

Final Draft for consideration by Council



# CHAPTER 18

## Markets

KWADUKUZA



## KWADUKUZA MUNICIPALITY

### BYLAWS RELATING TO MARKETS

The Kwadukuza Municipality, acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government Municipal Systems Act (Act 32 of 2000) hereby publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

#### Definitions

In these Bylaws, unless the context otherwise indicates:-

“Municipality” means the Kwadukuza Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

“Market” means the Market situated on Lot 473, Stanger Township; or on such other land as may be decided to be used as a market from time to time;

“Market Supervisor” means the person appointed by the Municipality to act as such, and who shall so act, or his duly authorised representative or representatives.

#### PART I

#### STALLS AND STANDS

##### 1. Definitions

In the part of these bylaws, unless the context otherwise indicates:-

“Article” means produce, meat, game, poultry, goods or anything whatsoever brought to the market for sale and offered for sale;

“Stall-holder” means the holder of a permit to occupy a stall or stand in the market issued to him by the Municipality in terms of these bylaws;

“Trading Licence” means a licence or permit issued in terms of the Businesses Act 1991 (Act 71 of 1991), as amended.



**2. Permission to occupy a stall or stand in the market**

- (1) Subject to the provisions of Section 22 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) no person shall occupy a stall or stand in the market or sell any goods or carry on any business, trade or occupation from any stall or stand except under the authority of the written permission of the Municipality granted in terms of these bylaws.
- (2) The permit issued by the Municipality in terms of sub-bylaws (1) shall show the name of the stall-holder and the number of the stall or stand to which it relates.

**3. Sale of right to occupy vacant stall or stand in the market**

- (1) Whenever a stall or stand in the Market is or becomes vacant, the Municipality shall sell the right to occupy such a stall or stand either by public action or public tender.
- (2) The Municipality shall give at least 14 days notice of the intention to sell the right to occupy a vacant stall or stand by advertisement on a approved municipal notice board in KwaDukuza and shall in such notice specify the prescribed upset bonus for the stall or stand, and, in the case of a sale by public auction, the time, date and place of sale.
- (3) Subject to the Municipality's Policies on Economic Development of Previously Disadvantaged Individuals or Groups of Individuals or Business Entities the Municipality shall issue a permit in the prescribed form to the highest bidder in the case of a sale by public auction or to the person offering the highest price in the case of a sale by public tender.

**4. Transfer of stall or stand**

- (1) No stall-holder shall sub-let, assign or transfer his rights to occupy any stall or stand in the market without the written authority of the Municipality, which authority the Municipality may grant or refuse, at its sole discretion.
- (2) Application for the transfer of a stall or stand shall be made to the Municipality by the stall-holder and shall be accompanied by the transfer fee prescribed in the Municipality Tariff of Charges.
- (3) upon the grant of such application the Municipality shall issue a permit in the prescribed form to the person to whom the stall is sub-let, assigned or transferred. Such permit shall be conditional upon the

issue to the permit holder of the appropriate trading licence and shall be subject to any condition or restriction imposed by such licence and to the provisions of these bylaws.

- (4) Where the application for the transfer of a stall or stand is refused, the transfer fee paid in terms of sub-bylaw (2) shall be refunded.

**5. Period of validity of permit**

- (1) Every permit issued in terms of bylaws (3) and (4) of these bylaws shall be valid for an indefinite period, provided that the right to occupy may be terminated by the Municipality or the permit holder on one month's notice in writing.
- (2) The Municipality may on one week's notice in writing to the stall-holder cancel the permit issued to him, should the stall-holder-
- (i) be convicted twice within any period of three years of a contravention of these bylaws;
  - (ii) die or be declared of unsound mind by a competent court;
  - (iii) have his estate sequestered as insolvent;
  - (iv) be 30 days in arrears with the payment of the prescribed monthly fees in respect of the stall or stand occupied by him;
  - (v) disregard any lawful direction given to him by the market master.
- (3) Except as otherwise provided in Bylaw 4(4) the stall-holder shall not, upon the termination of his right to occupy a stall or stand at the market in terms of sub-bylaws (1) and (2) be entitled to a refund of any bonus or fee paid by him in terms of these Bylaws.

**6. Payment of fees**

- (1) Every stall-holder shall pay to the Chief Financial Officer of the Municipality the fees prescribed in the Municipality Tariff of Charges on or before the 7<sup>th</sup> day of each calendar month in advance.
- (2) The person to whom any receipt for payment in terms of Section 6(1) hereof is issued shall retain it for the period such validity and shall, when requested to do so during that period, produce such receipt for the purpose of inspection by the Market Master, or any person appointed by him for that purpose, or any police officer.



**7. Prohibited Acts**

No stall-holder shall:-

- (a) within the Market sell or offer or expose for sale any goods other than goods which he is authorised by his permit to sell;
- (b) make, cause or permit any structural alteration to be made to the stall or stand occupied by him without the prior written approval of the Municipality.

**8. Duties of stall-holders**

Every stall-holder shall:-

- (a) keep his stall or stand and all fittings and utensils clean and in good order to the satisfaction of the Market Master;
- (b) when cutting meat, fish, poultry or game, have a watertight vessel with a lid wherein to put the offal;
- (c) keep all articles intended for sale by him either on tables or in receptacles approved by the Market master;
- (d) personally supervise the business carried on by him and shall not, save with the written permission of the Municipality, appoint or permit any other person to supervise and carry on the said business on his behalf;
- (e) if his goods are left in the Market after the closing hour, so arrange his goods that the floor of the Market can be properly flushed, washed and cleaned;
- (f) display in a prominent position in the stall or stand the permit issued to him in terms of Bylaws (2) (3) or (4).

**PART II**

**INFORMAL TRADERS SECTION**

**1. Definitions**

In this part of these bylaws, unless the context otherwise indicated:-

“Agricultural Produce” or “Products” means anything grown on a farm or garden for human consumption and includes flowers;



“Closing Hour” means not later than 1 p.m. on Mondays to Saturdays, both days inclusive;

“Informal Traders’ Section” means that section of the Market set-aside by the Municipality for occupation by Informal Traders who are plot holders;

“Opening Hour” means 5.30am on Mondays to Saturdays, both days inclusive;

“Plot” means any space allotted by the Market Master to any person for the purpose of selling agricultural produce therefrom;

“Plot-holder” means the authorised occupier of any plot in the Informal Traders’ Section;

## 2. Sections of Informal Traders’ Section

- (1) The Market Master may, from time to time, with the approval of the Municipality, divide the informal traders’ section in sub-sections for the sale of different classes of produce.
- (2) No produce may be sold from any section or sub-section other than the class of produce for which that section or sub-section has been set aside.

## 3. Occupation of plots

- (1) No person shall become a plot-holder and entitled to occupy a plot in any section unless he shall:-
  - (a) have made application to the Market Master for the occupation of such plot;
  - (b) have obtained the Market Master’s consent to such occupation and to the selling from such plot of agricultural produce; and
  - (c) have paid in advance each day, in respect of each of such occupation the prescribed fee and have obtained a receipt from the Market master for such payment.
- (2) No person shall occupy any plot in the Market other than the plot allotted to him by the Market Master.
- (3) Every plot-holder shall pay daily in advance for the stand the fee prescribed in the Tariff of Charges.



- (4) Every plot-holder shall be in personal attendance and shall personally supervise the business carried on his plot during the hours when sales take place.
  - (5) Every plot-holder shall at all times keep his plot clean and tidy to the satisfaction of the Market Master.
  - (6) Every plot-holder shall confine his business to the limits of his plot.
4. No plot-holder shall construct any fixtures or erect any structures on his plot.
5. **Closing Hour**
- At closing hour a warning bell will be rung, after which no further sales shall take place in the Informal Traders' Section, and all plot-holders shall forthwith remove all unsold goods from the Market.

6. **Fees and Production of receipts**

All fees payable in terms of this part of these bylaws shall be paid to the officials appointed for that purpose by the Market Master, who shall issue receipts on his behalf in exchange for the fees received. The person to whom any such receipt is issued shall retain it for a period of its validity and shall, when required to do so during that period, produce such receipt for the purpose of inspection by the Market Master, or any person appointed by him for that purpose, or any police officer.

**PART III**

**GENERAL**

1. **Definitions**

In this part of these bylaws, unless the context otherwise indicates:-

“Stall-holder” means the holder of a permit to occupy a stall or stand in the market issued to him by the Municipality in terms of these bylaws and a plot-holder as defined in Part II of these bylaws.

2. **Duties of stall-holder**

Every stall-holder shall:-

- (a) place all refuse and sweepings from his stall or stand and or plot in the receptacles provided by the Municipality for such purpose; and

- (b) dispose of all liquid waste from his stall or stand or plot in the drains provided for that purpose.

**3. Prohibited Acts**

No stall-holder shall:-

- (a) place any article or goods upon or project any article over any path or passage in the Market;
- (b) attach any article or goods to the rafters above the stall or stand or plot or place any article or goods above the ceiling of such stall, stand or plot;
- (c) sell any goods by public auction within the Market;
- (d) carry on or attempt to carry on any business within the market outside the limits of the stall, stand or plot occupied by him; and
- (e) sell expose or offer for sale any offal in the Market without the written authority of the Municipality and except from a stall set aside for the sale thereof.

**4. Conduct of persons within the Market**

- (1) No person shall within the Market:-
  - (a) directly or indirectly molest, importune, solicit from or interfere with any person or tout, shout or call for customer or cause annoyance or discomfort to persons using the market;
  - (b) cause any disturbance or use any offensive, obscene, injurious or unbecoming language;
  - (c) wash or clean vegetables, produce or any other article except in the sink provided for such purpose;
  - (d) improperly use or waste water or damage or deface or foul or misuse any part of the Market or any convenience therein or adjacent thereto;
  - (e) deposit or throw on the floor of the Market or entrance or any steps leading thereto any refuse; fruit peel or other vegetable substance;



- (f) interfere with or obstruct any employee of the Municipality in the execution of his duty
- (2) No person suffering from any contagious disease shall enter or remain in the Market.
- (3) No person under the influence of liquor and no beggar shall enter the Market or remain therein after being required by the Market Master or any policeman to remove himself therefrom.
- (4) No person shall expectorate or urinate in or about the Market, except in those places provided for those purposes.
- (5) No person shall take in the Market any dog or other living animal other than his poultry, birds, rabbits or guinea pigs intended for sale.

#### 5. Vehicles

- (1) No person shall take into the Market any vehicle other than a vehicle bringing goods to the Market for sale therein or a hand barrow.
- (2) No person shall take into the Market any vehicle or hand barrow the wheels of which are not fitted with rubber tyres.
- (3) (a) every person in charge of a vehicle which enters the Market for the purpose of conveying goods for sale therein shall unload such vehicle without delay, and forthwith remove the same from the Market.  
(b) where goods are being off-loaded from a vehicle in the vicinity of the entrance to the Market, the person in charge thereof shall, upon arrival, forthwith unload the vehicle and shall not, for a longer period than may be necessary for that purpose, leave the vehicle stationary in the vicinity of the Market entrance.
- (4) No person shall drive or take or cause or suffer to be driven or taken, any vehicle into the Market at a speed in excess of 8km per hour.

#### 6. Entrance and exit to Market

The Municipality shall from time to time appoint and mark clearly which gate or gates shall be used as an entrance or entrances and which gate or gates as exit or exits. No person shall drive or take or cause or suffer to be driven or taken any vehicles into the Market through a gate marked "out", and no person shall drive or take or cause or suffer to be driven or take any vehicle out of the Market through a gate marked "in".



**7. Opening and closing hours**

- (1) The Market, with the exception of the Informal Traders' section shall remain open during such hours of every day, as prescribed by the Municipality.
- (2) Notice of the opening and closing hours fixed by the Municipality in terms of sub-bylaws (1) shall be posted on the notice board by the Market Master.
- (3) Every stall-holder shall leave the Market not later than 5 minutes after the closing hour fixed in terms of sub-bylaw (1).
- (4) The Informal Traders' section as defined in Part II of these bylaws, shall remain open every day except Sundays and public holidays referred to in the Second Schedule of the Public Holidays Act, 1952 (Act No. 5 of 1952), between the opening hour and closing hour as defined in Part II of these bylaws.
- (5) Except as provided in sub-bylaw (3), no person shall, without the authority of the Market Master enter or remain in the Market during the period the Market is closed.

**8. Powers of Market Master**

- (1) The Market Master may:-
  - (a) with the consent of the Municipality, divide the Market into sections for the sale of different classes of articles and may direct that any particular article or class of article shall be sold only in the section set aside for the sale thereof;
  - (b) inspect or cause to be inspected any article of food exposed for sale on the Market in order to ascertain whether it is clean, wholesome, sound and free from disease, infection or contamination, or is found and destroy the same;
  - (c) if he is of the opinion that danger from fire exists, because of the excessive quantity or the inflammable nature of the goods stored on any stall or stand or because of the manner in which goods are stored in any stall or stand, require the stall-holder to reduce the quantity of such goods or to remove the inflammable goods from the stall or to take such other steps as may be necessary to remove the danger from fire.
- (2) The owner of any article seized, condemned and destroyed in terms of sub-bylaw (1) (b) shall not be entitled to any compensation therefore.



- (3) Any stall-holder who fails to comply with the directive of the Market Master issued in terms of sub-bylaws (1) (c) within seven days of receipt of a written notice conveying such directive shall be guilty of an offence.

**9. Municipality not liable for loss or damage**

The Municipality shall not be responsible for the loss or damage by fire, flood, theft or from any other cause of any goods the property of any stall-holder in the Market.

**10. Sale of poultry**

Live poultry shall only be sold in the Market from crates, pens or baskets which are approved by the Market Master and which contain a suitable drinking vessel with a sufficient supply of clean water.

**11. Notices**

The Market Master may post all notices relating to the closing and opening of the Market, or any matter affecting the Market on a notice board, in a prominent position in the Market, and such posting shall be deemed to be sufficient notice of any such matter to all stall-holders or other persons concerned.

**12. Settlement of disputes**

Any question or dispute arising in respect of any matter not provided for in these bylaws shall be decided by the market Master. Any person aggrieved by such decision may appeal in writing within fourteen (14) days to the Municipality whose decision shall be final.

**13. Offences and penalties**

Any person who contravenes any provision of these bylaws shall be guilty of an offence and upon conviction be liable to such penalty as may be prescribed by a Magistrate of a Magistrate's Court with jurisdiction in the area in which the market is situated.

**14. Repeal of bylaws**

All Municipal Bylaws, and amendments thereto, relating to Markets made by the local authorities of Nkwazi/Zinkwazi Beach Transitional Local Council, KwaDukuza/ Stanger Transitional Local Council and Dolphin Coast Transitional Local Council, disestablished in terms of Provincial Notice No. 345 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998: Establishment of Municipalities 9DC 29, KZ 291, KZ 292, KZ 293, KZ 294) as published on 19 September 2000, are hereby repealed.