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NO. 102	FRIDAY, 05 NOVEMBER 2010	NO. 102	VRYDAG, 05 NOVEMBER 2010
PROVINCIAL NOTICES			
164	Notice in terms of Section 14(2)(B)(l) of the Local Government: Municipal Systems Act, 2000: Publication: Standard Fresh Produce Markets By-Law 2		
165	Notice in terms of Section 14(2)(B)(l) of the Local Government: Municipal Systems Act, 2000: Publication: Standard General Street By-Law 13		
166	Notice in terms of Section 14(2)(B)(l) of the Local Government: Municipal Systems Act, 2000: Publication: Standard Impoundment of Animals By-Law 21		
<u>NOTICES</u>			
	PLEASE TAKE NOTE THAT AS FROM 1 NOVEMBER 2010 THE BANKING DETAILS OF THE DEPARTMENT OF THE PREMIER 25		
	PLEASE TAKE NOTE: THAT THE LAST PUBLICATION OF THE PROVINCIAL GAZETTE FOR THE YEAR 2010 WILL BE ON 10 DECEMBER 2010. THE NEXT PUBLICATION WILL BE ON 14 JANUARY 2011 26		

PROVINCIAL NOTICES

[NO. 164 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD FRESH PRODUCE MARKETS BY-LAW

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
 Systems And Capacity Building
 Department of Cooperative Governance
 and Traditional Affairs
 Local Government Branch
 PO Box 211
 BLOEMFONTEIN
 9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

SCHEDULE

FRESH PRODUCE MARKETS BY-LAW

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CHAPTER 1

1. Definitions

1. In these By-laws, any word or expression which has been defined in the Agricultural Produce Agents Act, 1992 (Act 12 of 1992), has that meaning and, unless the context otherwise indicates:-
 - "Act" means Agricultural Produce Agents Act, 1992 (Act 12 of 1992);
 - "Administrative Tribunal" means any administrative tribunal charged by law or delegation of the Council to resolve disputes in terms of this by-law.
 - "approved" means approved by the Council;
 - "article" means any produce, goods, object or thing brought onto the market for any purpose whatsoever,
 - "Buyer" means any person entering the precincts of the market site for the purpose of buying any article on the market or any person who has concluded a direct sale, a direct purchase or a private treaty sale in terms of this by-law;
 - "Buyer's Card" means a card referred to in section 30 (1) issued to a buyer for the purposes of enabling such buyer to purchase produce on the market;
 - "Consignment" means any quantity of produce entrusted to the Council or a market agent for sale on behalf of any person;
 - "Constitution" means the Constitution of the Republic of South Africa, 1996;
 - "Container" means any box, carton, pallet, tray, pocket, package or other receptacle of a shape and size approved by the Council;
 - "Council" means
 - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), exercising its legislative and executive authority through its municipal Council ; or
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub- delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
 - (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) or any other law, as the case may be.
 - "Direct sale" means any sale of produce concluded by a market agent between a vendor and a buyer, which is in accordance with this by-law, but in respect of which delivery of produce is made directly between vendor and the buyer, which sale is recorded in Council's official trading system without the produce concerned arriving at or being placed on the market site;

"Direct purchase" means the sale of produce concluded between a vendor and a buyer which is in accordance with this by-law without the sale being concluded by a market agent and which sale goes through Council's official trading system on the market and takes place on the market site;

"Loading Bay" means any area on the market site demarcated by the Council as a "loading bay" with signs and markings laid down under the regulations made under the Road Traffic Act, 1989 (Act No. 29 of 1989);

"Market" means Council's National Fresh Produce Market established on the area known as and includes all land, buildings, plat-forms and other property within the said area, used either wholly or partially, directly or indirectly for the purpose of conducting the market; or any other market established by the Council within its area of jurisdiction;

"Market Agent" means a fresh produce agent as defined in the Act, or someone who facilitates sales of any produce for the acquisition of gain for his own account or in a partnership or who, on behalf of any other person, buys or sells any produce on the market or negotiates in connection therewith or canvasses or undertakes or offers to canvass to a buyer or vendor therefore, or who concludes a direct sale, direct purchase or private treaty sale;

"Market dues" means all monies due and owing to the Council by any party to any market transaction in terms of this by-law read with the market tariffs;

"Market tariffs" means the tariffs determined by the Council from time to time;

"Nuisance" means any act, omission or conduct which is offensive to any person or which materially interferes with the orderly conduct of the market;

"Private Treaty Sale" means a sale negotiated and concluded between a market agent and a buyer which is recorded in Council's official trading system;

"Procurement" means the distribution of information with a view to gather, store, or organise the movement of or the handling of produce;

"Produce" means any kind of agricultural or horticultural produce, or commodity as approved by Council from time to time;

"Produce entry document" means a document issued to a seller by the Council prior to the entry of the vendor into the market which must contain such information as the Council may determine;

"Sales docket" means a document issued by the Council containing the information set out in section .30 (5);

"Salesperson" means a person in the employ of a market agent, who acts on behalf of such market agent in any transaction on a fresh produce market or who concludes a direct sale, direct purchase or private treaty sale and is duly authorised by the Council to be employed as a salesperson on that market and who is in possession of a valid permit issued by the Council

"Salesperson's Permit" means the document issued by the Council authorising a salesperson, employed by a market agent, to operate on a fresh produce market in a specific sales section.

"Unit" means the quantity of any produce which forms the basis upon which the price of such produce is calculated, except where the produce is contained in an unbroken container, in which case such produce, as so contained, must constitute a unit;

"Vendor" means the owner of produce consigned to or brought onto a produce market for sale, or any person bringing any article onto the market for sale or any other purpose, either for himself or for any other person through a market agent, or any other person on whose behalf a market agent has concluded a direct sale, direct purchase or private treaty sale.

"Wholesaler" means a person on the market site who, in terms of a valid contract with the Council, has a right to procure or buy produce, be involved in a direct sale or provide produce to other vendors within an approved designated facility and within Council's official trading system.

CHAPTER 2

Applicability of By-Law

2. This by-law is applicable on all markets established, controlled or managed by the Council within its jurisdiction.

CHAPTER 3

General Regulations on Market Site

Business Hours

3. The market must be opened on such days and during such hours as the Council may from time to time determine.

Vehicles and Security

4. (1) The Council must control and regulate the volume and movement of vehicles entering the market or within the precincts of the market by way of written or oral instructions.
- (2) The Council is empowered to set aside parking spaces on the market from time to time and regulate the use of such parking spaces.
- (3) The Council must set aside loading bays to cater for the loading and off-loading of goods.
- (4) The Council may forbid any vehicle or any class of vehicle from entering or being on the market.

- (5) The Council or its authorised representative or any Peace Officer may on the market, without warrant, search any vehicle or receptacle of whatever nature and seize any article in respect of which any offence has been, or on reasonable grounds, is suspected to have been committed.

Conduct and Control

5. The conduct of the market is under the control of the Market Master in accordance with all relevant laws and resolutions of the Council, and all persons on the market must obey his or her lawful instructions and all such relevant laws and resolutions, including the provisions of these by-laws.

General Conduct of Persons on the Market Site

6. (1) The Council must take all reasonable steps as may be necessary to ensure the safety and health of all persons on the market and an appropriate environment for the conduct of a fresh produce market and to this end must control and regulate the conduct of persons entering and upon the market site by way of written or oral instructions, directives or policies as amended from time to time.
- (2) No person must enter any part of the market without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years must at any time be admitted to any part of the market except when under the direct supervision of an adult who will be responsible and accountable for such minor.

Registration of Porters or Carriers

7. (1) No person must ply for hire as a porter or carrier on the market, unless in possession of a permit issued by the Market Master. Such a permit is valid for one week and may be issued to persons approved by the Market Master upon payment of a charge determined in terms of the Agriculture Produce Agents Act, 1992 (Act No. 12 of 1992).
- (2) Every person plying for hire as a porter or carrier on the market must be in possession of a permit as mentioned in subsection (1) by the Market Master.
- (3) No porter or carrier on the market must ply or canvass for hire by shouting or by persistently following a buyer or prospective buyer or fail to keep his person and clothing in a clean and tidy condition to the satisfaction of the Market Master.
- (4) No porter or carrier on the market must, at any time while he or she is not engaged or plying for hire be upon any portion of the market other than an enclosure or area set aside by the Market Master for such purpose.
- (5) Any porter or carrier contravening subsections (1) to (4) inclusive must be ordered off the market by the Market Master who may also cancel his or her permit, and no refund of any charge paid by such person must be made in such event.

Market Sales

8. (1) The Council must take all reasonable steps as may be necessary:-
- (a) to ensure that the business conducted on the commission floor is transacted in accordance with the laws relating to fresh produce markets.
- (b) to ensure that all disputes relating to market transactions are resolved as expeditiously as possible.
- (2) The Council may:-
- (a) satisfy itself in such manner as it may determine that a consignment is truly represented by any sample displayed or offered for sale on the market;
- (b) inspect any goods brought onto the market site;
- (c) inspect any goods purchased on the market whilst such goods are on the market site;
- (d) impound any goods the subject of any, dispute on the market site until such time as such dispute is resolved.
- (3) The Council may by reasonable notice on a notice board or otherwise forbid the sale of any item on the market;
- (4) If the Council reasonably suspects that any articles submitted for sale on the market are stolen property, must refuse to allow such articles to be offered for sale or to permit them to be sold, and it must, if it so suspects only after the sale, retain the proceeds of such sale until it has been satisfied as to the ownership of such articles.
- (5) The Council may at the cost of the owner impound, reject or decline to accept any article which in its opinion is offensive, diseased, unsound, unwholesome or unfit for consumption by human beings or animals, or is contained in a container likely to contaminate it or any other article with which such a container may come into contact.
- (6) The Council may by reasonable notice on a notice board or otherwise prohibit or prescribe the use of certain containers for different classes of articles.
- (7) The Council may refuse to release any article if it has reason to believe that either a buyer, vendor, market agent or employee of a market agent has failed to comply with any condition of sale imposed by the Council or this by-law.
- (8) The Council may issue such internal directives regarding sales or purchases as it may deem necessary.

Market Agents

9. The Council must keep a register of all market agents in which is recorded all details of the ownership and the directorate of each market agent and of all persons employed by such market agent.

Information

10. (1) The Council may demand any information, for statistical or any other lawful purpose, from any person relating to any aspect of sales on the market.
- (2) The Council may post internal managerial directives relating to the market upon a notice board in a prominent position on the market site and such posting must be deemed to be sufficient notice of any such matter to all persons concerned.

Monies and dues

- 11 (1) The Council may demand, sue for and recover any amount due to or due by any person on behalf of whom or to whom any produce has been sold. If such a person fails to comply with a demand so made, the Council may set off such amount against any monies in its possession or under its control belonging to such a person.
- (2) If the Council has reason to believe that if monies in its possession are paid out to any person other than the person to whom they are lawfully due, or will not reach the person entitled to them, it may withhold payment of such monies until it is satisfied that they will reach the person entitled to them, or direct that they be paid directly to the person so entitled in a manner determined by the Council.
- (3) The Council is empowered to set off any outstanding debts owed to it against any monies in its possession belonging to the debtor.
- (4) No liability must devolve on the Council for any action taken in good faith in terms of this section.
- (5) Any person operating or trading on the market must pay to the Council such market dues as prescribed in the applicable market tariffs determined by Council from time to time.

Disputes

12. In the event of any dispute arising on the market site, the Council may impound and hold as sequester any property on the market belonging to any party to the dispute, of a value it considers to be sufficient to satisfy the claim of any other party, and may hold such property until such time as the dispute has been determined by the Council or a court of law,

Sequestration of Property

13. (1) Any article:
- (a) left on the market site which is not claimed within 24 hours by the person entitled thereto;
 - (b) already sold but which remains unlearned at the time of the closing of sales on any day, or
 - (c) impounded by the Council in terms of subsection 8 (4), 8 (5) or 12 must be sequestered to the Council and the Council may:-
 - (i) sell the articles referred to in subsection (1) (a) forthwith;
 - (ii) re-sell the articles referred to in subsection (1) (b) on the following day, or
 - (iii) sell the articles referred to in section 12 on the determination of the dispute.

Market Management Board

14. (1) The Council may appoint a Market Management Board in terms of the Council's Delegation of Operation and Decision Making Powers as amended by the Council from time to time or such other document issued by the Council.
- (2) The Market Management Board must have an advisory function and must assist the Council in resolving disputes relating to the market and must provide the Council with proposals regarding internal managerial, financial and operational matters on request.
- (3) The Constitution and the functions of the Market Management Board are those contained in Council's Delegation of Operation and Decision-making Powers.

CHAPTER 4**The Business of Market Agents and their Sales Personnel****Register of Market Agents**

15. (1) Market agents are entitled to operate on the market after being approved by Council according to the procedure which is in place at the time.
- (2) No person must carry on the trade or business of a market agent on the market unless he is in possession of a valid market agent's licence.
- (3) Every market agent must, prior to any change in directorship, ownership or change of personnel, obtain the written approval of the Council.
- (4) No market agent must be involved in or trade in any other agency registered with the Council or trade in or be involved in any sub-agencies.
- (5) Every market agent so applying must satisfy the Council that:
- (a) he or she is a fit and proper person to carry on the trade or business as a market agent; and
 - (b) he or she is legally qualified to conduct the business of a market agent;

- (6) The Council is empowered to refuse to issue, suspend or renew a licence if the market agent concerned:
- (a) has an interest, either directly or indirectly, or involved in any other business established for the production, sale, purchase or dealing in, produce or articles of any kind usually sold on the market; or
 - (b) has been found guilty of the contravention of any law, by-law or regulation relating to the market;
 - (c) is not a fit or proper person to be trading on or employed at the market;
 - (d) has acted in any way prejudicial to the interest of the market.
- (7) Refusal by the Council to issue, suspend or renew a licence must not debar an applicant from again applying for a licence within a reasonable time from his application being refused.
- (8) Every licence must be valid from its date of issue until cancelled or withdrawn by the Council.

Permits

16. (1) No salesperson must be employed as a salesperson until a valid salesperson's permit has been issued by the Council.
- (2) All applications for permits must be submitted to the Council on the prescribed form.
- (3) Every salesperson so applying must satisfy the Council that:
- (a) he or she is a fit and proper person to carry on the trade or business of a salesperson;
 - (b) he or she is legally qualified to conduct the business of a salesperson;
- (4) The Council is empowered to refuse to issue, suspend or renew a permit if the salesperson concerned:
- (a) has an interest, either directly or indirectly, or involved in any other business establishment for the production, sale, purchase or dealing in, produce or articles of any kind usually sold on the market; or
 - (b) have been found guilty of the contravention of any law, by-law or regulation relating to the market;
 - (c) is not a fit or proper person to be trading on or employed at the market; or
 - (d) has acted in any way prejudicial to the interest of the market.
- (5) Any refusal by the Council to issue, suspend or renew a permit, must not debar an applicant from again applying for a permit within a reasonable time from his application being refused.
- (6) Every permit must be valid from its date of issue until cancelled or withdrawn by the Council.

Employees

17. (1) Every market agent must be responsible for the conduct of all persons in his or her employ, and is personally liable for any damage done to any property on the market by himself or any of his employees.
- (2) No market agent may:-
- (a) fail to terminate the services of any employee convicted of a criminal offence of any law, by-law or regulation relating to the market, or
 - (b) engage or re-engage within the market any person whose services have been terminated in terms of paragraph (a).
- (3) Every employee of any person operating on the market site must be in possession of a valid permit issued by Council in terms of internal directives issued by Council from time to time.

Business Principles

18. (1) No market agent must conduct his or her business other than in accordance with the provisions of the Act, the Rules made under section 22(1) of the Act or this by-law.
- (2) No market agent must, when conducting private treaty sales, show preference to any person in any way whatsoever.
- (3) No market agent or employee of a market agent must purchase produce on the market except for private use and at a price not lower than the price at which similar produce was sold on the market on the same day.

CHAPTER 5

General Practices on the Market Site

Delivery Notes and Waybills

19. (1) Every person bringing or causing to be brought onto the market any produce must, immediately on its entry on the market premises, register such produce with the Council and the relevant part) to whom the article is consigned.
- (2) The Council may obtain from the transporting organisation a copy of every deliver, note or waybill issued by the organisation and any other particulars required by him or her in respect of even article delivered to the market by the said organisation.
- (3) The Council must issue a goods received note based on the waybill or delivery note presented by the vendor or transporter showing:
- (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 or quality;
 - (g) the name or code mark of the market agent or party to whom such article is sent;
 - (h) the registration number of the vehicle, if any, and
 - (i) any other particulars that may from time to time be required by the Council
- and every vendor is obliged to furnish the council with the full and correct information.

Containers

20. (1) Every container must have the name and address of the consignor and market agent clearly and legibly marked in capital letters on such container or on a label securely attached to it.
- (2) All other names, addresses or marks, except the name of the consignee, must be obliterated.

Passage of Risk

21. Every article brought onto the market must at all times be at the sole risk of the market agent or party to whom it is consigned until it is sold, where after the risk must pass to the new owner.

The Vendor

22. (1) Any vendor who wishes to remove from the market any article brought onto the market site by him or her must first obtain the prior written consent of the Council before removing such article.
- (2) No person must bring onto the market or display, any produce which is packed in such a manner that the produce at the top or sides of the container is of better quality or larger size than the produce in any other part of the container.
- (3) No person other than a person who is a registered market agent may be a vendor on the market sales floors.

Implied Conditions of Agency

23. Every market agent must account promptly, correctly and in full to the vendor for the proceeds of any sale after receiving payment from the Council and must pay the vendor the amount owing to him or her after deducting from such monies or any amount which he or she is legally entitled to do.

CHAPTER 6**Sales Practice****General**

24. (1) No-one must canvass on the sales floor or anywhere on the market, directly or indirectly or by any means whatsoever, with a view to secure direct dealings with potential buyers.
- (2) No articles must be sold except according to quality, mass, number or otherwise required by law or as determined by the Council.

Direct Sales

25. (1) No person must conduct a direct sale unless:
- (a) he or she has obtained prior written approval from the Council.
 - (b) such details of such sale and such relevant documents and information required for consignment auditing purposes in relation to such sale have been furnished to the Council upon request:
- (2) Council may from time to time publish commodity lists of products which it deems fit to prohibit direct sales.

Direct Purchases

26. (1) No person must enter into any direct purchase arrangement with a vendor unless:
- (a) he or she has obtained prior written approval from the Council;
 - (b) the full details of such purchase are declared at the entry gates and the original copy of the waybill(s) is handed in at such control gates:
 - (c) such details of such purchase and such relevant documents and information required for consignment auditing purposes in relation to such purchase have been furnished to the Council upon request;
- (2) No delivery of a declared direct purchase may be received on any part of the market except at the approved trading facility allocated to the recipient.
- (3) No produce received as a direct purchase must be stored in the Council's own cold-storage facilities or market agency owned cold-storage facilities unless specific prior written approval from the Council has been acquired.
- (4) Council may from time to time publish commodity lists of products which it deems fit to prohibit for direct purchases.

Procurement

27. (1) No person must co-ordinate, store, serve as broker, trade by computer, or negotiate the movement, storage, trading, assembling or procuring of any produce or consignment thereof on or off the market sales floor or market site, without having obtained prior written approval from the Council.
- (2) No person must in whatsoever way serve as a middle-man, communicator, exporter or importer unless prior approval has been granted by the Council.

Market Agents

28. (1) It is the responsibility of the market agent concerned to ensure that articles which are required to be sold by mass are arranged in units, the mass of which must comply with any legal requirements, before such articles are displayed for sale, offered for sale or sold and such mass must be clearly and legibly marked on such articles and their containers.
- (2) No articles must be displayed for sale, offered for sale or sold unless the container is marked in the manner described in section 20.
- (3) No article required by law to be graded, must be offered for sale or sold on the market unless it has been submitted by the market 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 market agent
- (4) 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 must be offered for sale or sold or removed from the market agent unless it complies in every respect with the requirements of such law, provided that the Council may, in its discretion, direct that any article be sold if it deems it expedient to do so.
- (5) All sales by market agents must be conducted by private treaty, unless otherwise directed by the Council.
- (6) No market agent must offer for sale or sell any article by private treaty unless he or she is in a position to deliver the article concerned as soon as the purchase price has been paid by the buyer, except in the case of a direct sale when delivery may be effected directly between buyer and vendor.
- (7) No market agent must conclude a direct sale between a vendor and a buyer and fail to obtain prior authority from the Council, omit or neglect to advise the Council in advance of the details of such direct sale.

Wholesalers

29. (1) No wholesaler or his or her personnel may trade on the sale floors or any other area other than the area designated to him by the Council.
- (2) No wholesaler or his or her personnel may be involved in retail trading unless Council's prior written approval has been obtained.
- (3) No wholesaler or his or her personnel may introduce business practices that will result in such wholesaler or his or her personnel competing with the trade on the commission sales floor.

Purchases and Payment

30. (1) All buyers must obtain from the Council a buyer's card which must be issued by the Council in the prescribed manner.
- (2) In the case of all sales, whether by private treaty, direct sale or by public auction, the buyer must immediately upon a sale being concluded present his or her buyer's card to the market agent concerned who must record the details of such sale in the prescribed manner.
- (3) No market agent or his or her employees must receive or handle cash in respect of any purchase on the trading floor except as prescribed by internal directives issued by Council from time to time.
- (4) No buyer may remove any produce from the market site unless he or she is in possession of a valid sales docket
- (5) Every sales docket referred to in subsection (4) must be clearly and legibly completed and must contain the following information:-
- (a) the date of transaction;
 - (b) the market agent's name;
 - (c) in the case of a credit buyer, his or her full code, name and number;
 - (d) a description of the article sold;
 - (e) a description of the type of container used;
 - (f) the quality of the article sold;
 - (g) the mass, quantity or number of units, as the case may be, of the article sold;
 - (h) the price per unit;
 - (i) the full purchase price; and
 - (j) such other information as may be required by the Council from time to time.

- (6) In the event of a direct sale, the market agent or vendor must for the purpose of obtaining the consent of the Council, provide the Council with the purchase price relating to such a sale, a sales docket and a delivery note showing:-
- (a) the date;
 - (b) the name, code and address of the vendor;
 - (c) the name and address of the buyer;
 - (d) the commodity;
 - (e) the quantity and quality of the article sold;
 - (f) the price per unit; and
 - (g) any other information that the Council must reasonably require in respect of such sale.

Implied Conditions of Sale

31. The market agent is responsible for delivering to the buyer the correct quantity, mass, quality, grade and variety of the purchased article in its proper container.

Accounting

- 32 (1) The Council must keep a correct account of all articles sold and monies handled.
- (2) All accounts of the Council and all books, records and documentation relating thereto must at all times be open to inspection by any person as may from time to time be appointed by the Council or the Auditor-General to carry out such inspection.
- (3) The Council must pay the proceeds of the sale of any article consigned to a market agent and sold on the market, or sold by means of a direct sale, to such market agent's Trust account after deducting there from the market dues, levies, duties or charges payable in respect of such sale; provided that in the case of a direct sale the Council may withhold such proceeds pending written certification by the market agent that the sale has been completed and delivery effected to the satisfaction of both vendor and buyer.

CHAPTER 7

Procedures

33. (1) All persons must:-
- (a) on arrival, register any article brought to the market for sale thereon with the Council in the prescribed manner;
 - (b) pay, at a time specified by the Council on the produce entry document an ad valorem tariff of the value of the produce brought onto the market as prescribed by the market tariffs and assessed by the Council.
 - (c) refrain from conducting business in any manner otherwise than in accordance with this by-law,
 - (d) keep any vehicle, basket or container brought onto the market site clean and tidy to the satisfaction of the Council
 - (e) refrain from selling, offering, introducing, hawking or carrying about for sale any produce on the market without the prior permission of the Council.
 - (f) refrain from placing or causing to be placed any objectionable matter in any refuse receptacle.
 - (g) only enter the market if he or she has lawful business thereon.
- (2) Without the scope of the powers vested in the Council being limited in any way, no person must, on the market:-
- (a) smoke in any part where a notice prohibiting smoking is displayed;
 - (b) light a fire, save at such times and in such places as have been authorised by the Council;
 - (c) stand, sit or lie upon or against any produce or container;
 - (d) throw anything at any person or object;
 - (e) without lawful reason tamper with or remove or cause to be removed any produce, container or pallet exposed for sale, or any label on such produce or container,
 - (f) without the written permission of the Council erect any fence or building or convert existing buildings or erect partitions or install wiring or electrical installations or fittings or extend existing wiring or electrical installations or fittings or make any other changes of a like to such premises on the market;
 - (g) introduce or cause or allow to be introduced into or enter any drain, gully or storm water drain any matter likely to cause blockage or damage or any sewerage, oil, foul water or other objectionable substance;
 - (h) without the permission of the Council wash, sort, grade or clean fruit, vegetables, any vehicle or other article;
 - (i) interfere with or molest any person or interfere with the proper carrying on of any business;
 - (j) save with the permission of the Council enter or remain or cause any article, animal or other thing to enter or remain on any pan thereof on days or at times when the market is closed;
 - (k) fail or refuse to depart or to remove any vehicle, animal or other thing when lawfully instructed by the Council to do so;
 - (l) spit, loiter, use any threatening, obscene, abusive, violent, offensive or disgusting language, make any loud or unseemly noise or cause a disturbance;

- (m) touch, taste, handle or move any produce exposed for sale in such a way as to render it liable to contamination;
 - (n) wilfully damage or deface any property;
 - (o) discard or deposit in any place other than receptacles provided for the purpose of any fruit-peel, vegetable leaves or other refuse of any kind whatsoever;
 - (p) drive, propel, or ride any vehicle, trolley, handcart or mechanical handling equipment in such a way as to endanger persons or damage property; or
 - (q) disobey any signs or directions within its roadways,
- (3) No person must offer for sale or sell any produce on the market before the commencement of sales or after the closing of sales.
- (4) No person must:-
- (a) take any vehicle onto the market site without first obtaining the permission of the Council;
 - (b) neglect or refuse to place any vehicle under his control in the position assigned to such vehicle by the Council or to comply with any lawful direction given to him by the Council for the purposes of section 4.;
 - (c) being in charge of any vehicle, park such vehicle in any place within the market site other than in a space set aside in terms of section 4 (3) hereof, unless he or she is otherwise directed by the Council;
 - (d) take or cause or permit to be taken onto the market site any class of vehicle forbidden by the Council in terms of section 4 (4);
- (5) No person in charge of any vehicle must:-
- (a) except by reason of a cause beyond his or her control, allow such a vehicle to remain stationary in a loading bay for any purpose other than for the loading or off-loading of goods; or
 - (b) permit any vehicle to remain in a loading bay for a period longer than is absolutely necessary for the loading or off-loading of goods; or
 - (c) drive, propel or ride any vehicle within the precincts of the market in such a way as to endanger persons or property.
- (6) No person must:-
- (a) place any article or thing anywhere on the market site so as to cause inconvenience or obstruction or as to prevent the proper sweeping, washing or cleaning of the market site;
 - (b) ignore an instruction from the Council to immediately remove any article or thing from the market site or from one part of the market site to another when instructed to do so by the Council; or
 - (c) install any article without the prior consent of the Council, subject to the provisions of this by-law, before storing any article on the market site
- (7) No person must:-
- (a) bring or convey any intoxicating liquor onto the market site, or have intoxicating liquor in his possession whilst on the market site, or enter or remain upon the market site while under the influence of intoxicating liquor without the prior consent of the Council;
 - (b) damage, ruin or tamper with any article brought to the market, or any building or property belonging to the Council on the market site;
 - (c) bring onto the market site any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precincts of the market site;
 - (d) cook food or make tea or any other beverage in any part of the market site other than in such places as may have been set aside for the purpose; Provided that the Council may allow tea or any other beverage to be made in premises set aside for market business subject to such premises being kept neat and clean to the satisfaction of the Council;
 - (e) be on the market site when suffering from any contagious or infectious disease;
 - (f) take onto the market site any pets.
- (8) All persons offer for hire as a porter or earner on the Market site must:
- (a) be in possession of a porter's permit referred to in section 5.;
 - (b) wear such identification as may be directed by the Council.
- (9) No porter or carrier on the market site must:-
- (a) at any time while he or she is not engaged or plying for hire, be upon any portion of the market other than an enclosure or other area set aside by the Council for such purpose;
 - (b) ply or canvass for hire by shouting or by persistently following a purchaser or prospective purchaser, or
 - (c) have his or her person and clothing in an untidy, unhygienic or unseemly condition.
- (10) No person must sell, expose or offer for sale:-
- (a) any item precluded for sale by the Council in terms of section 8 (3); or
 - (b) any articles in containers which fail to comply with the prescriptions or specifications of the Council as prescribed under section 8 (6).
- (11) No person, other than the Council must organise or conduct or attempt to organise or conduct any auction sale on the market site.

- (12) No Council official must directly or indirectly be allowed to trade or purchase articles on the market, either for his or her own account or for commission, except such articles as he or she bona fide requires for his or her own private consumption, which articles must not be given to such Council official as a gift or for any price below the normal market value of such articles as traded in the day in question.
- (13) Every market agent must:-
- (a) supply to his employees such protective clothing as may be required by law and prescribed by the Council;
 - (b) ensure that the clothing referred to in paragraph (a) is:-
 - (i) distinctly marked as prescribed by the Council;
 - (ii) at all times kept clean and in good repair, to the satisfaction of the Council.
 - (c) ensure that his or her employees on the market are wearing clothing of the kind prescribed in paragraph (a);
 - (d) remove and effectively separate from any produce in his or her custody for sale on the market, any article which at any time is or shows signs of being deteriorated or damaged: or
 - (e) re-sort or re-pack produce referred to in subsection (10) (d) if, in the opinion of the Council, it is necessary to do so.
- (14) Any person concerned with marketing or the handling of produce:-
- (a) must wear clothing of the kind referred to in subsection (13) (a) whilst performing their duties when required to do so by the Council;
 - (b) must undergo an X-ray or other medical examination for tuberculosis at his or her own expense whenever it is deemed necessary by the Council; and
 - (c) must submit the results of any examination referred to in subsection (b) to the Council.
- (15) All vendors must ensure that their produce is free from pesticide and other chemical residue.
- (16) All vendors must ensure that containers must indicate whether produce has been radiated or chemically treated

CHAPTER 8

General

34. (1) The Council is not liable for any loss, damage or injury to any property or any injury or death of any person on the market, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.
- (2) Any person committing a breach of this by-law must pay to the Council the amount of the damage done, as well as the civil penalty imposed for the breach of the by-law concerned as prescribed in the Market Tariffs.
- (3) No claim referred to in section 13 must be recognised after the expiry of 90 days from the date of sale, and in such case all the proceeds of such sale must revert to the market as income.
- (4) Every person is presumed to know the provisions of this by-law and of every instruction of the Council published on the notice board on the market site.
- (5) A certificate issued by a duly authorised Council Official indicating the amount which any person owes to Council constitutes prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

CHAPTER 9

Penalties

35. (1) Any person who:-
- (a) contravenes any provisions of this by-law, or
 - (b) contravenes any condition imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this by-law.
 - (c) fails to comply with the terms of any notice served on him in terms of this by-law; or
 - (d) fails to comply with any lawful instruction of the Council,
- is guilty- of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine as prescribed for the offence under the Adjustments of Fines, Act, 1991 (Act No. 101 of 1991).
- (2) Failure to comply with the terms of any condition or notice referred to in subsections 35 (b) or (c) constitutes a continuing offence and a person failing to comply with the terms of such condition or notice is guilty of a separate offence for each day during which he or she fails to comply with such terms.

CHAPTER 10

Determination of Market disputes

- 36 (1) In the event of any dispute arising on the market site relating to the sale of any article on the market and not involving the Council as a party, or any direct sale, or any matter incidental thereto, the Council may decide the issue and, subject to an appeal to the Administrative Tribunal concerned, such decision is final and binding on the parties.
- (2) Subject to the provisions of Section 34 of the Constitution, in the event of any dispute arising on the market site, relating to the sale of any article on the market and involving the Council as a party, the Administrative Tribunal concerned, may decide the issue, and such decision is final and binding on the parties.

Repeal

37. Any by-laws relating to fresh produce markets adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

38. These By-laws are called the By-laws relating to Fresh Produce Markets, 201...

[NO. 165 OF 2010]**NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD GENERAL STREET BY-LAW**

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
Systems And Capacity Building
Department of Cooperative Governance
and Traditional Affairs
Local Government Branch
PO Box 211
BLOEMFONTEIN
9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

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Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa: -

"animals" means any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches indigenous mammals and other wild animals;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer,

"Council" means -

(a)Municipality established by Provincial Notice No. of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or

(b) its succession in title; or

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws, has been delegated or sub-delegated or an instruction given as contemplated in, section 59 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000);

"municipality" has a similar meaning to "Council".

"municipal area" means the area of jurisdiction of Municipality as determined in terms of the Municipal Demarcation Act 1998;

"municipal manager" means a person appointed in terms of section 82 of the Municipal Structures Act, 1998

"motor vehicle" means any self-propelled vehicle and includes-

(a) a trailer, and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-

(i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"public place" means any square, park, recreation ground, sports ground, sanitary lane or open space which has

(a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;

(b) at any time been dedicated to the public;

(c) been used by the public without interruption for a period of at least thirty years, or

(d) at any time been declared or rendered such by the municipality or other competent authority;

"public street" means-

(a) any street which has at any time been-

(i) dedicated to the public;

(ii) used without interruption by the public for a period of at least thirty years;

(iii) declared or rendered such by the municipality or other competent authority, or

- (iv) constructed by a local authority, and
- (b) any land, with or without buildings or structures thereon, which is shown as a street on-
 - (i) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (ii) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office; unless such land is on such plan or diagram described as a private street;
- "semi-trailer"** means a trailer having no front axel and so designed that at least 15% of its tare is super-imposed on and borne by a vehicle drawing such trailer;
- "sidewalk"** means that portion of a street between the outer boundary of the roadway and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;
- "street"** means any road, street or thoroughfare or any other place which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and except where in-consistent with the context includes -
 - (a) the verge of any such road, street or thoroughfare
 - (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
 - (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
 - (d) any other object belonging to such road, street or thoroughfare.
- "tare"**, in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of-
 - (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
 - (b) anything which is a permanent part of the structure of such vehicle;
 - (c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and
 - (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of-
 - (i) fuel, and
 - (ii) anything attached to such vehicle which is not of the nature referred to in paragraph (b) or (c);
- "trailer"** means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;
- "vehicle"** means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails; and
- "work"** means work of any nature whatsoever undertaken on any land within the area of jurisdiction of theMunicipality and, without in any way limiting the ordinary meaning of the word, includes the erection of a new building or alterations or additions to any existing building, the laying of cables and pipes, the dumping of building or other material anywhere in the street, or delivery to or removal from any site of any soil or material of any nature whatsoever.

Streets, sidewalks and encroachments on streets

- 2. No person must -
 - (a) make, construct, reconstruct, or alter a street or sidewalk in a street -
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with the requirements prescribed by the municipality, or
 - (b) construct a veranda, stoep, steps or other projection or erect a post in a street except with the written permission of the municipality.

Advertisements visible from streets

- 3 (1) No person must display any advertisement, placard, poster or bill in a street -
 - (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.
- (2) This section is not applicable to signs which have been exempted under the provisions of the municipality's by-law relating to Outdoor Advertising.

Animals or objects causing an obstruction

- 4. No person must -
 - (a) deposit or leave any goods or articles in a street, other than for a reasonable period during the course of the loading, offloading or removal thereof, or
 - (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a perambulator or wheelchair which is being used for the conveyance of children or the disabled), or
 - (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street -
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with such conditions as may be determined by the municipality.

Trees in streets

- 5 (1) No person must
- (a) plant a tree or shrub in a street, or in any way cut down a tree or a shrub in a street or remove it there from, except with the written permission of the municipality;
 - (b) climb, break or damage a tree growing in a street, or
 - (c) in any way mark or paint any tree growing in a street or attach any advertisement thereto.
- (2) Any tree or shrub planted in a street must become the property of the municipality. ,

Trees or growth causing an interference or obstruction

- 6 (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, danger or inconvenience to persons using a street, the municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (2) Any person failing to comply with a notice issued in terms of subsection (1) is guilty of an offence.
- (3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

Refuse, motor vehicle wrecks, waste material, etc.

7. No person must -
- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street or public place, or
 - (b) permit any such objects or substances to be dumped or placed in a street or public place from premises owned or occupied by him or her, except with the written permission of the municipality and otherwise than in accordance with such conditions as may be determined by the municipality.

Prohibition upon certain activities in connection with objects in streets

8. No person must, in a street-
- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
 - (b) clean or wash a vehicle.

Prohibition upon games and other acts in streets

9. No person must -
- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street or
 - (b) do anything in a street which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public unless such street is provided with clear signs and identifiable paving and equipment which distinguishes it as "residential erf" or "street park".

Use of explosives

10. No person must in or upon a street use explosives or undertake blasting operations –
- (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.

Conveyance of animal carcasses or other waste products through streets.

11. No person must carry or convey through a street the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand -
- (a) unless it is properly covered, and
 - (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street

Fences on street boundaries

12. No person must erect a barbed-wire fence or other dangerous fence on the boundary of a street except with the written permission of the municipality.

Building materials in streets

13. No person must bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials in a street except with the written permission of the municipality, and then only in accordance with the requirements prescribed by the municipality.

Balconies and verandas

14. No person must, except with the written permission of the municipality -
- (a) use a balcony or veranda erected beyond the boundary line of a street for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
 - (b) enclose or partition a balcony or veranda erected beyond the boundary line of a street or portion thereof as a living or bedroom. .

Drying of washing on fences on boundaries of streets

15. No person must dry or spread washing on a fence on the boundary of a street

Outspanning in streets

16. No person must outspan or allow to be outspanned in any street any vehicle drawn by animals, or detach or leave in any street any trailer, caravan or vehicle which is not self-propelled; provided that this provision does not apply to the actual loading or unloading of such vehicle.

Protection of street surface

- 17 (1) No person must-
- (a) use a vehicle or allow it to be used in any street if such vehicle is in such a defective condition that it will or may-cause damage to any street, and
 - (b) drive, push, roll, pull or propel any object, machine or other material through or along a street in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the street in any way.
 - (c) undertake any work which may cause the surface of any street to be altered, damaged or broken without the permission of the municipality.
- (2) If the municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street, the cost of repairs, as determined by the municipality, may be recovered from the offender.
- (3) Any person who is the owner of land on which any work is done is liable for any damage to any portion of a street caused by or in connection with the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (4) When any work which has to be undertaken on any land entails the driving of vehicles over kerbs, sidewalks or road verges, the owner of such land must not commence, or allow any other person to commence, any such work unless and until such a person has deposited with the municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such street as a result of, or in connection with, the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (5) After completion of such work, the municipality must itself undertake the repair of any portion of such street as may have been damaged by such work and must set off the cost of such repairs against such deposit. If such cost is less than the amount of the deposit, the municipality must refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner is liable for the difference, which must become payable on receipt of an account specifying the additional amount due.
- (6) No person other than an authorised official of the municipality in the performance of his or her duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a street

Damaging of notice-boards

18. No person must deface, damage or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street by or with the permission of the municipality.

Street and door-to-door collections

19. No person must -
- (a) collect or attempt to collect money in a street or organise or in any way assist in the organisation of such collection, except with the written permission of the municipality and otherwise than in accordance with such conditions as may be determined by the municipality, or
 - (b) collect from door to door, beg or solicit or accept alms, except with the written permission of the municipality.

Excavations in streets

20. No person must make or cause to be made an excavation or dig or cause to be dug a pit, trench or hole in a street
- (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with the requirements prescribed by the municipality.

Poison in streets

21. No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, must use, set or cast poison in any street.

Processions

- 22 (1) Subject to the provisions of sub-section (6) no person must hold, organise, initiate, control or actively participate in a procession or gathering in a street, or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street, or must use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections(2) and (3).
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) in any street must submit a written application for permission thereto, which must reach the municipality at least seven days before the date upon which any one or more of such actions is or are intended to be performed or carried out; provided that persons who intend participating actively in a procession, or gathering in any street need not apply to the municipality for permission thereto and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller thereof has obtained the permission of the municipality. An application made in terms hereof must contain the following:
- (a) full details of the name, address and occupation of the applicant;
- (b) full details of the street where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times or any one or more of the aforesaid actions and, in the case of processions and gatherings, the number of persons expected to attend, and
- (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out
- (3) Any application submitted in accordance with subsection (2) must be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not, in the opinion of the municipality, likely to be in conflict with the interests of public peace, good order or safety, the municipality must issue a certificate granting' permission and authorisation for the performance or carrying out of any one or more of such actions subject to such conditions as the municipality may deem necessary to uphold public peace, good order or safety.
- (4) The municipality may refuse to grant permission for the performance or carrying out of any one or more of the actions described in subsection (1), if the performance or carrying out of such action or actions will, in the opinion of the municipality, be in conflict with the interests of public peace, good order or safety.
- (5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, it is of the opinion that the performance or carrying out of the action or action in question will be in conflict with the interests of public peace, good order or safety.
- (6) The provisions of this section do not apply -
- (a) to wedding or funeral processions, or
- (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993) in which case the provisions of the said Act is applicable.

Roller-skating and skating on skate -board-

23. No person must, except with the prior written permission of the municipality, skate on roller skates or a skate board or a similar device in or on a public road, -place, street or in or upon an area where skating is prohibited by an applicable road traffic sign.

Persons to be decently clad

24. No person must appear in any street without being clothed in such a manner as decency demands.

Overflow of water into streets

25. No person must cause or allow any water other than rain water to flow into a street except in the case of emergency.

Behaviour in streets

26. No person must -
- (a) cause a nuisance to other persons by loitering, standing, sitting, laying or begging;
- (b) sleep, overnight or erect any shelter;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language;
- (e) fight or act in a riotous manner;
- (f) discharge a fire-arm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself or herself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;
- (k) use intoxicating liquor or drugs;
- (l) spit in a street.

Animals in a street

27. No owner or person-
- (a) in charge of any wild or ferocious animal, monkey or horned cattle must allow such animals at any time to be insufficiently attended or at large in any street or keep any such animal in such a manner as to be a danger or annoyance to the public; or
 - (b) allow, permit or cause any animal to graze or stray in or about any street.

Display of street number of places

- 28 (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises by the municipality in terms of section 37(c) must be displayed and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) a number displayed as contemplated by sub-section (1) must -
- (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
 - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

Bridges and crossings over gutters and sidewalks

29. No private crossing, pathway, bridge or culvert must be made or built to or in front of any dwelling or other premises in any street or public place-
- (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with the requirements prescribed by the municipality.

Control of amusement shows and devices

- 30 (1) No person must set up or use in any street or public place any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public -
- (a) except with the written permission of the municipality
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.
 - (c) unless suitable sanitary conveniences for both sexes of the staff have been provided .and
 - (d) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality must, for the purposes of inspection, at all reasonable times have free access to such , circus, whirligig, roundabout or other sideshow or device.

Control of animal-drawn vehicles

- 31 (1) No person must -
- (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a street;
 - (b) drive or be in control of an animal-drawn vehicle in a street if he or she is under 16 years of age, or
 - (c) if he or she is in control of an animal-drawn vehicle in a street, allow a person under 16 years of age to drive or be in control of such vehicle.

Vehicles to be attended

32. No person must, in a street, sleep in a vehicle other than a motor vehicle parked at a taxi rank or on some other stand duly allocated by the municipality.

Municipality may act and recover costs

- 33 (1) Notwithstanding any other provisions of this by-law, the municipality may -
- (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained, and
 - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) must be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

Closure and diversion of streets

34. No person must, without the approval of the municipality, close or barricade any street or restrict access thereto.

Closure and diversion of streets by municipality

- 35 (1) The municipality may close or divert any public street or part thereof;
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy;
- (3) Any objection against the intended action must be delivered in writing to the Municipal Manager within 30 days from the date of notification in terms of subsection (2) for submission to Council or a committee or person who has delegated powers to decide upon it.

Temporary closure of Public Street

36. (1) The municipality may, without complying with the provisions of section 35(1) temporarily close a public street-
- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street;
- (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street
- (c) if such street is, in the opinion of the municipality, in a state dangerous to traffic;
- (d) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
- (e) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
- (2) The municipality may temporarily divert a public street which has been closed in terms of section (1).

Construction, maintenance and naming of streets and public places

37. The municipality may in its area-
- (a) make, construct, reconstruct, alter and maintain streets and public places;
- (b) name and re-name streets and public places;
- (c) allocate and re-allocate numbers to properties abutting on streets and public places.

Declaration of public streets and public places

- 38 (1) The municipality may declare any street or portion thereof to be a public street or any place to be a public place;
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy;
- (3) Any objection against the intended action must be delivered in writing to the Municipal Manager within 30 days from the date of notification in terms of subsection (2) for submission to Council or a committee or person who has delegated powers to decide upon it.

Parking of Heavy Vehicles and Caravans

- 39 (1) No person must park on a public road within the municipal area;
- (a) a motor vehicle with a tare exceeding 3500 kg;
- (b) a trailer;
- (c) a semi-trailer, or
- (d) a caravan,
- for an uninterrupted period exceeding two hours.
- (2) Whenever a vehicle is parked in contravention of sub section (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

Penalty

40. Any person who contravenes or fails to comply with any provision of this by-law is guilty of an offence and liable upon conviction to-
- (1) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

REPEAL OF BY-LAWS

41. Any by-laws relating to streets adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

SHORT TITLE

42. This by-law is called the General Street By-laws , 201..

[NO. 166 OF 2010]

**NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION:
STANDARD IMPOUNDMENT OF ANIMALS BY-LAW**

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
Systems And Capacity Building
Department of Cooperative Governance
and Traditional Affairs
Local Government Branch
PO Box 211
BLOEMFONTEIN
9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

SCHEDULE

IMPOUNDMENT OF ANIMALS BY-LAW

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Definitions

1. In this by-law, unless the context otherwise indicates -
- "animal"** means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;
- "cattle"** means bulls, cows, oxen, heifers, steers and calves;
- "goat"** means an adult male or female goat, a wether and a kid;
- "horse"** means a stallion, mare, gelding, colt, filly, donkey and mule;
- "municipality"** means the Local Municipality ofestablished in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- "occupier"** means any person in actual occupation of land or entitled as owner to occupy land;
- "owner"**, in relation to an animal, includes any person having possession, charge, custody or control of such animal;
- "pound"** means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;
- "pound master"** means a person who may be -
- (a) a part-time or full-time employee of a municipality, or
- (b) appointed under a service delivery agreement to keep and operate a pound;
- "proprietor"** means any owner, lessee, or occupier of land;
- "sheep"** means a ram, an ewe, a wether and a lamb;
- "stallion"** means a male horse, donkey or mule not castrated or partially castrated; **"veterinary surgeon"** means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No.19 of 1982).

Purpose of by-law

2. The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

Impoundment

3. Any person may impound an animal found abandoned upon his or her property or any street, road, road reserve or other public place.

Pound to which animals are to be sent

4. Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

Receiving of animals by pound master

5. (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

Receipt for impounded animals

6. A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

Number of enclosures

7. The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for-
- (a) ostriches and horses;
- (b) cattle;
- (c) sheep, goats and pigs;
- (d) dogs; and
- (e) cats,
- Provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

Destruction of dangerous or contagious animals

8. (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

Notice of impounded animals

9. (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 2002 (Act No. 6 of 2002), is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police office.

Keeping of pound register

10. (1) A pound master must keep a pound register with the following particulars:
- (a) the date when, and the cause for which, all animals received by him or her are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner, if known;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he or she may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information. Provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death or injury of any impounded animal, the pound master must enter in his or her pound register a description of such animal and the cause of its death or injury.

Inspection of and extracts from pound register

11. A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

Submission of pound register entries after pound sales

12. A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

Inspection of pound register at place of sale

13. Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

Pound master's fees

14. (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

Fees payable

15. (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.

A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.

- (4) If the pound master is an official of the municipality, he or she must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

Notice of sale

16. (1) Every pound master must -
 - (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
 - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
 - (c) post a copy of the notice at a conspicuous place at the pound, there to remain until the day of the sale; and
 - (d) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality must make good the deficiency.

Auctioneer

17. (1) Every sale of impounded stock must -
 - (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
 - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

Sale of animals

18. At every such sale-
 - (a) no animal may be put up for sale unless impounded for at least two weeks;
 - (b) all animals, except sheep and goats must be sold individually;
 - (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
 - (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
 - (e) the municipality may fix a reserve price for any animal offered for sale; and
 - (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

Illegal impounding and penalties

19. Any person who illegally impounds any animal commits an offence.

Recovery of loss in respect of impoundment of animals from area of another municipality

20. Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

Use, detention and ill-treatment of animals

21. No person may furiously drive or ill-treat any animal found trespassing.

Appeal

22. A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

Offences and penalties

23. Any person who -
- (a) contravenes or fails to comply with a provision of this by-law;
 - (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
 - (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to -
 - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
 - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

Repeal of by-laws

24. Any by-laws relating to impoundment of animals adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Short title

25. This by-law shall be known as the Impoundment of Animals By-law, 20.....

NOTICES

PLEASE TAKE NOTE THAT AS FROM 1 NOVEMBER 2010 THE BANKING DETAILS OF THE DEPARTMENT OF THE PREMIER WILL BE AS FOLLOWS:

BANKING DETAILS FOR DEPARTMENT OF THE PREMIER

NEW BANK:	STANDARD BANK
ACCOUNT NAME:	FSPG: DEPARTMENT OF THE PREMIER
ACCOUNT NUMBER:	240 322 029
BRANCH NAME:	BRANDWAG BRANCH
BRANCH CODE:	05 5534 00
REFERENCE NO.:	AS DISCUSSED UNDERNEATH
ACCOUNT HOLDER:	FSPG: DEPT PREMIER
FAX NO.	(051) 405 4396

- **NB: FOR CHEQUES PURPOSE (PAY) PLEASE WRITE FSPG: DEPT. PREMIER.**
- **YOU ONLY USE REFERENCE NUMBER WHEN YOU PHYSICALLY GO TO BANK AND FILL IN DEPOSIT SLIP. AFTER DEPOSITING, YOU FAX ME BACK YOUR DEPOSIT SLIP AND SUBSCRIPTION FORM PLEASE.**
- **WHEN DEPOSIT MONEY ELECTRONICALLY YOU WILL USE COMPANY NAME AS A REFERENCE NUMBER AND FAX ME BACK YOUR PROOF OF PAYMENT AND SUBSCRIPTION FORM PLEASE.**

ENQUIRIES CONTACT:**TEL NO.**

**MS C TSHABALALA
MRS M.E. MATILE**

**(051) 403 3139
(051) 403 3590**

NOTICE

PLEASE TAKE NOTE: THAT THE LAST PUBLICATION OF THE PROVINCIAL GAZETTE FOR THE YEAR 2010 WILL BE ON 10 DECEMBER 2010.

THE NEXT PUBLICATION WILL BE ON 14 JANUARY 2011.
