereof, by inscribing on the market sales note the words "no offer".

35. Controlled price

When the price of an article offered for sale by auction, is controlled or fixed by law, and the price so prescribed, is offered by persons attending the sale, the article shall be sold to the person who first made the bid at the controlled price. Should more than one person make a bid at the controlled price simultaneously, the General Manager shall either cancel the sale by public auction and direct that the article be sold by private treaty by the fresh produce agent concerned at the controlled price to the persons who attend the auction sale, in such a manner that each person receives a fair share of the available supply, or the General Manager may distribute the article in question at the controlled price among the bidders in a manner to be determined by him. No person may withhold such article from sale, unless directed to do so by the General Manager and no person shall offer or sell such article at a price in excess of the maximum controlled price, or offer or sell such article jointly with other articles that are not subject to controlled prices.

36. Alterations in market sales notes

The auctioneer shall initial every alteration on a market sales note, and the General Manager shall, after satisfying himself as to the reason for the alteration, countersign the altered note.

37. Roster of auction sales

Auctions shall be conducted according to a roster prepared by the General Manager in such a manner that every fresh produce agent in turn is given an opportunity to sell first. Every fresh produce agent shall be given a period of time, determined by the General Manager, within which the articles entrusted to him, may be sold. Every consignment shall be offered for sale only once during every round.

38. Re-auctioning

If the auctioneer has knocked an article down to the highest bid, and the sale is confirmed by the fresh produce agent, and the highest bidder has obtained his requirements, and a number of other buyers attending the sale ask to be served at the same price, the auctioneer may put the rest of the consignment up for auction again if, in his opinion, it will be to the advantage of all concerned. No responsibility shall, however, devolve upon the Municipality should a lower price be realised when the article is again put up for sale, but the General Manager or the fresh produce agent shall have the right to place a reserve price equivalent to the original highest bid on the article if a bid lower than the original highest bid is received when the article is re-auctioned.

39. Issue of documents

No person other than the General Manager shall issue or cause to be issued market sales notes or any other documents relating to collections, sales or deliveries. The cost, or portion thereof, attached to all or some of such documents, may be recovered from the fresh produce agents.

40. Time allowed to fresh produce agents

A fresh produce agent shall after he has arranged a specific time for his sales with the General Manager, commence immediately after announcement of his turn, failing which the General Manager may instruct the auctioneer to proceed to the next fresh produce agent. A fresh produce agent who failed to commence immediately shall forfeit the services of an auctioneer for the rest of the day.

41. Persons that are allowed within enclosure

Except with the permission of the General Manager no person other than the market officials, fresh produce agents or members of their staff shall be allowed within the enclosure or area in which sales are held. Every person shall forthwith leave such enclosure or area when directed to do so by the General Manager.

42. Refusal to sell

The General Manager may in his discretion refuse to accept any bid offered by any person at any sale by public auction, or refuse to sell any article to any person, if he has reason to believe that such person will be unable to pay the selling price or will not take delivery of his purchases, or if such person has contravened or failed to comply with any provision of these regulations.

43. Doubts and disputes

If the General Manager is doubtful as to the highest bid or the highest bidder, or if the person to whom an article is knocked down, immediately disputes the sale, the article shall again be put up for sale, and the Municipality shall not be responsible for any loss resulting from such re-sale.

44. General Manager's decision final

The decision of the General Manager as regards disputes on a bid and all other matters connected with sales, shall be final and binding.

45. Doubts as to ownership

The General Manager may refuse to put any article up for sale if he has reason to believe that such article is not the property of the vendor, or he may put such article up for sale on condition that the proceeds of the sale remain in his possession until such time as he has been satisfied as

to the ownership of such article. The Municipality shall not be liable for any loss or damage caused to any person by such refusal to sell, or sale made on the condition set out above.

46. Sales at prices below the highest bid

Every fresh produce agent who has placed a reserve price on any article, and who later accepts an offer which is lower than the highest bid made for such article at the original sale, shall be responsible to and shall pay the vendor, in a manner to be determined by the General Manager, the difference between the highest bid received at the original sale, and the price at which the article was sold, unless the written permission of the General Manager had been obtained beforehand.

47. Reasonable price

The General Manager may declare that any article is unsold when the highest price offered is in his opinion not a reasonable price, and he may declare an article sold or direct that it be sold if he is convinced that the vendor by not concluding the sale may suffer inconvenience, loss or damage, unless the producer has given a contradictory order.

48. Inspection, grading, packing and marking

No article required by law to be graded, may be offered for sale or sold unless it has been submitted by the fresh produce agent concerned for inspection, and has been inspected as prescribed by law, and the grade assigned to it as a result of such inspection has been clearly marked on it by such fresh produce agent. No article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner, shall be offered for sale or sold or removed from the market unless it complies in every respect with the requirements of such law : Provided that the General Manager may in his discretion sell any article or direct that it be sold, if he deems it expedient to do so.

49. Collection and delivery

Every buyer shall collect his purchases as soon as they are ready for delivery to him, and every fresh produce agent shall deliver his purchases to the buyer as soon as he has paid the price, or as soon as such fresh produce agent is directed to do so by the General Manager. The fresh produce agent shall be responsible for delivering to the buyer the quantity, mass, quality, grade, variety and container, as the case may be, purchased by him. The buyer shall not be entitled to claim from and be compensated by the Municipality for any loss or inconvenience suffered as a result of non-compliance by the fresh produce agent with these provisions.

50. Purchase and sale by employees of the municipality

Except in an official capacity, nobody who is in the employ of the Municipality at the market, may bid on an article on the market or buy or sell it or may directly or indirectly be interested in the sale or purchase of any article sold or offered for sale on the market, save such as he may bona fide require for his private consumption or use.

51. Private treaty sales

No person except those authorised thereto by the Council shall conduct private treaty sales, and private treaty sales of such articles may only take place during such times and places and under such conditions as the General Manager may determine from time to time.

52. Sales dockets

(1) No article shall be sold by private treaty unless, at the time of sale, a sales docket complying with the provisions of section 52(2), is issued to the buyer by the fresh produce agent.

(2) Every sales docket referred to in section 52(1), shall be clearly and legibly written out and shall have the following inscribed thereon :

- (a) the date of sale;
- (b) the agent's code-mark;
- (c) the vendor's full name;
- (d) the buyer's full name or number;
- (e) the variety and count where applicable;
- (f) the type of container and/or the mass where applicable
- (g) the quality, quantity and mass of the article sold, where applicable;

- (h) the price per unit;
- (i) the number of units that are sold;
- (j) the gross value of the sale;
- (k) such other information as may be required by the General Manager.

53. Preference

No fresh produce agent shall, when conducting private treaty sales, in any way give preference to any person.

54. How articles are to be sold

No article shall be sold except according to quality, mass, number, quantity or as otherwise prescribed by a law or as determined by the General Manager. If an article is sold by mass, the mass shall mean the nett mass.

55. Prepayment system

- (1) The Municipality may introduce a prepayment system to the fresh produce market;
- (2) All persons wishing to be registered onto and partake in the prepayment system should apply for an electronic card by way of paying a deposit as determined by the Council from time to time by way of resolution;
- (3) After receipt of such a deposit an electronic card will be issued to the cardholder, who applied for such a card, by the General Manager. Prior to utilising the card, the cardholder should deposit an amount of money with the General Manager, which amount will be reflected on the card as a credit.
- (4) The cardholder may purchase goods by tendering the card at the relevant fresh produce agents, who will swipe the card through the relevant devices after each sale, effecting a deduction of the purchase amount from the credit on the card;
- (5) Persons may be prohibited from purchasing anything on the market if they do not have a card, or the card do not reflect enough credit to pay for the proposed purchases.
- (6) The cardholder should exercise the necessary care with his card and the Council will not be held liable for any unauthorised deductions from the card, unless such deductions can be shown to be due to an error by the Council.

56. Containers are included

Unless otherwise directed by the General Manager or unless it be declared a condition of sale by the fresh produce agent, the purchase price of articles sold in containers, shall include such containers. The General Manager may, however, direct that containers shall not be removed from the market, or that they be returned by the buyers, or that a deposit, determined by the General Manager, be paid by the buyer on any container, and that such buyer forfeits his deposit if such container is not returned within a period determined by the General Manager.

57. Articles of inferior quality as sample

No buyer shall be obliged to accept any article which, in the opinion of the General Manager, is inferior to, or does not conform to the sample exposed at the sale, or which does not conform to the declaration made at the time of sale by the General Manager or the fresh produce agent : Provided that the buyer notifies the General Manager accordingly immediately after delivery of the article has been made to him, and that the article in dispute has not be fiddled or tampered with, unpacked, resorted or removed from the market. Any dispute regarding any article or the sale thereof shall be decided by the General Manager and his decision is in all such cases of dispute or complaint, final and binding.

58. Cash purchases and credit guarantee

- (1) Unless the Council determines otherwise, all persons purchasing articles on the market, shall pay the General Manager in cash the price thereof immediately after the sale has been concluded. Except with the permission of the Council and the relevant producer, no person shall purchase any article on credit. If permission is granted, the General Manager may demand a guarantee from any person buying article on credit.
- (2) No person, except the General Manager, shall accept money in respect of any articles that has been sold.

- (3) Agents may collect money from sales after official hours, only if prior arrangement for this is made with the General Manager and he agrees to this arrangement.

59. Penalties for late payment of accounts

The provisions of the Local Government: Municipal Systems Act, Act No. 32 of 2000, shall apply to any person who fails to pay his account for an article purchased on credit within fifteen (15) days from date of purchase. Credit for defaulting buyers will be suspended without detracting from the right of the Municipality to take steps for the recovery of the amount due.

60. Defaulting buyers

- (1) If any buyer fails to pay for articles purchased by him or to comply with any other provision of these by-laws relating to sales, or has left articles at the General Manager or a fresh produce agent, the General Manager may direct that such articles be sold again in such manner as he may deem expedient, and the defaulting buyer shall be responsible for any loss on such re-sales, plus such monies and charges as may be due in terms of these by-laws.
- (2) The General Manager may further, in the event of any such loss, and on receiving particulars thereof from the fresh produce agent concerned, refuse to take any more bids from such defaulting buyer. Only sales by way of private treaty shall be allowed between such defaulting buyer and a fresh produce agent. The General Manager will only take bids from such defaulting buyer once the loss has been made up or the said defaulting buyer has made other arrangements to the satisfaction of the General Manager.
- (3) No defaulting buyer shall fail or refuse to pay on demand by the General Manager any deficiency due by him, or appoint any other person to buy on his behalf or use the name of any other person in order to obtain articles.
- (4) The Municipality shall not be liable for any error in connection with any article left at a fresh produce agent or on the market by a defaulting buyer, or for any wrong description, shortage or excess in quantity or lack of quality, or for any loss, damage or inconvenience suffered by such defaulting buyer.

61. Measuring of mass

When an article is offered for sale or sold by mass, the General Manager may direct that the mass of such article be measured in the presence of a buyer or prospective buyer at such place and on such scale as the General Manager may determine.

62. Responsibility for mass

It shall be the responsibility of the fresh produce agent concerned to ensure that articles which by law or by direction of the General Manager shall be sold by mass, shall be the correct prescribed mass before they are displayed for sale, offered for sale or sold, and such mass shall be clearly and legibly marked on such articles or their containers.

63. Default by fresh produce agent

When, in the opinion of the General Manager, a fresh produce agent has neglected to take all reasonable steps to sell any article with a minimum of delay at the ruling market price, or has failed to take all reasonable precautions to prevent deterioration or contamination of such article, the General Manager may notify the vendor and issue a market sales note in his favour in respect of such article at the price realised for similar articles on the day on which the article should have been sold. The said fresh produce agent shall pay to the vendor, in a manner to be determined by the General Manager, the value specified on such market sales notes, less any charges he is entitled to receive and less the price for which the deteriorated or contaminated article, or the article not sold when it should have been sold, has been sold. No responsibility shall devolve on the Municipality or the General Manager for having so notified the vendor, or for any loss or damage suffered by the fresh produce agent concerned as a result thereof.

64. Demand for payment by General Manager

- (1) The General Manager may demand, and recover any monies due by any person for or to whom any article has been sold, and if such person fails to pay such monies, the General Manager may set off such monies against any monies in his possession belonging to such person.
- (2) If the General Manager is in control of monies and has reason to believe that if such monies are paid out to any person other than the person to whom they are lawfully due, they will not reach the

person to whom they are lawfully due, he may either withhold payment of such monies to any person until he is satisfied that they will reach the person to whom they are lawfully due, or direct that they be paid direct to the person to whom they are lawfully due in a manner to be determined by him. No responsibility shall devolve on the Municipality for any action bona fide taken in terms of these regulations.

65. Unclaimed articles

A storage fee, as determined by the Council from time to time by way of resolution, may be levied on any article left on the market and not claimed within forty-eight hours and not removed by the person entitled thereto, before it may be removed. Such articles, when not claimed or when the set storage fee is not paid, must be sold by the General Manager in the manner to be determined by himself, and the said General Manager shall hold the proceeds of such sale, less all monies and charges lawfully due thereon, on behalf of any person duly establishing his claim thereto.

66. Dumping and re-selling

Except with the permission of the General Manager, no person shall dump or resell any article on the market which he has purchased on the market. No person may bring any article to the market for dumping or storing thereon until delivery can be taken by the owner or purchaser. The General Manager shall warn any person trying to do so, against such dumping, reselling or storing or take the necessary legal steps.

67. Off-loading

- (1) Every fresh produce agent shall proceed with reasonable despatch to load or cause to be loaded any barrow or other vehicle, when requested to do so by the General Manager.
- (2) The Municipality shall not be responsible for the loss of or damage to or delay in delivery or off-loading of any article of the fresh produce agent or buyer.

68. Liability for loss or damage

No liability shall devolve on the Municipality in respect of loss of or damage to any article from any cause whatsoever while such article is on the market.

69. Permits for fresh produce agents

- (1) No person shall carry on the trade or business of a fresh produce agent unless he shall first have obtained a permit from the Municipality to do so. The permit is not transferable without the written permission of the Council.
- (2) Every person carrying on such trade or does business, shall submit an application therefor on the official form obtainable from the General Manager, and shall lodge the completed form with the General Manager.
- (3) Every applicant shall satisfy the Municipality that he is a fit and proper person to carry on the trade or business of a fresh produce agent and that he has complied with the provisions of the law relating to fresh produce agents.
- (4) Every permit holder shall pay in advance to the Municipality a fee, as from time to time determined.
- (5) Every permit shall be valid from its date of issue until the following 31 December, unless it is otherwise cancelled or withdrawn. Every permit holder desiring to renew such permit, shall make application therefore when directed to do so by the General Manager, in terms of the provisions of subsection (2).
- (6) The Council may in its discretion withdraw or refuse to renew a permit.
- (7) The General Manager may in his discretion allocate stands to a fresh produce agent to carry on his business. No fresh produce agent shall sublet any such stand or place without the approval of the General Manager and the allocation may be withdrawn at any time by the General Manager if circumstances warrant it.

70. Other licenses

In addition to the permit issued by the Council, a fresh produce agent shall, before beginning to trade on the market, take out all such other licenses and furnish all such other surety bonds as he may be required to do by any other law. The issue of permits will be at the entire discretion of the Council notwithstanding the fact that intended applicants may comply with all the requirements and conditions for a permit or not.

71. Transfer of produce

The General Manager may, when instructed to do so by the vendor, transfer the produce belonging to such vendor from the fresh produce agent to whom the goods was originally consigned, to any other fresh produce agent named by the vendor.

72. Allocation of space to fresh produce agents

The General Manager may, subject to section 24, allocate space in the market area for the use by fresh produce agents as he may deem fit. No fresh produce agent shall place articles on floor space which has been allocated to another fresh produce agent without the prior approval of the General Manager.

73. Dust- and rubbish receptacles

Every person hiring premises on the market, shall provide an adequate number of dust- or rubbish receptacles of a type and size approved by the General Manager for use on such premises. No person shall place or cause to be placed any offensive matter in any such receptacles, and it shall be the responsibility of every person hiring such premises to ensure that the contents of such receptacles are regularly removed and dumped in a place determined by the General Manager.

74. Information required of fresh produce agents

Every fresh produce agent shall, when requested to do so by the General Manager, furnish him with any documents or information relating to arrivals and sales of and payments for all articles handled by such agent in the course of business.

75. The fresh produce agent is responsible for employees

Every fresh produce agent shall be responsible for the conduct of all persons in his employ and for the conduct of all persons in his employ and for any damage done to Municipality's property by such agent himself or by his employees, acting within the scope of their duties and instructions. Such agent shall forthwith institute adequate disciplinary measures as provide for in any relevant labour legislations against any employee contravening any law or regulation relating to the market, or any market rules or instructions issued by the General Manager, or convicted of any offence arising out of the execution of his duties or activities on the market, unless such conviction is set aside on appeal. No fresh produce agent shall engage or re-engage any person whose services have been so terminated after the finalization of such disciplinary measures.

76. Registration of employees

- (1) Every fresh produce agent shall register his employees with the General Manager in a manner to be determined by the General Manager, and shall notify all changes of personnel within three days to the General Manager who shall for this purpose keep a register, which shall set forth all relevant particulars relating to such employees.
- (2) The fresh produce agent shall ensure that if his employees are suffering from a contagious disease, they not be present at the market until such disease has been cured.

77. Permit for employees

- (1) Every fresh produce agent shall apply to the General Manager for a permit before employing any person, and shall not employ such person or allow him to begin work until the General Manager has issued a permit in respect of such person.
- (2) The General Manager may refuse to issue a permit, and may at any time cancel a permit if the person to whom it was issued is not a fit and proper person to hold it, or if such person has contravened any law or regulation relating to the market or any market rules or instructions issued by the General Manager. Any such permit shall be the property of the person to whom it was issued, and is not transferable. The holder shall produce it on demand by the General Manager or any duly authorised official at all reasonable times.

78. Protective clothing

Every fresh produce agent shall supply his employees with such protective clothing as may be required by the General Manager, and shall ensure that such clothing is distinctly marked with the code mark or the name of his firm, and numbered in a way determined by the General Manager,

and that such clothing is at all times kept clean and in good repair. No fresh produce agent shall allow any employee to work on the market unless he is wearing such protective clothing.

79. General Manager may furnish information to vendor

The General Manager may furnish direct to any vendor copies of any market sales note covering the sale of any article sold on behalf of such vendor by any fresh produce agent, or such other information as may be deemed expedient. Every fresh produce agent shall, on request by the General Manager, furnish him with the name and address of any vendor on whose behalf such fresh produce agent has sold any article, as well as such other information as the General Manager may require.

80. Misconduct by fresh produce agents

If any fresh produce agent commits any breach of, or fails to comply with, the provisions of any law relating to the market, or any instructions issued by the General Manager, the Council may serve a notice on such agent calling on him forthwith to remedy such breach or failure, and if he fails to do so the Council may cancel and refuse to renew his permit, as well as his right of occupation of office or other accommodation, without prejudice to any other action the Municipality may be entitled to take against such agent.

81. Lease of push-carts and trolleys

- (1) No other equipment or vehicles, except such equipment and vehicles supplied by the Council or approved by the General Manager, may be used to convey or remove products, articles or empty containers from any section or area of the market to any other section or area of the market.
- (2) The equipment or vehicles supplied by the Council in terms of section 83(1) may be hired by any person : Provided that :
 - (a) the prescribed rental is paid in advance to the General Manager;
 - (b) the lessee shall not lend or transfer it to any other person without the prior permission of the General Manager;
 - (c) when circumstances in the opinion of the General Manager justify such action, the said General Manager may at any time instruct any person to place it in any part of the market for as long as he deems necessary;
 - (d) the lessee shall return it to the General Manager in the condition received, fair wear and tear excepted. The lessee will nevertheless be responsible for any loss as a result of damage to it, or destruction or non-return thereof;
 - (e) no liability shall devolve on the Municipality for injury or damage to persons or property as a result of the use thereof, save where such injury or damage is caused by the wrongful or negligent act of employees of the Municipality;
 - (f) on the day of leasing, the lessee may use the equipment and vehicles as supplied by the Council up to 14:00 : Provided that the General Manager may shorten or lengthen the duration of the leasing period, if circumstances, in his opinion, justify such action and that as a result of this, no person shall have the right to claim against the Municipality;
 - (g) the type and maximum number of vehicles leased to any person per day, shall be determined by the General Manager according to circumstances;
 - (h) the lessee, on request of any duly authorised person, at any time has to give proof of his right to use such vehicle or equipment.

82. Cold storage and ripening

- (1) The Council may undertake the cold storage and ripening of articles, at tariffs laid down from time to time, to be paid by the person requiring such storage or ripening facilities, in such manner and at such time as may be determined by the General Manager. The said General Manager may refuse to release any articles so stored or ripened until the charges due to the Council in respect thereof have been paid.
- (2) All articles placed in cold storage or in the ripening chamber shall be at the entire risk of the person requiring such storage or ripening facilities and no liability shall devolve on the Municipality in respect of any loss, damage, shortage or delay arising from the maintenance of too high or too low temperature, failure of machinery or plant, flood, wind, sprinkler leakage, dampness, sweating, decay, putrefaction or destruction by vermin, Act of God, civil commotion, military authority, insurrection, strikes, lock-outs, labour-disputes, quarantine, war, explosion, the nature of the goods, inherent vice, contact with or proximity to other goods, concealed damage, variation or

shrinkage in weight, defective or insufficient packages or containers, theft or any other cause whatsoever, except upon proof by the owner that such loss, damage, shortage or delay was occasioned by or through the wilful misconduct or negligence of an employee of the Municipality acting in the course of his employment.

- (3) Notwithstanding anything contained in section 84(2), the Municipality shall not be liable for damage, howsoever caused unless inspection of the articles concerned, or such sample of them as the General Manager may require, has been tendered to the General Manager before such articles are removed from the market, nor shall the amount of the Municipality's liability for any loss, damages, shortage or delay exceed the value of the articles concerned. "Value" for this purpose shall mean the average price realised on the market for similar article son the day on which the articles concerned are removed from the cold store or the ripening chamber.
- (4) All articles are accepted on the understanding that the contents, weights, quantities and values are unknown, unless a special endorsement to the contrary is made on the receipt issued for such articles when they are accepted for cold storage or ripening.
- (5) All articles shall be labelled, as determined in sections 16 and 48.
- (6) Articles will only be released from the cold store or ripening chamber on presentation of a written order from the store, or his duly authorised agent and provided a signed receipt for such articles is given to the General Manager.
- (7) The General Manager may at any time refuse to accept any article for cold storage or ripening if, in his opinion, circumstances then existing justify such refusal and he may order the immediate removal from the cold store or the ripening chamber of any article deemed by him to be unsound or liable to cause damage or constitute a nuisance, and if the owner of the article concerned, or his duly authorised agent, fails to comply with such order, the General Manager may remove such an article from the cold store or ripening chamber at the expense of such owner or agent, and no liability for any resulting damage or inconvenience shall devolve upon the General Manager or the Municipality.

83. Articles left behind in market area

Any products stays behind in the market at the owner's responsibility.

84. Prohibition on dogs

Nobody shall bring any dog on any part of the market during market hours. Any person whose dog is found in the area, must remove the dog immediately. The General Manager shall have the right to impound any dog that is found in the market.

85. Hawking prohibited

Nobody shall hawk or carry about for sale any article, animal material or thing in any part of the market area. Every article, animal, material or thing thus hawked or carried around on the premises for the purposes of trade may be seized and taken into possession by the General Manager until the closing time of the market.

86. Rejected articles

The medical officer of health may inspect, reject and dispose of any article brought for sale on the market, and no compensation shall be paid by the Municipality in respect thereof.

87. Parking of vehicles

- (1) Nobody in control of any vehicle, may park such vehicle on any place except on the spaces that are set aside for such purpose from time to time by the General Manager : Such separate spaces next to the loading platforms may at the prepayment of the rental, as from time to time approved be reserved for any person. Provided that in the case of an emergency the General Manager may prohibit any person to park a vehicle in the place thus set aside.
- (2) No vehicles used for the delivery to or removal from the market of any article, shall remain on the premises longer than such period as is necessary for the loading or offloading, as the case may be. The General Manager determines the time that is necessary for such offloading and loading.

**CHAPTER 3
MISCELLANEOUS**

- 88. Obstruction**
No person shall place any article in the market area in such a manner that an obstruction or inconvenience is caused thereby. Nobody may erect any structure in the mentioned area without the prior written permission of the General Manager.
- 89. Damage to property of the municipality**
All persons moving into a premises, office, store table space, or stall, shall be responsible for all damage done during the use of tables, blocks, counters, equipment belonging thereto and plates or other property of the Municipality in general, except for normal wear and tear.
- 90. Liability of the municipality**
The Municipality shall not be held responsible or liable to any person for any loss, damage, injury or death resulting from or arising out of their presence at the market, which loss, damage or injury is not attributable to the neglect of normal duties by the employees of the Municipality.
- 91. Obstruction of officials of the municipality**
Any person who hinders officials of the Municipality in the execution of their duties or who uses offensive language or who acts in a threatening manner or who refuses to obey any lawful order, shall be guilty of an offence.
- 92. Unauthorised use of spaces**
Any person who uses, keeps or occupies any space in the market in an unlawful manner, shall be guilty of an offence and shall in addition be held responsible for the rental for the space and any damage caused by such unlawful occupation.
- 93. Market moneys, market commission and other fees**
- (1) Market dues shall be levied on all articles sold, in accordance with the stipulations of the Act or any other applicable legislation. It also applies to articles stored in the market or in cold storage, ripening chambers and the Municipality's store rooms and also on the letting of trolleys, offices, accommodation, etc.
 - (2) A fresh produce agent commission as determined by national regulations shall also be levied in respect of products.
- 94. Prohibition on wholesalers or their representatives trading**
Wholesalers, their employees or representatives are not allowed to trade with fresh produce agents at the municipal fresh produce market.
- 95. Submitting of railway claims**
Any claim rejected by the Railway Administration on the ground that the full consignment was delivered to the fresh produce agent or consignee in a sound and undamaged condition, shall be paid by the fresh produce agent or consignee concerned, and the value of such claim, less all lawful charges, shall be remitted to the vendor by such fresh produce agent or consignee in such manner and at such time as the General Manager may determine.
- 96. Dispute resolution**
- (1) Any dispute arising between fresh produce agents, traders, or persons other than the General Manager or any other employee of the municipality may be referred to the General Manager. Such a referral shall be in writing and accompanied by the written submission of all persons involved in the dispute.
 - (2) The General Manager shall set up a meeting for the resolution of the dispute referred in terms of subsection(1) and opportunity will be given to all parties involved to make representations.
 - (3) The General Manager shall provide his ruling on the representations to the parties concerned as soon as reasonably possible and such a ruling shall only be advisory of nature and shall not be deemed to be binding on the parties.
 - (4) Where a dispute arises which involves the General Manager or any other employee of the municipality, the matter shall be referred to the City Manager, whereupon the City Manager shall reasonably attempt to resolve the dispute. A ruling from the City Manager shall be of an advisory nature and shall not be deemed binding on the parties.

97. Offences and penalties

- (1) A person who has committed an offence in terms of these By-laws is, on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.
- (2) Any expense incurred by the Municipality as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

98. Repeal

The regulations regarding the Municipal Market promulgated under Administrator's Notice No 53 of June 12, 1979, as amended, are hereby repealed.

99. Short title and commencement

These by-laws are called the By-laws relating to the Municipal Fresh Produce Market and shall come into operation on the date of publication in the *Provincial Gazette*.