

## **CHAPTER 22**

### **MARKET\***

Art. I. In General §§ 22-1 – 22-18

Art. II. Market Authority, §§ 22-19 – 22-27

#### ARTICLE I. IN GENERAL

##### Sec. 22-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meaning respectively ascribed to them:

Authority shall mean the Benton Harbor Market Authority.

Farm products shall mean those products of agriculture which are unprocessed.

Food products shall mean those foods which have been processed.

Market shall mean any market established by the authority. (Gen. Code 1946, Ch. 5, 1201.2; Code 1972, 2.162)

Cross reference – Definitions and rules of construction generally, 1-2.

##### Sec. 22-2. Location.

The market shall be located at such place as the authority shall determine within or without the corporate limits of the city and the authority shall be authorized to purchase, acquire, construct, improve, enlarge, extend or repair the market and to furnish the services, facilities and commodities of the market to users within or without its corporate limits and to issue revenue bonds to carry out the purposes. (Gen. Code 1946, Ch. 5, 1201.3; Code 1972, 2163)

\*Cross reference – Streets, sidewalks and other public places, Ch. 37. State law reference – Market Authority Act, MCL 123.671 et seq., MSA 5.2770(101) et seq.

##### Sec. 22-3. Deemed a public improvement.

The market established shall be deemed to be a public improvement under the provisions of Act 94 of the Public Acts of 1933 [MCL 141.101 et seq.; MSA 5.2731 et seq.], as amended. (Gen. Code 1946, Ch. 5, 1201.11; Code 1972, 2.171)

##### Sec. 22-4. Appropriations.

The city commission may appropriate such moneys from the general fund as it deems necessary to insure that successful maintenance and operation of the market. If any profit shall accrue from the operation of the market over and above payments to be made on any principal and interest on any bonds which may be outstanding and above the costs or operation, such profit shall be transferred to the general fund of the city. (Gen. Code 1946, Ch. 5, 1201.5; Code 1972, 2.165)

##### Sec. 22-5. Areas for farm products and food products.

Any public market established by the authority shall be divided into two (2) distinct areas. One area shall be devoted exclusively to facilities for the wholesale marketing of farm products. The other area shall be devoted to the wholesale marketing of food products. The authority shall have no interest in that part of the area devoted to wholesale marketing of food products which is actually made use of, but the authority may limit the type and nature of the use to be made of the whole or any part thereof in its conveyance of real estate which is sold to any person. The authority shall have no interest in any improvements on the land or any part thereof in the wholesale food products area. (Gen. Code 1946, Ch. 5, 1201.6; Code 1972, 2.166)

Sec. 22-6. Bonding of construction contractor.

Any construction, repair or ornamentation of the market shall be governed by the provisions of Act No. 187 of the Public Acts of 1905 [MCL 570.101 et seq., MSN 26.321 et. seq.] as amended. (Gen. Code 1946, Ch. 5, 1201.7; Code 1972, 2.167)

Sec. 22-7. Market advisory committee.

There is hereby provided a market advisory committee composed of six (6) members to be appointed by the city commission. The duties of the committee shall be to advise the market board of directors on the organization and operation of the fruit market for the best mutual interests of the fruit industry and the city. (Ord. of 6-11-66, 1; Code 1972, 2.176)  
Cross reference – Administration, Ch. 2.

Secs. 22-8 – 22-18. Reserved.

## **ARTICLE II. MARKET AUTHORITY\***

Sec. 22-19. Creation and purpose.

There is hereby created a Benton Harbor Market Authority, which shall be a corporate body, having the responsibility to plan, establish, develop and supervise a public market for the reception, handling, storage and sale at wholesale of farm and food products. (Gen. Code 1946, Ch. 5, 1201.1; Code 1972, 2.161)

Sec. 22-20. Board of directors.

The management of the authority shall be vested in a board of directors which shall consist of the nine (9) members of the city commission. The terms of office of each member of the board of directors shall be the same as his term of office as a city commissioner. Each member of the board of directors shall receive as compensation the sum of fifteen dollars (\$15.00) for each meeting of the board attended by the member. (Gen. Code 1946, Ch. 5, 1201.4; Code 1972, 2.164)

\*Cross reference – Administration, Ch. 2.

Sec. 22-21. Powers generally.

The board of directors of the authority shall have the following powers:

- (1) To acquire by purchase, lease or otherwise such land or any interest in land, or

other property, real or personal as may be necessary to the operation of the market and to hold the property in the name of the authority, and to mortgage, sell, lease, rent, exchange or otherwise dispose of any such property or any part thereof as it may deem advisable; provided, however, that no real estate shall be sold unless the sale thereof is approved by the city commission and the trustee of the bondholders, if any, and provided further, that of that property which is to remain within the market area the authority shall sell only that property which is outside of the wholesale farm products market and shall reserve the right in any conveyance made of such property to regulate its use and control in order to promote the purposes of the authority and to protect public health, and provided further that any such sale of this property shall be made only to persons who plan to use such property for the purpose of wholesale food products marketing or for the purpose of constructing and operating business establishments such as restaurants, filling stations, garages and warehouses for the convenience of the customers of the market;

- (2) To plan, build, construct or operate, or cause to be built, constructed or operated, such buildings, structures, equipment and appurtenances thereto as may be necessary for the operation of the market;
- (3) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidence of indebtedness or obligations of the authority, such indebtedness or obligations of the authority, such indebtedness to have a maturity date not longer than forty (40) years from the date of issue, and the authority may secure the payment of any such indebtedness or any part thereof by pledge or mortgage of all or any of its revenues, receipts or other assets, real or personal, and the authority may make such agreements with the holders of its obligations as it shall deem advisable, and the authority may in general provide for the security of its obligations and the rights of the holders thereof, provided, however, that no obligations incurred by the authority shall be a debt of the city or a pledge of the credit or taxing power of the city;
- (4) To employ a market manager qualified to operate a market of the type contemplated by the authority and to employ such additional persons as may be necessary for the management and operation of the market;
- (5) To fix the salaries of the market manager and any other authorized employees of the market;
- (6) To fix, alter, charge and collect rentals and charges for stores, stalls, space, buildings, equipment and other appurtenances, privileges, and services furnished or performed in or in connection with the market for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its properties, the payment of the principal and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations, but the rentals and charges shall not be designed to render a profit to the authority;
- (7) To promulgate reasonable rules and regulations, subject to the approval of the city commission, relating to the use of the market, including without limitation the rules and regulations relating to hours of business, sanitation, traffic and other matters as are normally incidental to the proper management of a market, provided that no such rules or regulations shall fix or regulate prices, profits, or types of farm and food products dealt in;
- (8) In the board of directors' discretion, and after due notice to interested persons and an opportunity to be heard, to suspend or revoke any or all rights or privileges of any person violating the rules and regulations provided for in subsection (7) above enjoyed in connection with his activities in the market;
- (9) To make contracts of any name and nature and to execute all instruments necessary

- or convenient for carrying on its business;
- (10) To enter into and maintain contracts for all such types of insurance as it may deem necessary to protect the authority against loss;
  - (11) To enter into contracts or group insurance for the benefit of its employees and to set up a retirement or benefit fund for such employees;
  - (12) To adopt and use a corporate seal and to make bylaws for the management and regulation of its affairs;
  - (13) To sue and be sued in its corporate name;
  - (14) To delegate to the market manager or other officers of the authority such duties and responsibilities in relation to the operation of the market as it may deem reasonably necessary;
  - (15) In general to do such other acts and things as may be reasonably necessary or convenient to carry out the powers herein enumerated and to carry on the operations of a wholesale market of farm and food products in accordance with the general purposes of this chapter and of the market authority act of 1956, Act 185, Public Acts of 1956 [MCL 123.671 et. seq., MSA 5.2770(101) et seq.], and the exercise of the powers herein granted in the construction, operation and maintenance of the market shall be deemed and held to be an essential governmental function except that this privilege shall not be construed to confer governmental tort immunity upon the authority. (Gen. Code 1946, Ch. 5, 1201.8; Code 1972, 2.168)

#### Sec. 22-22. Limitations

The following limitations shall govern the operations of the authority and its board of directors:

- (1) The authority shall be subject to all zoning, building, fire, sanitary, health and other police ordinances and regulations of the state and the city;
- (2) The authority shall not discriminate against the sale on the market of any farm or food products, or against any producer of such products on account of the county, state or political subdivision in which such products are produced, or on account of the legal status of the producer or other person engaged in the marketing of such products, or on account of the conditions of employment or the nature of labor employed in the production or marketing of such products, or on account of the method of transportation, and the authority shall take every reasonable precaution to prevent any such discrimination;
- (3) The authority shall have no power to acquire, construct, maintain or operate a market which is not operated primarily for the purpose of handling farm and food products as wholesale;
- (4) No member of the board of directors shall be interested directly or indirectly in any transaction with the authority except in connection with his normal business operations in the market;
- (5) The authority shall not itself engage directly or indirectly in the purchase or sale of farm or food products, or engage in any other business than that of managing the market. (Gen. Code 1946, Ch. 5, 1201.9; Code 1972, 2.169)

#### Sec. 22-23. Bonding powers.

The authority shall also have the following powers:

- (1) To issue bonds or notes for the purpose of acquiring and constructing markets, such bonds or notes to have such maturities, redemption rights and bear such interest and

have such other details as may be determined by the authority. The bonds and notes shall be payable from the revenues of the authority. If the authority secures mortgage insurance from the United States of America of any office, agency or instrumentality thereof, the authority may sell its bonds or notes at private sale and may, as additional security for the payment of its bonds or notes, execute a mortgage on real estate or personal property owned or to be acquired by the authority for the benefit of the holders of its bonds. Such mortgage may make provision for the mortgaging or pledging of real estate and personal property of the authority or any part thereof, whether then owned or thereafter acquired, for the benefit of the holder of its bonds. Such mortgage may pledge or assign the revenues of the authority any part thereof. Such mortgage may contain such provisions for the protection of the bond holders, including a right to sell the real estate or personal property of the authority mortgaged or pledged as the authority may deem necessary. Such mortgage may contain such provisions relating to the acquisition of the market improvements, the operation and maintenance of the same and the custody and safeguarding of its funds as the authority may deem necessary and which are not in violation of law. Such mortgage may provide for the rights and remedies of the bond holders. The authority may provide for execution of such mortgage and the ordinance authorizing issuance of the bonds.

- (2) As an additional or alternative method of acquiring and constructing markets, the authority shall have the power to issue revenue bonds and such bonds shall be issued pursuant to the provisions of Act No. 94 of the Public Acts of 1933 [MCL 141.101 et seq., MSA 5.2731 et seq.] as amended, known as the Revenue Bond Act of 1933, and the provisions of such act shall be controlling in all matters with respect to such bonds as regards terms, issuance, redemption, rights of bondholders in event of default, and all other matters affecting such bonds, insofar as applicable, the operation of the public market financed from the proceeds of such bonds. (Gen. Code 1946, Ch. 5, 1201.10; Code 1972, 2.170)

#### Sec. 22-24. Property acquisition.

The authority may purchase, lease, accept by gift or devise, any private property for the public purposes herein set forth and for no other purposes. (Gen. Code 1946, Ch. 5, 1201.11; Code 1972, 2.171)

#### Sec. 22-25. Property taxable.

The real and personal property owned by the authority shall be subject to taxation. (Gen. Code 1946, Ch. 5, 1201.12; Code 1972, 2.174)

#### Sec. 22-26. Audit.

Immediately after the close of each fiscal year, the authority shall cause an audit to be made of its operations for the fiscal year. The audit shall be made by a certified public accountant, or a firm of accountants not regularly employed by the authority for its accounting purposes. Within ninety (90) days after the close of its fiscal year, the authority shall file with the state department of agriculture and with the city commission a copy of the audit together with the names of the officers and directors thereof. (Gen. Code 1946, Ch. 5 1201.13; Code 1972, 2.173)

#### Sec. 22-27. Federal agreements.

The board of directors shall be authorized to enter into agreements with the secretary of agriculture of the United States, hereinafter called "the secretary," under any applicable federal law providing for the insurance of mortgages for the financing of public wholesale market facilities, that rentals and other charges for the use of such market facilities will be established at reasonable levels approved by the secretary and designed to meet the obligations, defray the costs of maintaining and operating the market facility and providing reasonable revenue; that any substantial alterations of the market facility will be made only with the approval of the secretary; that reports will be made to the secretary at such intervals and giving such information concerning the market facility as the secretary may require and that the books and records of the market facility will be available for examination by the secretary at its offices during business hours; that title to the market facility, or any part thereof, will not be transferred or encumbered, or leased for any purpose not related to the operation of the market, and that vacant land of the market facility will not be leased for a period of longer than one year, except with the approval of the secretary; that the maximum charges which may be received for the use of the market facility shall be subject to the approval of the secretary during the period while the insurance of such mortgage is in force and effect; and such other agreements as shall be necessary to comply with the provision of such federal mortgage insurance law. The authority may pay to the United States such sums of money each year as may be required for mortgage insurance, said payments being made from the revenues of the authority. (Gen. Code 1946, Ch. 5, 1201.14; Code 1972, 2.174)