



Ekurhuleni

METROPOLITAN MUNICIPALITY

EKURHULENI METROPOLITAN MUNICIPALITY FRESH PRODUCE MARKET BYLAWS

[COUNCIL RESOLUTION: ~~A — ED (022006.....)~~

Dated ~~30 November 2006.....~~]

[Date of Commencement: ~~28 February 2007.....~~]

Bylaw

To provide for the operation of the Ekurhuleni Fresh Produce Market (Springs) and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Ekurhuleni Metropolitan Municipality, as follows:

EMM Fresh Produce Market By-Laws

CONTENTS

1. Definitions
2. Gender
3. Market days and hours
4. Risk of profit and loss
5. Control and risk of produce
6. Packing, stacking and display of produce
7. Cold storage and ripening
8. Storage
9. Abandoned produce
10. Produce unfit for human consumption
11. Market agents and their employees
12. Automatic lapse of a market agent's licence
13. Salespersons
14. Withdrawal of a sales permit
15. Market agents and floor sales
16. Protective and corporate clothing
17. Market agents' signage
18. Floor sales
19. Payment
20. Commission on sales
21. Collection and removal of produce
22. Default of buyer

23. Dispute between buyer and market agent
24. Obligations of a market agent
25. Carriers
26. Barrows
27. Withdrawal of a carrier's permit
28. Liability of carriers
29. Private barrows and trolleys
30. Vehicles, motorcycles and pedal cycles
31. Market rules and regulations
32. Retailers and wholesalers
33. Powers of the Municipal Manager
34. Sales to employees of the Municipality
35. Fees
36. Appeals
37. Indemnification from liability
38. Offences and penalties
39. Repeal of bylaws

1. Definitions

In these bylaws,

unless the context otherwise indicates —

“agricultural product” means an article specified in Part A of Schedule 1 of to the Act;

“appeal” means an appeal in terms of section 62 of the Municipal Systems Act;

“bank” means a public company registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990);

“buyer” means any person who is the holder of a buyer's card issued by market administration and who purchases produce at the market;

“carrier” means a selfemployed

person who is hired to convey produce at the market;

“carrier's permit” means a permit issued by the Municipal Manager in terms of section 25(2);

“consigner” means a producer or his representative and, for the purposes of these bylaws, the driver of a vehicle delivering produce on behalf of a producer is deemed to be a representative of the producer;

“Council” means the Ekurhuleni Metropolitan municipal council

“credit facility” means a preapproved account enabling the holder of the account to purchase produce on credit at the market;

“direct sale” means a sale of produce concluded direct between the owner of the produce and a wholesaler or retailer, which produce is brought onto the market premises;

“fee” means a fee, charge or tariff levied by the Municipality in terms of the Municipal Systems Act in respect of a municipal function or service;

“fidelity fund certificate” means a fidelity fund certificate issued in terms of section 16 of the Act;

“floor sale” means a sale concluded on the market floor;

“market” means the Springs Market;

“market administration” means the duly appointed management team responsible for the management of the market on behalf of the Municipal Manager;

“market agent” means a fresh produce agent as defined in section 1 of the Act and allowed by Council to operate at the Springs Market;

“market agent's licence” means a market agent's licence issued in terms of section 11(3);

“market floor” means the floor area of a market hall situated on the market premises;

“market hall” means an area on the market premises allocated for the purpose of displaying and selling produce;

“market premises” means the immovable property situated in Springs, off Paul Kruger Highway, and includes any other property on which the Municipality conducts the business of a freshproduce market;

“market product” means any article or product approved by the Municipal Manager to be offered for sale on the market premises, and includes any agricultural product;

“Municipality” means the Ekurhuleni Metropolitan Municipality established after the Municipal Elections held on ~~5 December 2000~~.....from the 11 disestablished East Rand local authorities (Alberton; Benoni; Boksburg; Kempton Park Tembisa; Germiston; Springs; Nigel; Brakpan; Lethabong; Kyalami and the Eastern Gauteng Services Council) in terms of the Municipal Structures Act;

“Municipal Manager” means the person appointed in terms of section 82 of the Municipal Structures Act as Municipal Manager of the Municipality or his duly authorised nominee;

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“operational unit” means a mechanical vehicle powered by battery, gas or fuel, and includes —,

- (a) a forklift;
- (b) a cleaning and washer unit;
- (c) a maintenance unit; and
- (d) any other unit in use for operational purposes at the market;

“person” means a natural person and includes any legal entity recognised by law;

“produce” means agricultural products and any other related products;

“retailer” means a person in respect of whom a service level agreement or any other agreement exists with the Municipality for such person to operate as a business on the market premises;

“sale” means

“sales docket” means a docket issued in terms of section 19(4);

“sales permit” means a permit issued in terms of section 13(3);

“salesperson” means a person who is the holder of a sales permit issued by the Municipal Manager and who is employed by a market agent;

“the Act” means the Agricultural Produce Agents Act, 1992 (Act 12 of 1992);

“vehicle” means any mechanical drivable unit developed for the transportation of people and/or goods; and

“wholesaler” means a person in respect of whom a service level agreement or any other agreement exists with the Municipality for such person to operate as a wholesale business on the market premises, provided that sales of the wholesaler do not include over the counter sales to the general public.

2. Gender

Any reference in these bylaws to one gender includes the opposite gender and any other gender recognised by law.

3. Market days and hours

(1) The market must be open on such days and during such hours as the Municipal Manager may from time to time determine.

(2) Subject to subsection (3), trading on the market floor may take place only during the hours determined by the Municipal Manager.

(3) With the prior approval of the Municipal Manager, a floor sale may be concluded after the trading hours referred to in subsection (2).

4. Risk of profit and loss

The risk of profit and loss in respect of produce brought onto the market premises must at all times be solely that of the consigner of the produce. Nothing in this section contained may be so interpreted as to absolve a market agent from fulfilling his obligations under these bylaws,

provided that the Municipal Manager is authorised to acknowledge at his own discretion any claim not exceeding an amount of R20 000,00 and to make payment in respect of the claim, provided further that any claim in excess of such amount is referred to the Council for consideration with an appropriate

recommendation for the Municipal Manager.

5. Control and risk of produce

(1) Before any produce that is to be sold is brought onto the market premises, the produce must be registered with —

- (a) the Municipality in the manner prescribed by the Municipal Manager; and
- (b) the market agent or the wholesaler to whom the produce is consigned.

(2) Produce that is brought onto the market premises and that is not for sale must be declared and registered in accordance with subsection (1), failing which the market administration may refuse such produce and prohibit it from being brought onto the market premises.

(3) Simultaneously with the registration referred to in subsection (1), further particulars required in respect of produce delivered by a consigner must be provided at the designated points as required from time to time by the market administration.

(4) When produce is consigned to a market agent, the market agent must —

- (a) on delivery of the produce to him, sign to acknowledge receipt of the produce and specify the time of such delivery;
- (b) allocate a consignment number, prepared in accordance with the information required in subsection (3), and hand proof of such a receipt to the market administration;
- (c) immediately make all the necessary arrangements to offload and place the produce in the space or enclosure provided for the produce; and
- (d) be accountable to the consigner for the quantity of produce specified in the necessary documentation.

(5) If any person fails or refuses to comply with the provisions of subsection (1) or subsection (3), the market administration may refuse the produce and prohibit it from being brought onto the market premises.

(6) The provisions of subsections (3) and (4) do not apply in respect of produce referred to in subsection (2).

6. Packing, stacking and display of produce

A market agent must —

- (a) conspicuously display, place and stack all produce received by him in such a manner that an orderly appearance is created;
- (b) at the daily closing of sales, display and restack all unsold produce in the manner referred to in paragraph (a); and

7. Cold storage and ripening

(1) The Municipality is entitled to —

- (a) establish, equip and carry on cold storage facilities and ripening chambers on the market premises; and
- (b) levy fees, as determined by the Council from time to time, for the use of the cold storage facilities and ripening chambers.

(2) Any person who makes use of any cold storage facilities or ripening chamber referred to in subsection (1) must do so at his own risk, and the Municipality is not liable for any loss or damage, whether direct or indirect, suffered by such a person, provided that the Municipal Manager is authorised to acknowledge at his own discretion any claim in terms of section 4 in respect of such loss or damage if—

- (a) such loss or damage is caused by any interruption or failure of the supply of electricity; or
- (b) such loss or damage is caused by any interruption or failure of machinery or equipment; or
- (c) any act or omission is done by an employee of the Municipality in the execution of his duties and in good faith.

8. Storage

(1) No person may without the prior written approval of the Municipal Manager store or leave any produce, article, item or thing of whatever nature on the market

premises.

(2) No person may without the prior written approval of the Municipal Manager store any produce, article, item or thing in the storage facilities provided by the Municipality on the market premises.

(3) Any person who fails to comply with the provisions of subsection (1) and (2) is liable to the Municipality for payment of the storage fees determined by the Council from time to time.

9. Abandoned produce

(1) If the Municipal Manager on reasonable grounds suspects that any produce left on the market premises has been abandoned, he may direct that such produce be —

- (a) sold if it is sound and fit for human consumption or use; or
- (b) removed and destroyed if it is unsound and unfit for human consumption or use.

(c) Where the produce is destroyed, any remnants of the produce must be disposed of lawfully at a suitable waste disposal facility.

(2) If abandoned produce —

- (a) is sold, the Municipality must pay the proceeds of the sale, less the fee determined by the Council from time to time, to the person who is entitled to such proceeds, if his identity is known; or
- (b) is removed and destroyed, the Municipality must recover the fee, determined by the Council from time to time, from the person who abandoned the produce, if his identity is known. Such fee may include the costs of destroying the produce as well as the costs of lawfully disposing of any remnants of the produce at a suitable waste disposal facility.

10. Produce unfit for consumption

(1) If the Municipal Manager on reasonable grounds believes that —

- (a) any produce offered for sale on the market floor is diseased or unsound or unfit for human consumption, he must immediately —
 - (i) withdraw the produce from the market floor; and
 - (ii) take possession of the produce; and
- (b) a container is likely to contaminate the produce contained in it, if any, or other produce, he must immediately —
 - (i) withdraw the produce, if any, and the container from the market floor; and
 - (ii) take possession of the produce, if any, and the container.

(2) If the owner of produce or a container contemplated in subsection (1), or in his absence, the market agent to whom the produce has been consigned shares the same belief as the Municipal Manager, the produce and the container, if applicable, must be destroyed immediately.

(3) Where the produce is destroyed, any remnants of the produce must be disposed of lawfully at a suitable waste disposal facility.

~~(34)~~ If a dispute in respect of the condition of produce or a container contemplated in subsection (1) arises between the Municipal Manager and the owner or market agent referred to in subsection (2) —

- (a) the produce or the container, if applicable, may not be destroyed; and
- (b) the dispute must be dealt with in accordance with the provisions of section 167 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).

11. Market agents and their employees

(1) No person may operate as a market agent at the market unless he is the holder of —

- (a) a fidelity fund certificate; and
- (b) a market agent's licence.

(2) An application for a market agent's licence must be made on the prescribed form available at the market's administration offices situated on the market premises, which form must —

- (a) be accompanied by the application fee determined by the Council from time to time and the other applicable particulars and documents requested on

- the form; and
- (b) be sent by post or be delivered to the market administration at the address indicated on the form;
- (3) A market agent's licence may be issued to an applicant if —
 - (a) there is in the opinion of the Municipal Manager sufficient space available on the market floor to accommodate the applicant's business;
 - (b) the applicant has satisfied the Municipal Manager that —
 - (i) he is a fit, competent and proper person to conduct the business of a market agent and has complied with the provisions of the Act and all other legislation pertaining to market agents; and
 - (ii) in the case of the applicant's being a natural person, a company, a close corporation or a partnership, neither the applicant nor one of the directors, members or partners, as the case may be, has any direct or indirect interest in any other company, close corporation or partnership to which a market agent's licence at the Springs Market has been issued; and
 - (c) the applicant has furnished the Municipality, within the period determined by the Municipal Manager, with security in the form of cash or a bank guarantee or a combination of cash and a bank guarantee to the satisfaction of the Municipal Manager for an amount determined by the Municipal Manager in order to make provision for payment by the applicant of any costs, fees or deposits of whatever nature that may become payable to the Municipality, provided that —
 - (i) the Council may from time to time determine that the amount for which a market agent gave security should be increased, in which case the Municipality must notify the market agent in writing of the increased amount; and
 - (ii) the market agent furnishes the additional security to the Municipality within 30 days from the date of the notice referred to in subparagraph (i), which additional security must be for the difference between the increased amount and the amount for which security had previously been furnished and must be in the form of cash or a bank guarantee or a combination of cash and a bank guarantee.
- (4) If the Municipal Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he must refuse to issue a market agent's licence to the applicant and must notify the applicant in writing of the refusal. Should the applicant in writing request the reasons for the refusal, the Municipal Manager must furnish them.
- (5)(a) The Municipal Manager can withdraw the market agent's licence of a market agent if —
 - (i) the fidelity fund certificate of the market agent has lapsed or has been withdrawn in terms of section 16 of the Act;
 - (ii) in the case of the market agent's being a company, close corporation or partnership, a change in the shareholding of the company or the membership of the close corporation or the partners of the partnership has occurred without the market agent's having obtained the Municipal Manager's prior written approval for such change;
 - (iii) any one or more of the provisions of subsection (3)(b)(ii) are not complied with;
 - (iv) the market agent enters into a business relationship or obtains a business interest that, either directly or indirectly, could harm, prejudice or impair the interests of the market; or
 - (v) the market agent contravenes any provision of section 15(2), section 24(a) to (d) or section 24(g) and h).
 - (b) If the Municipal Manager decides to withdraw the market agent's licence of a market agent, he must notify the market agent in writing of his decision. A market agent whose market agent's licence has been withdrawn must, subject to the provisions of section 36, immediately cease to operate as a market agent.

12. Automatic lapse of a market agent's licence

A market agent's licence is neither negotiable nor transferable and lapses automatically and is of no force and effect if —

- (a) the market agent is a natural person who has died or whose estate is sequestrated;
- (b) the market agent commits an act of insolvency as contemplated in the Insolvency Act, 1936 (Act 24 of 1936);
- (c) the market agent is a partnership that is dissolved for any reason whatsoever;
- (d) the market agent is a company that is placed under provisional liquidation or judicial management; or
- (e) the market agent is a close corporation that is placed under provisional liquidation.

13. Salespersons

(1) No person may operate as a salesperson on the market floor unless he is the holder of a sales permit issued by the Municipal Manager.

(2) An application for a sales permit must be made by the market agent on behalf of the salesperson on the prescribed form available at the market's administration offices situated on the market premises, which form must

- (a) be accompanied by the application fee determined by the Council from time to time and the other applicable particulars and documents indicated on the form; and
- (b) be sent by post or be delivered to the Municipal Manager at the address indicated on the form.

(3) A sales permit may only be issued to an applicant if he has satisfied the Municipal Manager that he —

- (a) is in the employ of a licensed market agent; and
- (b) is a fit, competent, proper and suitably qualified person to operate as a salesperson on the market floor.

(4) If the Municipal Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he must refuse to issue a sales permit to the applicant and must notify the applicant in writing of his refusal.

14. Withdrawal of sales permit

(1) A sales permit is neither negotiable nor transferable. The Municipal Manager can withdraw the sales permit of a salesperson if —

- (a) the salesperson is no longer in the employ of the market agent contemplated in section 13(3)(a);
- (b) the estate of the salesperson is sequestrated;
- (c) any one or more of the provisions of section 13(3)(b) are not complied with; or
- (d) the salesperson contravenes any provision of section 15(2), section 24(a) to (d) or section 24(g) and (h).

(2) If the Municipal Manager decides to withdraw the sales permit of a salesperson, he must notify the market agent in writing of his decision. A salesperson whose sales permit has been withdrawn must, subject to the provisions of section 36, immediately cease to operate as a salesperson.

15. Market agents and floor sales

(1) A market agent must conduct his business in accordance with the provisions and principles of the Act, the rules made under the Act and the provisions of these bylaws.

(2) A market agent may conduct his business —

- (a) on the market floor only, which business must be reflected in the official system of the market administration; and
- (b) on a commission basis only and may not be involved in any direct sale.

(3) In conducting his business, a market agent may allow only salespersons to sell on the market floor.

16. Protective and corporate clothing

(1) A market agent must —

- (a) subject to the provisions of the Occupational Health and Safety Act, 1993

- (Act 85 of 1993), supply his employees with protective and corporate clothing; and
- (b) ensure that the protective and corporate clothing complies with the relevant policy of the Municipality.
- (2) A market agent may not allow any employee of his to work at the market unless the employee is wearing the protective or corporate clothing referred to in subsection (1).

17. Market agents' signage

A market agent must —

- (a) at his own expense, affix a signboard on the door of the offices occupied by him, which signboard must be approved by the Municipal Manager and must bear the name of the market agent's business;
- (b) at his own expense, maintain the signboard in good repair; and
- (c) at his own expense, display in the market hall the name of his business in such a manner as may be determined by the Municipal Manager.

18. Floor sales

- (1) The parties to a floor sale must be the buyer and the principal of the market agent concerned, and the Municipality may not be a party to a floor sale or in any manner be held liable for the due fulfilment of the terms of the floor sale.
- (2) If produce on the market floor is sold by —
- (a) weight, it must be the net weight of the produce, and it is the responsibility of the market agent concerned to ensure that, before the produce is offered for sale —
- (i) the correct net weight of the produce is displayed on the produce; and
- (ii) the correct net weight of the produce is displayed on the container if the produce is contained in a container; and
- (b) sample, the bulk of the produce must correspond in quality to the sample of produce exhibited, and the market agent concerned is responsible for ensuring that any sample of produce exhibited corresponds in quality to that of the bulk of the produce.
- (3) The Municipal Manager is entitled
- (a) to take such measures as he may deem necessary to ensure that the provisions of this section are complied with; and
- (b) to prohibit produce from being offered for sale if any of the provisions of this section are not complied with.
- (4) Produce on the market floor may only be sold to a buyer who holds a valid buyer's card issued by the market administration.
- (5) When conducting a floor sale the buyer must immediately present his buyer's card to the market agent concerned, who must record the details of the sale in the manner prescribed by the Municipal Manager from time to time.

19. Payment.

- (1) The buyer of any produce must, immediately after the sale pay the purchase price in cash to the Municipality in the manner required by the market administration.
- (2) If the buyer of produce is the holder of a credit facility in accordance with the financial regulations of the Municipality, payment of the purchase price to the Municipality may be effected by means of and on submission of such card.
- (3) (a) The Municipal Manager may grant a credit facility to a buyer on condition that the buyer furnishes, at the buyer's cost, a bank or cash guarantee for such amount as the Municipal Manager may decide and pays the purchase price —
- (i) before 11:45 on the day following the date of purchase;
- (ii) if the purchase was made on a Saturday, before 11:45 on the following Tuesday; or
- (iii) if the purchase was made on a day preceding a public holiday, before 11:45 on the next business day.

- (b) Notwithstanding the provisions of subsection (3)(a), the Municipal Manager may, on each written application of a buyer, grant the buyer an extension of time to pay the purchase price, provided that the extension is subject to the terms and conditions contained in the credit control policy of the Municipality.
- (4) After payment of the purchase price of produce has been effected or credit for the payment of the purchase price has been granted, the Municipality must issue a sales docket to the buyer, which sales docket must contain the details and information prescribed by the Municipal Manager from time to time.

20. Commission on sales

- (1) The consigner is liable for payment to the Municipality of the fee determined by the Council from time to time in respect of every floor sale concluded by him.
- (2) The Municipality must deduct the fee referred to in subsection (1) from the purchase price in respect of every floor sale and must pay the balance of the purchase price to the market agent concerned, which market agent is liable to account to his principal.

21. Collection and removal of produce

- (1) Subject to the provisions of subsection (2), a buyer must, within a period of four hours from the time of the conclusion of the sale of produce, collect and remove or cause to be collected and removed all the produce purchased by him, provided that the Municipal Manager may in his sole discretion grant the buyer an extension of time for the collection and removal of the produce.
- (2) No buyer or his representative may remove any produce from the market floor unless —
 - (a) he is in possession of a valid sales docket referred to in section 19(4) in respect of the produce; or
 - (b) permission has been granted by the Municipal Manager for the removal, of the produce.

22. Default of buyer

- (1) If a buyer fails to present a buyer's card or to effect payment of the purchase price for produce purchased, the Municipal Manager may direct that the produce be resold in such manner as he may deem fit and expedient.
- (2) A buyer contemplated in subsection (1) is liable to the Municipality for payment for any loss in respect of fees suffered by the Municipality as a result of the resale of the produce, and the Municipal Manager is entitled to suspend the buyer's card of the buyer until the payment has been recovered from the buyer.

23. Dispute between buyer and market agent

If there is a dispute between a buyer and a market agent in respect of the weight, quantity, quality, grade or variety of produce purchased, the buyer and the market agent, as the parties to the dispute, must refer the dispute to the Municipal Manager, who must endeavour to resolve it. If any one of the parties is not satisfied with the recommendation of the Municipal Manager, that party may enforce his rights against the other party in a court of law.

24. Obligations of a market agent

A market agent must fulfil the following obligations:

- (a) The market agent may only sell produce and such other market products as the Municipal Manager in his sole discretion may allow market agents to sell.
- (b) The market agent may not receive any cash or other form of payment from a buyer.
- (c) The market agent may not allow a buyer to remove any produce purchased on the market floor unless the buyer is in possession of a sales docket for the produce in accordance with section 19(4).
- (d) The market agent may not sell any produce in a container that does not comply with the specifications stipulated by the Municipal Manager.

- (e) The market agent must provide for a buyer produce consistent with that purchased by the buyer in so far as the quantity, weight, quality, grade, variety and container of the produce are concerned.
- (f) The market agent is liable towards a buyer if
 - (i) the produce provided by the market agent differs from that purchased by the buyer in so far as the quantity, weight, quality, grade, variety and container of the produce are concerned; or
 - (ii) in respect of produce bought by sample, the produce provided by the market agent differs materially from the sample.
- (g) The market agent may not purchase, or allow his employees to purchase, any produce on the market floor for the purpose of reselling or trading in that produce.
- (h) The market agent or any of his employees is allowed, for purposes of personal use or consumption, to purchase any produce on the market floor at a price not lower than the price at which the produce was sold on the market' floor on the same day.
- (i) The market agent must ensure that his salespersons comply with the provisions of this section and those of section 15(2).

25. Carriers

- (1) No person may operate as a carrier on the market premises unless he is registered with the Municipal Manager as a carrier and holds a carrier's permit.
- (2) A carrier's permit may only be issued to a person on submission of proof of identification and on payment to the Municipal Manager of a refundable deposit determined from time to time by the Council.
- (3) A carrier must at all times wear the proper identification and clothing supplied by the Municipal Manager to registered carriers and must keep his person and the clothing clean and tidy.
- (4) A carrier may not
 - (a) while he is not engaged in providing carrier services, enter any part of the market premises other than an enclosure or other area set aside by the Municipal Manager for carriers; and
 - (b) tout for customers by shouting or persistently following a buyer or prospective buyer.

26. Barrows

- (1) The Municipality may issue a barrow to a carrier only if —
 - (a) he wears the clothing referred to in section 25(3);
 - (b) he holds a valid carrier's permit; and
 - (c) he has paid a refundable deposit of which a fee for usage will be deducted, to the market administration determined by the Council for the acquisition of the barrow
- (2) (a) A carrier must at all times be in possession of his receipt for the deposit referred to in subsection (1)(c) and must produce the receipt at the request of the Municipal Manager.
 - (b) A carrier may not pull more than two barrows at any given time.
 - (c) A carrier may only use a barrow issued by the Municipality.
 - (d) A carrier is liable for the safe use of a barrow issued to him.
 - (e) A carrier must ensure that the barrow issued to him is utilised in such a manner as to avoid any wilful or negligent damage.
 - (f) A carrier may not sublet a barrow to a third party.

27. Withdrawal of a carrier's permit

- (1) A carrier's permit is neither negotiable nor transferable. The Municipal Manager may withdraw a carrier's permit if the carrier —
 - (a) does not comply with any one or more of the provisions of section 26(1)(a) and (b) or section 26(2);
 - (b) fails to pay the deposit referred to in section 26(1)(c); or
 - (c) uses a barrow in an improper and dangerous manner that can cause injury to a person or damage to property.
- (2) If the Municipal Manager decides to withdraw the carrier's permit, he must notify

the carrier in writing of his decision. A carrier whose carrier's permit has been withdrawn forfeits the refundable deposits referred to in sections 25(2) and 26(1)(c) and must, subject to the provisions of section 36, immediately cease to operate as a carrier.

28. Liability of carriers

(1) A carrier must render his carrier services at his own risk, and the Municipality is not liable to the carrier in respect of any loss or damage, whether to person or property, resulting from the carrier's services.

(2) The Municipality is not liable to any person in respect of any loss or damage, whether to person or property, caused by a carrier in the carrier's execution of his carrier services.

29. Private barrows and trolleys

Any person may apply in writing to the Municipal Manager for approval to use a Privately owned

barrow on the market premises, which approval may, in the sole discretion of the Municipal Manager, be granted or refused. The Municipal Manager must notify such person in writing of his decision, and if approval is granted, the written approval must at all times be in possession of the person whilst he is on the market premises.

30. Vehicles, motorcycles and pedal cycles

(1) Except for operational units, no person may operate a motor vehicle on the market floor.

(2) Without the prior written approval of the Municipal Manager, no person may operate a motorcycle or ride a pedal cycle on the market floor.

(3) Any person who wants to operate a motorcycle or ride a pedal cycle on the market floor must apply in writing to the Municipal Manager for his approval. If the Municipal Manager approves an application, he may impose the conditions on which the motorcycle or pedal cycle is to be used and must advise the applicant in writing of the conditions.

(4) A person to whom an approval contemplated in subsection (3) has been granted must comply strictly with the conditions, if any, failing which the Municipal Manager is entitled to withdraw the approval.

31. Market rules and regulations

No person may —

- (a) occupy or trade from any office, area, stand or other place on the market premises unless he has —
 - (i) obtained the prior written permission of the Municipal Manager in terms of the approved policy of the Municipality; and
 - (ii) paid in advance any rent or fee lawfully due in respect of the office, area, stand or other place on the market premises;
- (b) save as provided for in these bylaws, purchase or sell any produce;
- (c) without the approval of the Municipal Manager, light a fire on the market premises;
- (d) stand or sit on or lean against any produce on the market premises;
- (e) touch or taste any produce on the market premises;
- (f) throw an object at any person or property on the market premises;
- (g) tamper with any produce or container or tamper with or remove any label on such produce or container;
- (h) cause a blockage in or damage to the sewerage or stormwater drainage system of the market premises;
- (i) dispose of any waste or liquid waste down the sewerage or stormwater drainage system of the market premises;
- (j) without the prior written approval of the Municipal Manager, wash, peel, pack, sort, grade or clean produce other than in the designated area of the market premises;

- (~~kj~~) interfere with or molest any other person on the market premises;
- (~~lk~~) interfere with the activities or business of or be a nuisance to any other person on the market premises;
- (~~ml~~) enter or remain on the market premises after hours without the written approval of the Municipal Manager;
- (~~nm~~) fail or refuse to comply with an instruction by the Municipal Manager to remove an article from the market premises or relocate an article to another area on the market premises;
- (~~on~~) spit, loiter or use any threatening, obscene, abusive or offensive language or cause a disturbance on the market premises;
- (~~pe~~) on the market premises, consume or be under the influence of intoxicating liquor or a drug having a narcotic effect;
- (~~qp~~) damage or deface any property or building on the market premises;
- (~~rq~~) on the market premises, dispose of any peels, vegetable leaves, garbage or other refuse other than in the appropriate bins provided;
- (~~sf~~) interfere with or obstruct any employee of the Municipality in the execution of his duties;
- (~~ts~~) hawk, peddle or beg on the market premises;
- (~~ut~~) without the prior written approval of the Municipal Manager, remove any refuse, waste or condemned produce from the market premises;
- (~~vu~~) cook food or make any beverage other than in the designated areas of the market premises; ~~and~~
- (~~wv~~) without the prior written approval of the Municipal Manager, bring any animal onto the market premises;
- (x) cause any litter on the market premises;
- (y) fail to dispose of waste he / she generates at the market in any manner other than in the waste receptacles provided. -

32. Retailers and wholesalers

The Municipality is entitled to reserve any **part of** the market premises for the purpose of retail and wholesale business in market products and may, for that purpose, enter into agreements with a retailer or wholesaler in terms of which a table, stall or other area is leased to the retailer or wholesaler, as the case may be, provided that the retailer or wholesaler and the employees of the retailer or wholesaler, as the case may be —

- (a) conducts his business only in the part of the market premises allocated to him in terms of the lease;
- (b) deals only in the market products specified in the lease; and
- (c) is not entitled to trade on the market floor unless specific approval is granted by the Municipal Manager at his sole discretion.

33. Powers of the Municipal Manager

The Municipal Manager is entitled to —

- (a) inspect any produce, article, item, object or thing of whatever nature on the market premises;
- (b) prohibit any produce from leaving the market premises if he reasonably believes that any person has failed to comply with the provisions of section 18(4) or (5) or section 19;
- (c) if he reasonably suspects that any produce offered for sale is stolen, prohibit the produce from being sold until he is satisfied of the ownership of the produce;
- (d) for statistical or other lawful purposes, request any documentation or information relating to any aspect whatsoever of the sale of produce on the market premises, and the person to whom the request was made must furnish him with documentation or information immediately;
- (e) instruct any person who has placed any produce, article, item, object or thing on the market premises that causes an inconvenience or obstruction to remove the produce, article, item, object or thing;
- (f) prohibit the cleaning, stripping or peeling of produce on the market premises or in any part of the market premises; ~~and~~
- (g) for the purpose of ensuring the effective, efficient and proper functioning of the

market and the safety and wellbeing of all people on the market premises, issue such instructions as he may deem necessary, which instructions may be contained in a notice or notices affixed to a notice board or notice boards situated in a prominent place on the market premises, and every person entering the market premises must obey and comply with the instructions;

(h) order any area of the market to be cleaned up and require the resulting waste to be disposed of lawfully.-

34. Sales to employees of the Municipality

No employee of the Municipality who is stationed at the market or is in some way involved in the market is entitled to purchase any produce, except for purposes of personal use or consumption, provided that the purchase price of produce purchased for personal use or consumption is not lower than the price at which the produce was sold on the market floor on the same day.

35. Fees

The fees payable to the Municipality in terms of these bylaws are specified in the Schedule to these bylaws.

36. Appeals

(1) Any person aggrieved by a decision of the Municipal Manager made in terms of these bylaws, may appeal against that decision in accordance with the provisions of section 62 of the Municipal Systems Act, which provisions apply *mutatis mutandis* in respect of the appeal.

(2) Pending the outcome of an appeal contemplated in subsection (1) —

- (a) a market agent referred to in section 11 (5)(b) is entitled to continue to operate as a market agent;
- (b) a salesperson referred to in section 14(2) is entitled to continue to operate as a salesperson; and
- (c) a carrier referred to in section 27(2) is entitled to continue to operate as a carrier.

37. Indemnification from liability

Any person who enters the market premises must do so at his own risk, and neither the Municipality nor any of its employees is liable for any loss or damage, whether to person or property, suffered by such person arising from any act or omission done by such an employee in the execution of his duties and in good faith.

38. Offences and penalties

(1) Any person who.—

- (a) fails to comply with or performs any act contrary to the terms, conditions,, restrictions or directions subject to which a licence, permit, approval, consent or authority has been issued or granted to him under these bylaws;
 - (b) contravenes or fails to comply with any provision of or direction issued or requirement imposed under these bylaws;
 - or
 - (c) contravenes or fails to comply with any provision of these bylaws;
- is guilty of an offence.

(2) Any person convicted of an offence under these bylaws

is liable to imprisonment

as determined by a court of law or to a fine calculated in terms of the Adjustment of Fines Act, 1991 (Act 101 of 1991), or to both such imprisonment and such fine.

39. Repeal of bylaws

Administrator's Notice 159 SPRINGS
FRESH PRODUCE MARKET BYLAWS
is hereby

repealed. All previous and erstwhile council regulations, policies and arrangements are hereby repealed. The Ekurhuleni Metropolitan Municipality adopts this ByLaw as the

Ekurhuleni Metropolitan Municipality Fresh Produce Market ByLaw (Springs).

File: 1/4/1/1/15

Council Resolution: A – ED (022006)

dated 30 November 2006

Gauteng Provincial Gazette Number 60 dated 28 February 2007

Local Authority Notice Number 488