

Statutory Instrument No. 27 of 2022

LOCAL GOVERNMENT ACT
(Cap. 40:01)

SOWA TOWN COUNCIL (ROADS AND TRAFFIC) BYE-LAWS, 2022
(Published on 1st April, 2022)

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 SCHEDULE

IN EXERCISE of the powers conferred by section 44 and 45 of the Local Government Act, and after consultation with the community living within the council area, and with the approval of the Minister of Local Government and Rural Development, the Sowa Town Council hereby makes the following Bye-laws —

PART I — *Preliminary*

Citation	1. These Bye-laws may be cited as the Sowa Town Council (Roads and Traffic) Bye-laws, 2022.
Interpretation	2. In these Bye-laws, unless the context otherwise requires — “authorised official” means — (a) a bye-law enforcement officer; (b) a law enforcement officer; or (c) a person or official authorised as such, in writing, by the Council; “backfill” means to replace the structural layers, including the base, sub-base and subgrade, but excluding the surfacing, in a trench dug in, or other excavation of, a road reserve; “bus stop” means a place on a taxi, bus or minibus route intended for the picking up and depositing of passengers, which may be demarcated by yellow lines and indicated by a sign bearing the words, “Bus Stop”, “Taxi Stop” or both or the words, “Bus” or “Taxi” painted in yellow on the road surface within such place; “Council” means Sowa Town Council; “Council area” means the area falling within the jurisdiction of the Sowa Town Council; “Council store” means the store of the Council; “demarcated space” means a space laid out and marked on a public road, the time and occupation of which by a vehicle is intended to be recorded by a parking meter; “emergency works” means works on the road reserve, which are necessary to prevent, end or avert a dangerous situation or unplanned interruption in the provision of services by a service provider; “licensee” means a person issued with a licence under section 32 of the Communications Regulatory Authority Act; “official website” means the website of the Council; “Police Service” means the Botswana Police Service; “public road” means a road including a street, footpath, pavement, sidewalk, square, road island, subway, bridge, public passageway or other thoroughfare which the public has the right to use;
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- “public water” means all water flowing over the surface of the ground or contained in or flowing from a river, spring, stream, natural lake, pan, swamp, or in or beneath a watercourse and all underground water made available by means of works, but does not include any water which is used solely for the purposes of extracting mineral substances therefrom or water which has been lawfully appropriated for use;
- “reinstate” means to replace the surfacing, including the bituminous surfacing, paving blocks, paving slabs, earth or grass, as the case may be, of a road reserve;
- “restore” means to place a public road in the state in which it was found prior to the performance of works in the road reserve, including to backfill and reinstate the road reserve;
- “road reserve” means an area of land reserved for construction and maintenance of roads and the accommodation of utility services;
- “Roads Design Manual” means a manual issued from time to time by the Minister responsible for Roads or such authority as may be responsible for the specification of roads design, construction and maintenance;
- “service” means a utility or other service provided to the public or a section of the public over a network including, but not limited to, electricity, water and telecommunications network services and any other system for supplying a public need;
- “watercourse” means a river, spring, or natural channel in which water flows regularly or intermittently or a welland, lake or dam into which, or from which water flows, and reference to a watercourse includes where relevant, its bed and banks; and
- “works” means work that may affect motorists, cyclists, pedestrians, the public road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or over ground services or any other structure or service that is contained in the road reserve and includes the digging of trenches, tunneling, erection of signboards, hoardings and other structures, shaping and landscaping in the road reserve.

PART II — *General requirements for public roads*

3. (1) A person shall not climb upon, break, damage or in any way mark or paint a tree that is alongside a public road within the Council area. Damage to trees
- (2) A person shall not lop, trim, cut down or remove a tree alongside a public road, unless specifically authorised by law and with the prior written permission of the Council.
- (3) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (2).
- (4) For the purposes of this bye-law, any activity which is authorised to be conducted on a public road in terms of these Bye-laws or any other written law shall be deemed not to cause an obstruction.
4. (1) A person other than an owner or occupier of an agricultural land, shall not erect or cause or permit to be erected, along a public road, a barbed wire fence, railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions, or otherwise by reason of the nature of its construction or design, is or may become a danger to a member of the public using such public road. Barbed wire,
dangerous and
electrical
fencing

<p>Cap. 43:07 Cap. 65:02</p>	<p>(2) An owner or occupier of an agricultural land, shall not erect, cause or permit to be erected or have any electrified fence, railing or other electrified barrier, along a public road unless —</p> <p>(a) the electrified fence, railing or other electrified barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall shall not be less than 1.25 metres high;</p> <p>(b) the fence, railing, or other barrier is designed and installed in accordance with relevant specifications determined by the Council and any standard issued in terms of the Standards Act, Building Control Act and Development Control Code of 2013; and</p> <p>(c) the prior written permission of the Council, has been obtained.</p> <p>(3) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier shall accompany a written application for permission referred to in subbye-law (4).</p>
<p>Protection of public roads</p>	<p>(4) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (4).</p> <p>(5) A person who contravenes this bye-law commits an offence and is liable to a fine of P200 or in default of payment, to imprisonment for a term not exceeding two months.</p> <p>5. (1) A person shall not place upon or offload on a public road any material or goods that are likely to cause damage to the public road unless he or she has —</p> <p>(a) obtained a written permission from the Council; and</p> <p>(b) taken reasonable precautions to protect the surface of the public road against damage.</p> <p>(2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1) (a).</p> <p>(3) A person who contravenes this Bye-law commits an offence and is liable to a fine of P200 or in default of payment, to imprisonment for a term not exceeding two month.</p>
<p>Cleanliness of public roads</p>	<p>6. (1) A person who spills, drops, places or permits to be spilled, dropped or placed, on a public road, any matter or substance that may interfere with the cleanliness of the public road, or cause or likely to cause annoyance, danger or injury to a person, animal, vehicle or other traffic using the public road, shall remove or cause to be removed such matter or substance from the public road within 24 hours.</p> <p>(2) The Council may, if a person referred to in subbye-law (1) fails to remove or cause to be removed the matter or substance, remove such matter or substance and recover the costs of removal from that person.</p>
<p>Article placed in building facing public road</p>	<p>7. (1) A person shall not place on a building near a public road, any article that may fall on a public road and cause injury or damage to a person or property, without taking reasonable steps necessary to prevent the article from falling onto the public road.</p> <p>(2) A person who contravenes this bye-law commits an offence and is liable to a fine of P200 or in default of payment to imprisonment for a term not exceeding two months.</p>
<p>Damaging of Council's property</p>	<p>8. Subject to bye-law 10, a person shall not deface, tamper with, damage, remove, or in any way interfere with Council property or Council personnel working on or along a public road.</p>

- 9.** (1) A person shall not —
- (a) clean or repair any part of a vehicle; or
 - (b) wash, dry or paint any article or object,
- on any public road, except in a case of an emergency breakdown of a vehicle and emergency repairs may be done.
- (2) A person who contravenes this bye-law commits an offence and is liable to a fine of P200 or in default of payment to imprisonment for a term not exceeding two months.
- 10.** (1) A person shall not in any way deface, mark or paint a public road or part thereof or any structure related to such road, without the prior written permission of the Council.
- (2) A person who seeks a written permission referred to under subbye-law (1) shall apply, in writing, to the Council.
- (3) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.
- 11.** (1) A person shall not promote or take part in any race, road rally or speed trial without the written permission of the Council and of the Police Service.
- (2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1).
- (3) The Council in consultation with the Police Service, may, in giving its consent, impose such conditions as the Council may deem fit.
- (4) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.
- 12.** (1) A person shall not lie, sit, stand, loiter, walk or otherwise act, on any public road in any manner that may obstruct traffic.
- (2) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.
- 13.** (1) A person shall not loiter on any public road within 20 metres of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.
- (2) A person shall not, without the prior written permission of the Council tout or solicit a driver of any motor vehicle who parks a motor vehicle at a place of entertainment for the purpose of or under the pretext of looking after or watching over the motor vehicle.
- (3) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (2).
- (4) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.
- 14.** (1) A person shall not —
- (a) appear unclothed on a public road;
 - (b) on or in view of any public road urinate, excrete, behave in an indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, commit or solicit or provoke any person to commit a riotous, disorderly or indecent act;
 - (c) on a public road sing an obscene or profane song, or use any profane, foul, indecent or obscene language;

Cleaning and repairing on public road

Defacing, marking or painting public roads

Racing, pace-making and trial of speed

Loitering on public roads

Loitering and touting at place of public entertainment

Public decency

- (d) on a public road in any way loiter or solicit or inconvenience or harass another person for the purpose of begging; or
- (e) on a public road use threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of peace or whereby a breach of the peace is likely to be occasioned.

(2) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

Public road
collections

15. (1) A person shall not organise or hold any collection on a public road without the prior written permission of the Council.

(2) An application for permission referred to under subbye-law (1) shall be made in accordance with Form A set out in Schedule I.

(3) An application referred to under subbye-law (2) shall be accompanied by —

- (a) a non-refundable application fee of P20; and
- (b) proof that the person or organisation intending to hold the public road collection is authorised to collect a contribution in terms of bye-law 35 of the Sowa Township Authority (General) Bye-Laws or any other law in force at the time, as the case may be.

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(Sub. Leg.)

(4) The Council may grant permission referred to under subbye-law (1) to a person or an organisation to hold a collection on a specified public road, date and at a specified time and may determine the number of collections which may be held on any one day on the public road so specified.

(5) A person or organisation, holding a public road collection is entitled to use his or her or its own collection box.

(6) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.

Control of
stormwater and
watercourses on
public roads

16. (1) A person shall not, without prior written permission of the Council and to which conditions may be attached —

- (a) lead or discharge any water on or over or across a public road; or
- (b) by any means whatsoever, raise the level of water in any river, dam or watercourse or public water so as to cause interference with or endanger a public road.

(2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1).

(3) The Council may, subject to any other applicable laws and after obtaining consent of the owner or the occupier, if any, of land which is affected by water —

- (a) deviate any watercourse, public water, stream or river if the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a public road;
- (b) divert stormwater from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and

(c) pay reasonable compensation as agreed between the owner or occupier of the land and the Council, for any damage caused as a result of any action taken in terms of paragraph (a) or (b) or, failing such agreement, compensation determined by arbitration in accordance with the Acquisition of Property Act.

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(3) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

17. (1) A person shall not deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of a public road, sidewalk, footway or road reserve forming part thereof unless it is deposited within an enclosure in respect of which the prior written permission of the Council has been obtained.

Obstruction on public road and improper parking in bus stop or taxi stop

(2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1).

(3) A person shall not stop or park a vehicle or a trailer attached thereto in a marked bus or taxi stop or parking bay in such a manner that any part of such vehicle or trailer, or any goods thereon, extend beyond the limits of such bus or taxi stop or parking bay.

(4) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.

18. (1) A person shall not plant or cause to be planted, any tree, shrub or other plant on a public road or road reserve forming part thereof, sidewalk or footway, which obstructs or interferes with pedestrian traffic on such public road, road reserve, side walk or footway or allow any such tree, shrub or plant to remain on that public road, road reserve sidewalk, or footway without the written permission of the Council.

Planting on sidewalks

(2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1).

(3) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

19. (1) A person shall not sell or display goods or offer services of whatever kind whether or not for reward, within a road, roadway, road reserve, demarcated space, open space, public parking area, bus or taxi stop, without the prior written permission of the Council.

Display or sale of goods on roads or demarcated space

(2) A person shall not sell or display vehicles, trailers or any items for sale or exhibition, in a public parking area, demarcated space, road reserve or any open space without the prior written permission of the Council.

(3) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1) and (2).

(4) A person who contravenes this bye-law commits an offence and is liable to a fine of P500 or in default of payment to imprisonment for a term not exceeding five months.

20. (1) A person shall not leave, abandon or deposit any property including scrap vehicles, vehicles, machinery, trailers, tuck shops, containers, tables, dog houses, furniture, tyres, flower pots, gates, troughs or any device, item or goods on a road, road reserve, demarcated space, open space, parking area, bus or taxi stop or roadway without the prior written approval of the Council.

Abandonment of property on road or road reserve and disposal thereof

(2) The Council may dispose of an unclaimed property removed from the road reserve or Council land by way of auction if such property remains unclaimed and uncollected for a period of 14 days after publication of a notice in the *Gazette* for two consecutive weeks, inviting the public to collect the property, failing which the property shall be sold by public auction.

(3) If any property removed from the road reserve or Council land is not bought or paid for at an auction, Council may dispose of such property by any means including destruction and dispose of the resultant waste in accordance with the applicable laws or in an appropriate manner.

(4) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

Damage to Council property

21. A person who damages or causes damage to Council property including traffic lights, street lights, kerbing, rails, signs, plants or road furniture shall be liable to compensate the Council for the full replacement or repair costs of such damaged property.

Clinging to moving vehicles

22. (1) A person who is travelling upon a pedal cycle, motor cycle, coaster, sled, roller-skate or any other similar device shall not cling to or attach himself or herself or such pedal cycle, coaster, sled, roller-skate or similar device to a moving vehicle on a public road.

(2) A person who contravenes this bye-law commits an offence and is liable to a fine of P200 or in default of payment to imprisonment for a term not exceeding two months.

Removal of obstructions

23. (1) Subject to the provisions of Parts IV and V, an authorised official may order any person who causes an obstruction on a public road, to refrain from causing such obstruction or to remove the obstruction.

(2) Where a person causing an obstruction —

(a) cannot be found; or

(b) fails or neglects to remove, or to cease causing, such obstruction, an authorised official may take such steps as may be necessary to remove the obstruction, or to prevent its continuance and the Council may recover the cost of the removal of the obstruction from the person causing the obstruction.

(3) For the purposes of this bye-law, any activity which is authorised to be conducted on a public road in terms of these Bye-laws or any other written law shall be deemed not to cause an obstruction.

Part III — Traffic matters

Games, throwing stones, on public roads

24. (1) A person shall not roll a hoop, fly a kite, throw stones, use a bow and arrow, discharge by any means, any missile upon, over or across a public road, or play cricket, football or any other game on a public road.

(2) A person shall not erect a tent or place chairs or any article on a public road for the purpose of a funeral, party or any other event without the prior written permission of the Council.

(3) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (2).

(4) A person who contravenes this bye-law commits an offence and is liable to a fine of P200 or in default of payment to imprisonment for a term not exceeding two months.

Shoeing and cleaning of animals on public roads

25. (1) A person shall not shoe, clean, dress, train or break-in an animal on a public road.

(2) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

26. (1) A person shall not turn any livestock loose on a public road or open space in the Council area. **Animals on public roads**

(2) A person shall not leave any injured, feeble, emaciated, diseased or dying animal on a public road except for the purpose of seeking assistance for the removal of such animal.

(3) The Council shall impound any livestock at large on a public road, or being pastured in an open space in any Council area.

(4) A person who contravenes sub-bye law (1) shall be liable for a fine of P500 or to imprisonment for a term not exceeding six months for the first offence, and for the subsequent offence in a period of 14 days from the dates of the first release be liable for a fine of P1 000 or imprisonment of 12 months, or to both.

PART IV — *Works on, across or under any public road*

27. (1) A person shall not place or hang any rope, wire, pole or cable on, under, along or across any public road, without the prior written permission of the Council and on payment of fee of P1 312 per square metre, unless he or she is authorised to do so in terms of any other written law. **Ropes, wires or poles across public roads**

(2) A person shall apply, in writing, to the Council for a written permission referred to under subbye-law (1).

(3) A person referred to in subbye-law (1) shall, once written permission has been obtained and prior to performing any work in a road reserve, follow the procedures contained in the Roads Design Manual.

(4) A person who contravenes this bye-law commits an offence and is liable to a fine of P2 000 or in default of payment to imprisonment for a term not exceeding five months.

28. (1) A person shall not make or cause to be made any hole, trench, pit or tunnel on or under any road reserve or remove any soil, metal or macadam from a road reserve without the prior written permission of the Council and on payment of a fee of P1 532.85 per square metre, unless he or she is authorised to do so in terms of any other law. **Excavations on public roads**

(2) A person referred to in subbye-law (1) shall, once written permission has been obtained and prior to performing any work in a road reserve, follow the procedures contained in the Roads Design Manual.

(3) A person who contravenes this bye-law commits an offence and is liable to a fine of P2 000 or in default of payment to imprisonment for a term not exceeding five months.

29. (1) A person shall not erect, remove, alter, repair or paint any part of a building or structure or carry out any excavation, on any part of any land which is within two meters of the road reserve of a public road without, prior to commencing the work in question, enclosing or causing to be enclosed a space in front of such part of the building, structure or land by means of a hoarding, fence, planked shed or other enclosure. **Permission to hoard in footway**

(2) A person who contravenes this bye-law commits an offence and is liable to a fine of P300 or in default of payment to imprisonment for a term not exceeding three months.

30. (1) A service provider may perform any emergency works as and when necessary without first making application for any permission required in terms of this Part, where applicable. **Emergency works by service providers**

(2) A service provider shall comply with the requirements specified in the permission with regard to emergency works.

PART V — General provisions

Offences and penalties

31. A person who —

- (a) fails to obtain a permit or permission which is required to be obtained in terms of these Bye-laws; or**
- (b) obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these Bye-laws,**

commits an offence and is liable to a fine not exceeding P5000 or to imprisonment for a term not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding P500, or in default of payment, to imprisonment not exceeding one day, for every day that the offence continues, after a written notice has been issued by the Council, and served on the person concerned, directing the person to stop the offending activity.

(2) A person other than a licensee, who installs electronic communications facilities in a Council area, commits an offence and is liable to a fine not exceeding P500 or in default of payment to imprisonment for a term not exceeding three months, or to both.

SCHEDULE
Form A
(Bye-law 15 (2))

SOWA TOWN COUNCIL

Application for Public Road Collections Forms

Applicant Name

.....

Address of Applicant

.....
.....
.....

Telephone No.

.....

Purpose of the collection;

.....
.....
.....

Road Name

.....

Proposed dates of the collection

.....

Confirmation by the Court President/District Commissioner/Station Commander, Botswana
Police Service

.....
.....
.....

Signature of the OfficialDate.....

OFFICIAL STAMP



For Issuing Office Only

Road Officer's Remarks

.....
.....
.....

Recommended/Not recommended

.....

Name of Officer.....Signature.....

Date.....

Authorised officer's Remarks

.....
.....
.....

Name of Officer.....Signature.....

Date.....

Approval

Town Clerk.....Signature.....

Date.....

Payment of Application Fee.....

Revenue officer.....Date.....

OFFICIAL STAMP



MADE this 7th day of February, 2022.

TOWN CLERK,
Sowa Town Council.

APPROVED on this 17th day of March, 2022.

KGOTLA KENNETH AUTLWETSE,
*Minster of Local Government and Rural
Development.*