

CITY OF TSHWANE: TSHWANE MARKET BY-LAW

The purpose of the Tshwane Market By-law is to provide the City of Tshwane with legislative measures to conduct all operational, business and incidental activities at the Tshwane Market.

PREAMBLE

WHEREAS the Constitution, read together with the Local Government: Municipal Systems Act, the Local Government: Municipal Structures Act, the Local Government: Municipal Finance Management Act as well as various other pieces of legislation, empowers the City of Tshwane to administer and render the services of a fresh-produce market;

AND WHEREAS the Constitution enjoins local government to be developmental and address the service delivery priorities of the Republic of South Africa and promote the economic and financial viability of the broader community;

AND WHEREAS there is a need to provide local government with access to a sufficient and buoyant source of revenue to fulfil its developmental responsibilities;

AND WHEREAS it is critical for municipalities to achieve their constitutional objectives and eradicate discriminatory laws of the past;

AND WHEREAS it is essential that municipalities exercise their powers in an open and democratic society with due regard for good corporate governance, the principles of accountability and transparency and the Batho Pele principles;

THE CITY OF TSHWANE WILL ENACT THE TSHWANE MARKET BY-LAW CONTAINED IN THIS DOCUMENT.

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1. Definitions

In this by-law, unless the context otherwise indicates, the following words will have the meanings as indicated below:

"Act" means the Agricultural Produce Agents Act, 1992 (Act 12 of 1992), as amended;

"agricultural product" means an article specified in Part A of Schedule 1 or any article added thereto in terms of section 1(2) of the Act;

"appeal" means an appeal in terms of section 62 of the City 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 the market administration and who purchases an agricultural product at the market;

"carrier" means a self-employed person who is hired to convey an agricultural product at the market;

"carrier's permit" means a permit issued by the City Manager in terms of section 25(2);

"City Manager" means the person appointed as such by the City of Tshwane as the Accounting Officer, or his duly authorised nominee;

"consigner" means the principal or owner who, at the time of its delivery to the market agent, carried the risk of profit or loss of an agricultural product;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"City of Tshwane" means the City of Tshwane Metropolitan Municipality, established by General Notice 6770 in *Provincial Gazette Extraordinary* 141 of 1 October 2000 as amended in terms of the Municipal Structures Act, 1998 and subsequent proclamations in terms thereof;

"Council" means the Council of the City of Tshwane;

"credit facility" means an account approved by the City Manager that enables the holder of the account to purchase an agricultural product on credit at the market;

"designated area" means the control point as determined by the City Manager from time to time where the consigner will declare an agricultural product for delivery at the Tshwane Market;

"direct sale" means a sale of an agricultural product taking place on the market premises between the consigner of the agricultural product and a wholesaler or retailer;

"fee" means a fee, charge or tariff levied by the City of Tshwane in terms of the City Systems Act in respect of a city 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 between a market agent and any third party;

"market" means the Tshwane Market of the City of Tshwane;

"market administration" means the duly appointed management team responsible for the management of the market on behalf of the City of Tshwane;

"market agent" means an agent as defined in section 1 of the Act who is allowed by the City of Tshwane to conduct business at the Tshwane Market on the market floor;

"market agent's licence" means a market agent's licence issued in terms of section 11(3) of the by-law;

"market floor" means the floor area of a market hall situated on the market premises and reserved exclusively for trading by market agents;

"market hall" means an area on the market premises allocated for the purpose of displaying and selling an agricultural product;

"market premises" means the immovable property situated in DF Malan Drive, Pretoria West, and includes any other property or premises designated by the City of Tshwane for the propose of conducting the business of a fresh-produce market or any other business or businesses incidental thereto;

"market product" means –

- (a) with regard to market agents, an agricultural product; and
- (b) with regard to wholesalers and retailers, an agricultural product and any article or product approved in writing by the City Manager, which article or product is to be offered for sale on the market premises;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended;

"operational unit" means a mechanical vehicle or device powered by battery, gas or fuel, and includes –

- (a) a forklift;
- (b) a cleaning or washer unit or device;
- (c) a maintenance unit or device;

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

"retailer" means a person other than a market agent in respect of whom a service level agreement or any other agreement exists with the City of Tshwane for such person to do business as a business on the market premises;

"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 City Manager and a fidelity fund certificate issued by the Agricultural Produce Agents Council in terms of the Act, and who does business on the market floor;

"vehicle" means any mechanical drivable unit or device, including but not limited to a pedal cycle, developed for the transportation of people and/or goods, and includes any other unit or device in use for operational purposes at the market but excludes an operational unit; and

"wholesaler" means a person other than a market agent in respect of whom a service level agreement or any other agreement exists with the City of Tshwane, which agreement allows the person to conduct a wholesale business on the market premises, provided that he does not conduct over-the-counter sales with the general public.

2. Gender

Any reference in this by-law to one gender includes the opposite gender and any other legal person recognised by law.

3. Market days and hours

- (1) The market must be open on the days and during the hours determined by the City Manager from time to time.
- (2) Subject to subsection (3), trading on the market floor may take place only during the hours determined by the City Manager.
- (3) A floor sale may only be concluded after the trading hours referred to in subsection (2) if prior approval for it has been obtained from the City Manager.
- (4) A market agent may sell an agricultural product otherwise than on the market floor only with the prior approval of the City Manager, provided that the agricultural product thus sold is first captured as stock on the market system, after which a proper sales docket is generated for the sale by the market agent concerned, and provided further that the City of Tshwane is paid the fee determined in terms of section 20 below for the sale.

4. Risk of profit and loss

The risk of profit and loss of an agricultural product brought onto the market premises must at all times be solely that of the consigner of the agricultural product. Nothing stated in this section may be so interpreted as to absolve market agents from fulfilling their obligations under this by-law, provided that the City Manager is authorised to acknowledge at his discretion any claim not exceeding R100 000,00 and to make payment for the claim; provided further that any claim in excess of this amount will be referred to the Council for consideration.

5. Control and risk of an agricultural product

- (1) Any agricultural product offered for sale must, before it is brought onto the market floor, be registered with –
 - (a) the City of Tshwane in the manner and format required by the City Manager; and
 - (b) the market agent to whom the agricultural product is consigned in the manner prescribed in subparagraph (4) below.
- (2) An agricultural product that is brought onto the market premises and is not for sale on the market floor must be declared and registered as such in accordance with subsection (1), failing which the market administration may refuse the agricultural product and prohibit it from being brought onto the market premises.

- (3) Simultaneously with the registration referred to in subsection (1), further particulars on an agricultural product delivered by a consigner must be provided at the designated area as required from time to time by the market administration.
- (4) When an agricultural product is consigned to a market agent, the market agent must –
 - (a) upon delivery of the agricultural product to him, sign to acknowledge receipt of the agricultural product and specify the date and time of the delivery;
 - (b) allocate a consignment number, prepared in accordance with the information required in subsection (3), and hand proof of the receipt to the market administration;
 - (c) immediately make all the necessary arrangements to offload and place the agricultural product in the space or enclosure provided to him for the agricultural product; and
 - (d) accept accountability to the consigner for the quantity of the agricultural product specified in the necessary documentation.
- (5) If any person fails or refuses to comply with the provisions of subsection (1) or subsection (3), the City Manager may refuse the agricultural product and prohibit it from being brought onto the market premises.

- (6) The provisions of subsections (3) and (4) do not apply to the agricultural product referred to in subsection (2) of section 5.

6. Packing, stacking and display of agricultural products

A market agent must to the satisfaction of the City Manager –

- (a) conspicuously display, place and stack all agricultural products received by him, other than those stored in the cold storage facilities referred to in section 7, on the market floor in such a manner that an orderly appearance and healthy and safe environment are created;
- (b) at the daily closing of sales, display and restack all unsold agricultural products in the manner referred to in paragraph (a) above.

7. Cold storage and ripening

- (1) The City of Tshwane may at the discretion of the City Manager –
- (a) establish, equip and operate 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 facility or ripening chamber referred to in subsection (1) or any other facility of the City of Tshwane at the

Tshwane Market premises, does so at his risk, and the City of Tshwane is not liable for any loss or damage, whether direct or indirect, suffered by the person, provided that the City Manager is authorised to acknowledge at his discretion any claim in terms of section 4 in respect of such loss or damage if the loss or damage is caused by –

- (a) any interruption or failure of the supply of electricity; or
- (b) any interruption or failure of machinery or equipment; or
- (c) any act or omission of an employee of the City of Tshwane in the execution of his duties.

8. Storage

- (1) No person may, without the prior written approval of the City Manager, store or leave any agricultural product, article, item or thing of whatever nature in or near the market premises.
- (2) No person may, without prior written approval of the City Manager, store any agricultural product, article, item or thing of whatever nature in the storage or other facilities provided by the City of Tshwane on the market premises.
- (3) Any person who fails to comply with the provisions of subsection (1) and (2) is, notwithstanding any other provisions of this by-law, liable to the City of Tshwane for payment of the storage fees determined by the Council from time to time.

9. Abandoned agricultural product

- (1) If the City Manager, on reasonable grounds, suspects that any agricultural product left on the market premises has been abandoned, he may direct that the agricultural product 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.

- (2) If an abandoned agricultural product –
 - (a) is sold, the City of Tshwane will pay the proceeds of the sale, less the fee determined by the Council from time to time, to the person who is entitled to the proceeds, if his identity is known;
 - (b) is removed and destroyed, the City of Tshwane will recover the fee, determined by the Council from time to time, from the person who abandoned the agricultural product, if his identity is known;
 - (c) is sold and the identity of the person entitled to the proceeds is not known, the proceeds will be paid into the trust account of the market agent who was in control of the product immediately before it was abandoned or, if it cannot be established with certainty which market agent exercised control over the product before it was abandoned, the proceeds will be paid into the separate account of the market referred to in section 79(14)(a) of the Local Government Ordinance, 1939

(Ordinance 17 of 1939), to be used for the purposes described in that section.

10. Agricultural product unfit for human consumption

(1) If the City Manager on reasonable grounds believes that –

(a) any agricultural product offered for sale on the market floor is diseased or unsound or unfit for human consumption, he will immediately withdraw and destroy the agricultural product;

(b) a container is likely to contaminate the agricultural product, if any, in it, or any other agricultural product, he will immediately withdraw and destroy the container and agricultural product.

11. Market agents and their employees

(1) No person may do business 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 appropriate form available at the market 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 may be issued by the City Manager to an applicant if –
- (a) in the opinion of the City Manager, there is sufficient space available on the market floor to accommodate the applicant's business;
 - (b) the applicant has satisfied the City Manager that –
 - (i) he is fit, competent and the proper person to conduct the business of a market agent and has complied with the provisions of the Act and all other legislation on market agents; and
 - (ii) neither the applicant nor any of his directors, members or partners, as the case may be, have any direct or indirect interest in any other business of any person to whom a market agent's licence was issued; and
 - (c) the applicant has furnished the City of Tshwane, within the period determined by the City Manager, with security to the satisfaction of the City Manager for an amount determined by the City 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 City of Tshwane, 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 City Manager will notify the market agent in writing of the increased amount; and
 - (ii) the market agent will furnish the additional security to the City of Tshwane 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 was previously furnished and must, to the satisfaction of the City Manager, be in the form of cash or a bank guarantee or a combination of cash and a bank guarantee.
- (4) If the City Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he will refuse the issuing of a market agent's licence to the applicant and will notify the applicant in writing of the refusal. Should the applicant request reasons for the refusal in writing, the City Manager will furnish these within 30 days.
- (5) The City Manager may withdraw the market agent's licence if –
 - (a) (i) his fidelity fund certificate has lapsed, been withdrawn or suspended in terms of section 16 of the Act;

- (ii) in the case of the market agent being a company, close corporation or partnership, a change occurred in the shareholding of the company or the membership of the close corporation or the partners of the partnership without the market agent having obtained the City Manager's prior written approval for the change;
 - (iii) any one or more of the provisions of section 15(2), section 24(a) to (e), 24(f)(ii) and 24(g) and 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, impair or compromise the interests of the market; or
- (b) the City Manager decides to withdraw the market agent's licence of a market agent, in which case he will 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 do business as a market agent unless he has lodged an internal appeal as prescribed in section 62 of the Municipal Systems Act, 2000, in which event he may, subject to the conditions determined by the City Manager, continue to do business until the outcome of his appeal is made known to him.

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) in the event of a market agent being a natural person, he has died or his estate has become insolvent;
- (b) the market agent is a company or a close corporation that is placed under provisional or final liquidation.

13. Salespersons

- (1) No person will conduct business on the market floor unless he is the holder of a sales permit issued by the City 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 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 delivered to the City Manager at the address indicated on the form.

- (3) A sales permit may only be issued to an applicant if he has satisfied the City 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 do business as a salesperson on the market floor.
- (4) If the City Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he will refuse to issue a sales permit to the applicant and will notify the applicant in writing of his refusal and the reasons for it.

14. Withdrawal of a sales permit

- (1) A sales permit is neither negotiable nor transferable. The City Manager will withdraw the sales permit of a salesperson if –
- (a) the salesperson is no longer in the employ of a market agent who has been issued with a market agent's licence in terms of section 11(3);
 - (b) any one or more of the provisions of section 13(3)(b) are not complied with;
 - (c) the sales person contravenes any provision of section 15(2), section 24(a) to (e) or section 24(f)(ii) or 24(g) to (h).

- (2) If the City Manager decides to withdraw the sales permit of a salesperson, he will 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 do business as a salesperson unless he has lodged an internal appeal as prescribed in section 62 of the Municipal Systems Act, 2000, in which event he may, subject to the conditions determined by the City Manager, continue to do business until the outcome of his appeal is made known to him.

15. Market agents and floor sales

- (1) A market agent must conduct his business in accordance with the provisions, principles and rules made under the Act, the provisions of this by-law and any other policies, procedures and practices of the City of Tshwane which may from time to time be amended and are contained in letters or circulars of the market administration.
- (2) A market agent will conduct his business –
 - (a) on the market floor, subject to the provisions of section 3(4), provided that at all times the agricultural product sold by the market agent is captured on the official system of the market administration; and
 - (b) on a commission basis only and he may not be involved in any direct sale otherwise than in his capacity as a market agent.
- (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 the necessary protective clothing; and
 - (b) ensure that the protective clothing complies with the relevant policy of the City of Tshwane.
- (2) The market agent will not allow any of his employees to work at the Tshwane Market unless the employee is wearing the protective clothing referred to in subsection (1).

17. Market agents' signage

A market agent must at his expense –

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

18. Floor sales

- (1) The parties to a floor sale must be the buyer and the consigner of the market agent concerned; the City of Tshwane will not be a party to a floor sale or in any manner be held liable for the due fulfilment of the terms and conditions of the floor sale.

- (2) If an agricultural product on the market floor is sold –
 - (a) by weight, it must be the net weight of the agricultural product, and it is the responsibility of the market agent concerned to ensure that, before the agricultural product is offered for sale, the correct net weight of the agricultural product is displayed –
 - (i) on the agricultural product; and
 - (ii) on the container if the agricultural product is in a container; and
 - (b) by sample, the bulk of the agricultural product must correspond in quality to the sample of the agricultural product exhibited, and the market agent concerned remains responsible for ensuring that any sample of the agricultural product exhibited corresponds in quality to that of the bulk of the agricultural product.

- (3) The City Manager is entitled but not obliged –

- (a) to take such measures as he may deem necessary to ensure that the provisions of this section or any other provisions of this by-law are complied with; and
 - (b) to prohibit an agricultural product from being offered for sale if any of the provisions of this by-law are not complied with.
- (4) An agricultural product 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 determined by the City Manager from time to time.

19. Payment

- (1) The buyer of any agricultural product must, immediately after the sale, pay the purchase price in cash to the City of Tshwane in the manner required by the City of Tshwane.
- (2) If the buyer of an agricultural product is the holder of a credit facility in accordance with the financial regulations or other accounting policies or practices of the City of Tshwane, payment of the purchase price to the City of Tshwane may be effected by means of and on submission of the buyers card referred to in section 18 (4) and (5).
- (3)
 - (a) The City 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 an amount determined by the City Manager and pays the purchase price –

- (i) before 11:45 on the day following the date of purchase;
 - (ii) before 11:45 on the following Tuesday if the purchase was made on a Saturday; or
 - (iii) before 11:45 on the next business day if the purchase was made on a day before a public holiday.
- (b) Notwithstanding the provisions of subsection (3)(a), the City 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 stated in the credit control policy of the City of Tshwane.
- (4) After payment of the purchase price of an agricultural product has been effected or credit for the payment of the purchase price has been granted, the City of Tshwane must issue a sales docket to the buyer, which sales docket must contain the details and information determined by the City Manager from time to time.
- (5) Should the City of Tshwane grant credit to a buyer for the purchase of an agricultural product, the City of Tshwane will, simultaneously with the payment referred to in section 20(2) below, pay into the trust account of the market agent responsible for the sale an amount equal to the amount for which credit was granted, and the City of Tshwane will be entitled forthwith to

recover the amount paid from the security provided to the City Manager in terms of subsection (3) of section 19.

20. Commission on sales

- (1) The consigner is liable for payment to the City of Tshwane of the fee determined by the Council from time to time for every floor sale concluded by him.
- (2) The City of Tshwane will deduct the fee referred to in subsection (1) from the proceeds of the purchase price for every floor sale and will, not later than two business days following the day on which the floor sale took place, pay the balance of the proceeds of that floor sale to the market agent who was responsible for the floor sale.

21. Collection and removal of an agricultural product

- (1) Subject to the provisions of subsection (2), a buyer must, within a reasonable time after the conclusion of the sale of an agricultural product, collect and remove or cause to be collected and removed all the agricultural products purchased by him, provided that the City Manager may at his discretion grant the buyer an extension of time for the collection and removal of the agricultural product.
- (2) No buyer or his representative may remove any agricultural product from the market floor unless –

- (a) he is in possession of the valid sales docket referred to in section 19(4) for the agricultural product; or
- (b) permission has been granted by the City Manager for the removal of the agricultural product.

22. Default of buyer

- (1) If a buyer fails to present a buyer's card or to effect payment of the purchase price for the agricultural product purchased, the City Manager may direct that the agricultural product be resold in a manner he may deem fit and expedient.
- (2) A buyer contemplated in subsection (1) is liable to the City of Tshwane for payment of any loss of fees suffered by the City of Tshwane as a result of the resale of the agricultural product, and the City 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 of whatever nature about a product, its sale or disposal between a buyer and a market agent, either of the parties to the dispute may refer the dispute to the City Manager, who will endeavour to resolve it. If any one of the parties is not satisfied with the recommendation of the City 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 not receive any cash or other form of payment from a buyer.
- (b) The market agent may not allow a buyer to remove any agricultural product purchased on the market floor unless the buyer is in possession of a sales docket for the agricultural product in accordance with section 19(4).
- (d) The market agent may not sell any agricultural product in a container that does not comply with the specifications stipulated by the City Manager.
- (e) The market agent must provide for an agricultural product that is consistent with that purchased by the buyer in so far as the quantity, weight, quality, grade, variety and container of the agricultural product are concerned.
- (f) The market agent is liable towards a buyer if –
 - (i) the agricultural product 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 agricultural product are concerned; or

- (ii) in respect of an agricultural product bought by sample, the agricultural product provided by the market agent differs materially from the sample.
- (g) The market agent may not purchase, or allow his employees to purchase, any agricultural product on the market floor for the purpose of reselling or trading that agricultural product for his account.
- (h) The market agent or any of his employees are allowed, for purposes of personal use or consumption, to purchase any agricultural product on the market floor at a price not lower than the price at which the agricultural product 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 do business as a carrier on the market premises unless he is registered with the City 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 City 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 City 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 City Manager for carriers; and
 - (b) tout for customers by shouting or persistently following a buyer or prospective buyer.

26. Barrows

- (1) The City of Tshwane may issue a barrow to a carrier only if he –
- (a) wears the clothing referred to in section 25(3);
 - (b) holds a valid carrier's permit; and
 - (c) has paid a refundable deposit to the market administration for the acquisition of the barrow, of which deposit a fee determined by the Council will be deducted for usage.
- (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 make available the receipt at the request of the City 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 City of Tshwane.
- (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 used 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 City Manager may withdraw a carrier's permit if the carrier –
 - (a) fails to 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 a manner that can cause injury to a person or damage to property.
- (2) If the City Manager decides to withdraw the carrier's permit, he will notify the carrier in writing of his decision. A carrier whose carrier's permit has been withdrawn forfeits the refundable deposit referred to in sections 25(2) and 26(1)(c) and must, subject to the provisions of section 36, immediately cease to do business as a carrier unless he has lodged an internal appeal as

prescribed in section 62 of the Municipal Systems Act, 2000, in which event he may, subject to the conditions determined by the City Manager, continue to do business until the outcome of his appeal is made known to him.

28. Liability of carriers

- (1) A carrier renders his carrier services at his risk, and the City of Tshwane is not liable to the carrier for any loss or damage, whether to person or property, resulting from the carrier's services.
- (2) The City of Tshwane is not liable to any person for 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 City Manager for approval to use a privately owned barrow on the market premises, which approval will not be withheld or delayed unreasonably. The City Manager will notify the person in writing of his decision, and if approval is granted, the written approval must at all times be in possession of the person while he is on the market premises.

30. Vehicles, motorcycles and pedal cycles

- (1) Except for operational units, no person may do business with a vehicle on the market floor, unless for reasons of health or disability he is unable to move around without a vehicle.

- (2) No person may do business with a vehicle without the prior written approval of the City Manager and subject to conditions determined by the City Manager.
- (3) A person to whom the approval contemplated in subsection (2) has been granted must comply strictly with the conditions, if any, failing which the City 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 prior written permission of the City Manager in terms of the approved policy of the City of Tshwane; and
 - (ii) paid in advance any rent or fee lawfully due for the office, area, stand or other place on the market premises;
- (b) purchase or sell any agricultural product, save as provided for in this by-law;
- (c) light a fire on the market premises without the approval of the City Manager;
- (d) stand or sit on or against any agricultural product on the market premises;

- (e) throw an object at any person or property on the market premises;
- (f) tamper with any agricultural product or container, or tamper with or remove any label on any agricultural product or container;
- (g) cause a blockage in or damage to the sewerage or stormwater drainage system of the market premises;
- (h) wash, peel, pack, sort, grade or clean agricultural products other than in the designated area of the market premises without the prior written approval of the City Manager;
- (i) interfere with or molest any other person on the market premises;
- (j) interfere with the activities or business of, or be a nuisance to any other person on the market premises;
- (k) enter or remain on the market premises after hours without the written approval of the City Manager;
- (l) fail or refuse to comply with an instruction by the City Manager to remove an article from the market premises or relocate an article to another area on the market premises;
- (m) spit, loiter or use threatening, obscene, abusive or offensive language or cause a disturbance on the market premises;

- (n) be under the influence of intoxicating liquor or a drug having a narcotic effect or consume liquor on the market premises, other than premises licensed to sell liquor;
- (o) damage or deface any property or building on the market premises;
- (p) dispose of any peels, vegetable leaves, garbage or other refuse on the market premises other than in the appropriate bins provided;
- (q) interfere with or obstruct any employee of the City of Tshwane in the execution of his duties;
- (r) hawk, peddle or beg on the market premises;
- (s) remove any refuse, waste or condemned agricultural product from the market premises without the prior written approval of the City Manager;
- (t) cook food or make any beverage other than in the designated areas of the market premises; and
- (u) bring any animal onto the market premises without the prior written approval of the City Manager.

32. Retailers and wholesalers

The City of Tshwane 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 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) conduct business only in the part of the market premises allocated to them in terms of the lease;
- (b) deal only in the market products specified in the lease; and
- (c) are not entitled to trade on the market floor.

33. Direct consignments to wholesalers

- (a) Subject to the provisions of section 5(2), no wholesaler may sell an agricultural product on the market premises other than that purchased on the sales floor.
- (b) A wholesaler may, with the prior written consent of the City Manager, sell an agricultural product delivered directly to him from the consigner, provided that the fee specified in section 20(1), may be levied, calculated on the average market price for that agricultural product on that specific day or as determined by the City Manager from time to time.

34. Powers of the City Manager

The City Manager is entitled to –

- (a) inspect any agricultural product, article, item, object or thing of whatever nature on the market premises;
- (b) prohibit any agricultural product 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 agricultural product offered for sale is stolen, prohibit the agricultural product from being sold until he is satisfied about the ownership of the agricultural product;
- (d) for statistical or other lawful purposes, request any documentation or information relating to any aspect whatever of the sale of an agricultural product on the market premises, in which event the person to whom the request was made must furnish him with documentation or information within a reasonable time;
- (e) instruct any person who has placed any agricultural product, article, item, object or thing on the market premises that causes an inconvenience or obstruction, to remove the agricultural product, article, item, object or thing;
- (f) prohibit the cleaning, stripping or peeling of an agricultural product 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 well-being 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 in prominent places on the market premises, and must be obeyed and complied with by every person entering the market premises.

35. Sales to employees of the City of Tshwane

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

36. Fees

The fees payable to the City of Tshwane in terms of this by-law will be the fees determined by the City of Tshwane from time to time.

37. Appeals

- (1) Any person aggrieved by a decision of the City Manager made in terms of this by-law may appeal against that decision in accordance with the provisions of section 62 of the Local Government: Municipal Systems Act, 2000, which provisions apply *mutatis mutandis* in respect of the appeal.
- (2) Pending the outcome of the appeal contemplated in subsection (1) –

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

38. Indemnification from liability

Any person who enters the market premises does so at his risk, and neither the City of Tshwane nor any of its employees are liable for any loss or damage to a person or his property arising from any act or omission of the City of Tshwane or its employees in the execution of their duties unless they acted negligently.

39. Offences and penalties

- (1) Any person who –
 - (a) fails to comply with or performs any act contrary to the terms, conditions, restrictions or directions of a licence, permit, approval, consent or authority that has been issued or granted to him under this by-law;
 - (b) contravenes or fails to comply with any provision of or direction issued or requirement imposed under this by-law; or

(c) contravenes or fails to comply with any provision of this by-law

is guilty of an offence.

- (2) Any person convicted of an offence under this by-law is liable to a maximum period of imprisonment of three years or R60 000 or both as may be determined by a court of law in accordance with the Adjustment of Fines Act, 1991 (Act 101 of 1991), or to both the imprisonment and the fine.

40. Repeal of the Pretoria Municipal Market By-law

The Pretoria Municipal Market By-law published under Administrator's Notice 208 dated 24 March 1965, as amended, is hereby repealed.