

TOWNSHIP ACT
(Cap. 40:02)

TOWN COUNCIL REGULATIONS
(Cap. 40:02) (Sub. Leg)

FRANCISTOWN TOWN COUNCIL ROADS AND TRAFFIC BYE-LAWS, 1997
(Published on 5th September, 1997)

ARRANGEMENT OF BYE-LAWS

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20. Defences

IN EXERCISE of the powers conferred on the Francistown Town Council by regulations 30 as read with regulation 31 of the Town Councils Regulations, and with approval of the Minister of Local Government, Lands and Housing, Francistown Town Council hereby makes the following Bye-Laws —

PART V — *Preliminary*

Citation	1. These Bye-Laws may be cited as the <i>Francistown Town Council Roads and Traffic Bye-Laws, 1997</i> .
Application	2. These Bye-Laws shall apply to — (a) the municipal area of Francistown; and (b) land owned or governed by the municipality but outside the limits of the municipal area of Francistown.
Interpretation	3. In these Bye-Laws — “authorized official” means any person authorized by the Council for the purpose of giving effect to these bye-laws; “bus stop” means a place on an omnibus 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” or the word “Bus” painted in yellow on the road surface within such bus stop; “carriageway” means that portion of a road formed for the use of vehicular traffic and includes that portion of a road between kerbs or temporary kerbs; “Council” means the Town Council of Francistown; “cycle”, “motor vehicle”, “motor cycle”, “heavy commercial vehicle”, “omnibus”, “taxi”, “trailer” and “vehicle” have the meaning assigned to them in the Road Traffic Act; “forward parking” means driving a motor vehicle forward into a parking bay; “invalid carriage” means a vehicle propelled by mechanical power and specially designed, constructed or adapted for the use of persons suffering from some physical defect or disability; “land” includes an improvement or building thereon; “maintenance” includes repair and renewal, and maintain shall be construed accordingly; “metered parking bay” means a parking bay whereon the parking of motor vehicles is controlled and regulated by a parking meter; “municipal car park” means any land which is provided and maintained by the Council as a place for the parking of motor vehicles, whether or not a charge is levied for parking; “no parking area” means an area in any road which is designated by means of — (a) a sign or signs erected or placed so as to indicate the extremities of the area and bearing the words “No Parking”; (b) visible marking on the surface of the road so as to define the boundaries of the area, and with the words “No parking” painted thereon; or (c) yellow lines painted on the road, parallel to the kerb; “parking bay” means a subdivision of a car park or of a parking area intended for the accommodation of a single vehicle; “parking meter” means a mechanical device for the purpose of controlling and regulating the parking of motor vehicles in parking bays or in parking areas where such meters are installed, and includes the standard to which the meter is affixed; “parking area” — (a) in relation to motor vehicles, other than omnibuses, motor cycles having less than three wheels and cycles, means an area which is designated by white boundary lines (whether continuous or broken) on the surface of a road so as to define the boundaries of the area where such vehicles may park; (b) in relation to omnibuses, taxis, motor cycles having less than three wheels or cycles, means an area which is designated by means of yellow boundary lines (whether continuous or broken) on the surface of the

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road so as to define the boundaries of the area where such vehicles may park, and with the word or words "buses", "taxis", "motor cycles", or "cycles", as the case may be, painted on the road surface:

Provided that where the surface of a road has not been covered with a wearing surface, such as an asphalt seal-coat-like preparation, a parking area for the parking of omnibuses, taxis, motor cycles, or cycles may be designated by means of signs bearing the word or words "buses", "taxis", "motor cycles", or "cycles", as the case may be;

"pavement" means a footway or side-walk besides a road, the surface of which has been provided with a wearing covering of cement, concrete, asphalt or other like material or preparation;

"private car park" means a car park established on private land for use by the public on payment of a fee, but does not include on site parking provided by property owners for the private use of themselves, their tenants or their employees;

"road" means any street, road, highway, lane, service-lane, footway, side-walk, alley, passage, square or bridge, or other place of a like nature, or any portion thereof, and includes all appurtenances thereof, and whether a thoroughfare or not;

"service-lane" means a passage way or service-lane usually situated at the rear of blocks of building and primarily provided for the servicing of such buildings and the loading or unloading of goods;

"side-walk" means the space in the street or road between the kerb or the edge of the carriage-way and the boundary of the stands or plots on the same side of the carriage-way;

"wheel clamp" means a device which, when fitted to the wheel of an unlawfully parked vehicle by an authorized officer, will prevent it from being moved until the clamp is removed by such officer.

4. (1) When more than two persons are waiting on any sidewalk, road or other public thoroughfare for admission to any dance hall, cinema hall, theatre, sports ground or other place of public entertainment, or for the purpose of booking seats in respect of any of the aforementioned places of entertainment, or for any similar purpose, such persons shall form a queue, not exceeding two persons abreast, parallel with and immediately adjacent to the line of the building or place concerned.

Queues

(2) Whether more than two persons are waiting on any sideway, road or other public thoroughfare for the purpose of boarding a public service vehicle such persons shall form a queue, not exceeding two persons abreast, parallel with and immediately adjacent to the edge of such sidewalk, road or thoroughfare.

(3) The first person to arrive shall have precedence in any such queue as is referred to in sub-bye-laws (1) and (2), and, in a queue of two persons abreast, the person on the side nearest to the premises or public service vehicle to which entry is desired shall have precedence.

(4) Every person desirous of taking up position in any such queue shall stand abreast of or behind the last person in the queue already formed.

(5) Any person standing in a queue shall comply with all such directions of a policeman or authorised official as may be necessary for the proper control of such queue, or for the prevention of any obstruction of traffic.

(6) Persons standing in a queue shall not cause any obstruction at the entrance to, or exit from any building or premises in front of which such queue is formed.

(7) Any person who fails to comply with, or who contravenes any of the provisions of this bye-law shall be guilty of an offence.

Damage to
signs

5. Any person who interferes with, removes, injures or destroys any traffic sign, road sign, street name plate, house number, direction sign, notice board, post box, erected or installed by the Council, or any other street furniture or thing, or who obliterates or disfigures the same by pasting or affixing in any way thereto or over the same, any bill placard or notice, or by writing, stamping, painting or drawing thereon, without the permission of Council, shall be guilty of an offence.

Numbering of
houses and
buildings

6. Where the Council, in terms of the Francistown Town Council (General) Bye-Laws, directs any owner or occupier of any house or premises to mark or affix a number to such house or premises, then notwithstanding such Bye-Laws the number shall be —

- (a) affixed or painted on a gate-post or building or in other such conspicuous place as to be visible and legible from the centre of the street; and,
- (b) of a size not less than forty millimetres in height.

PART II — *Parking of Vehicles*

Parking-general

7. (1) Any person who parks —

- (a) any vehicle other than a motor vehicle in any parking area designated as such and marked by white boundary lines;
 - (b) any motor vehicle, other than a motor omnibus, a taxi or a motor cycle having less than three wheels, in any parking area designated as such and marked by yellow boundary lines; or
 - (c) any heavy commercial vehicle, road tanker, explosives vehicle or similar vehicle in any area designated as a residential area, except for the purpose of loading or off-loading furniture or other material at a plot therein;
 - (d) any vehicle in a no parking area;
- shall be guilty of an offence.

(2) Any person who parks any vehicle upon a section of road which has not been designated as a parking area, except at the extreme left of such road, or, where there is a sidewalk, against the edge of the kerb of such sidewalk, and in such a position as not to obstruct other traffic, shall be guilty of an offence.

(3) Any person who parks, or causes or permits to be parked any vehicle on a section of road in which parking areas are designated, otherwise than within such parking areas, shall be guilty of an offence.

(4) Where forward parking areas are provided, any driver of a vehicle who —

- (a) enters such a parking area otherwise than by driving such motor vehicle forward; or
 - (b) vacates such a parking area otherwise than by driving such motor vehicle in reverse,
- shall be guilty of an offence.

(5) Any person who stops or parks a vehicle or a trailer attached thereto in any marked parking area or parking bay in such a manner that any part of such vehicle or trailer, or any goods thereon, extends beyond the limits of such parking area or parking bay, shall be guilty of an offence.

(6) Any person who parks a taxi, a motor omnibus, a motor cycle having less than three wheels or a cycle in a section of road other than an area which has been designated for the parking of taxis, motor omnibuses, motor cycles, as the case may be, shall be guilty of an offence.

8. (1) Any person having control or charge of a vehicle who, between the hours of 8 a.m. and 5 p.m., parks such vehicle in a parking area for longer than the period permitted in accordance with any sign erected by the Council in such parking area, shall be guilty of an offence.

Time limit
parking

(2) Any person having control or charge of a vehicle which has been parked in a parking bay, other than a metered parking bay, for the maximum period for which such a vehicle may be so parked and having removed or caused to be removed such vehicle therefrom, and who, within 15 minutes after such removal, causes or allows it to be parked again in the same parking bay, shall be guilty of an offence.

(3) The provisions of sub-laws (1) and (2) shall not apply on Sundays or public holidays, or after 1 p.m. on Saturdays.

9. (1) Motor vehicles shall not be parked in a metered parking bay where the meter relating to such bay bears the word 'Expired', unless there is forthwith deposited in the parking meter relating to such parking bay the required coin or coins according to the tariff therefor fixed by the Council and displayed on the meter as payment for the use of the parking bay for the period specified.

Metered
parking bays

(2) Upon the deposit of the required coin or coins referred to in sub-bye-law (1), the metered parking bay may be lawfully occupied by the motor vehicle concerned, but only for the period indicated on the parking meter.

(3) When the meter relating to any such parking once again bears the word 'Expired' the motor vehicle shall be removed from the parking bay unless there is again forthwith deposited in the parking meter the required coin or coins according to the prescribed tariff, when the said motor vehicle may lawfully occupy the metered bay for the period thereafter indicated on the parking meter.

(4) Any person who, having control or charge of a vehicle other than a motor vehicle, parks it or causes it to be parked in a metered parking bay shall be guilty of an offence.

(5) Any person having control or charge of a motor vehicle who parks it in a metered parking bay otherwise than in accordance with the provisions of sub-bye-law (1), (2) and (3) shall be guilty of an offence:

Provided that the provisions of this sub-bye-law shall not apply to the holder of an invalid carriage certificate issued by the Council where such certificate is displayed on the motor vehicle to which it applies, and such motor vehicle is at the time in use personally by the incapacitated person to whom the certificate has been issued.

(6) Any vehicle which is parked in contravention of the provisions of this bye-law may be fitted with a wheel clamp, or may be towed away to a Council holding pound to be detained until the required fee or fine determined by the Council has been paid for its release.

(7) Notwithstanding the previous provisions of this bye-law, a motor vehicle may, without payment or further payment be parked in a metered parking bay —

(a) for such time as may be indicated on the parking meter for that parking bay, being unexpired time from its previous use; and

(b) on Sunday and public holidays and on weekdays between the hours of 5 p.m. and 8 a.m., and after 1 p.m. on Saturday.

(8) It shall be sufficient defence for any person charged with contravening any provision of this bye-law to prove that the recording of time by the parking meter was so inaccurate that for every five minutes of actual time it recorded not less than six minutes on the meter.

(9) Any person who operates, or attempts to operate, any parking meter by any means other than the means prescribed in these bye-law shall be guilty of an offence.

(10) Any person who —

- (a) damages or misuses or tampers with any parking meter;
 - (b) interferes with or tampers with the working or operation of any parking meter; or
 - (c) deposits or causes or permits to be deposited in any parking meter anything other than a coin or coins of the required denomination;
 - (d) without the prior authority of the Council affixes any placard, advertisement, notice, document or any other thing to a parking meter; or
 - (e) paints upon, writes upon or otherwise disfigures a parking meter,
- shall be guilty of an offence.

Motor
omnibus
stopping
places

10. (1) Any person who —

- (a) causes or permits an unattended vehicle other than a motor omnibus to remain stationary at or in any bus stop or lay-by; or
- (b) obstructs any bus stop or bus lay-by during any period in which it is or is likely to be, in use by a motor omnibus or by the passengers therefrom,

shall be guilty of an offence.

PART III — *Municipal Car Parks*

Presumption

11. For the purposes of this Part, a vehicle to which a trailer is attached shall be deemed to be two vehicles.

Entry to
municipal
car parks

12. (1) Any person who causes or permits any vehicle, other than a motor vehicle, to enter or be parked in a municipal car park shall be guilty of an offence.

(2) Any person who causes or permits a motor vehicle to enter a municipal car park, if there is displayed at or near the entrance to such car a sign which indicates that the car park is full, shall be guilty of an offence.

Manner of
parking

13. (1) Any person who parks a motor vehicle in a municipal car park —

- (a) otherwise than in a parking bay; or
- (b) in such manner that the motor vehicle, or anything projecting from it, extends beyond the boundary line of the parking bay in which it is parked, shall be guilty of an offence.

(2) Any person who parks a motor vehicle in a parking bay in any municipal car park in which another motor vehicle is already parked, shall be guilty of an offence.

Charges for
parking

14. (1) Where a parking charge is prescribed for a municipal car park, any person who, during a period when such charge is payable, parks a motor vehicle in such park without paying the charge prescribed for the period during which such motor vehicle is so parked shall be guilty of an offence.

(2) If a motor vehicle is, or has been, or remains parked in a municipal car park for which charges are prescribed, at a time when such charges are not payable —

- (a) the motor vehicle shall be removed from the car park by the owner or person in charge thereof before the start of the next period when charges are payable; or
- (b) the owner or person in charge of the motor vehicle shall pay the prescribed charge for such time as the motor vehicle remains in the car park during the period when such charges are payable.

(3) In the event of failure to comply with the provisions of sub-bye-law (2) the owner or person in charge of the vehicle shall be guilty of an offence, and in addition the vehicle may be fitted with a wheel clamp, or towed away to a pound until the resulting fee or fine has been paid for its release.

15. (1) Where a prescribed charge is made for the use of a municipal car park, any person causing or permitting any motor vehicle to park in the car park during the hours during which such charge is payable, shall, before entering the car park, pay the required charge and obtain a parking ticket indicating that the charge has been paid.

Parking
tickets

(2) A parking ticket which has been issued or obtained on entry to a municipal car park shall be displayed in a prominent position within the motor vehicle, on the windscreen or above the dashboard, so as to be clearly visible from the outside of the vehicle and any owner or person in charge of such a vehicle who fails to comply with the provisions of this bye-law shall be guilty of an offence.

PART IV — *Private Car Parks*

16. (1) Any person wishing to establish a private car park for use by the general public shall —

Establishment
of private car
parks

(a) make written application therefor to the Council, stating in such application;

- (i) the stand number of the plot, its location and extent of the area to be utilised for the car park;
- (ii) the number of parking bays to be provided; and
- (iii) evidence to support the need for the establishment of a car park on the site proposed;

(b) submit with the application two copies of a site plan showing —

- (i) the location of the site and abutting roads and sidewalks;
- (ii) the proposed layout of parking bays to be provided on the site or in the building;
- (iii) measures to be taken for the drainage of storm water from the site; and
- iv) measures to be taken for the protection of pedestrians in the event of vehicles crossing the sidewalk; and

(c) supply such further plans, drawings, details, particulars, specifications or other information as the Council may reasonably require.

(2) The Council may reject any application if it considers that sufficient need for such a private car park has not been established, or it may issue a permit granting such application, subject to such conditions as it may reasonably impose.

(3) When issuing a permit for the establishment of a private car park, the Council may attach thereto such conditions as it considers fit, and such conditions may include, but not be limited to the following —

- (a) the positioning and size of exits and entrance ways;
- (b) the means to be taken for the safety of the public and pedestrians;
- (c) the means to be taken for the protection of any drive-way across the sidewalk;
- (d) the disposal of storm water;
- (e) the nature of any structure proposed to be erected;
- (f) the precautions to be taken against fire;

- (g) the provisions to be made for the control of noise or any other nuisance likely to affect the public; and
 - (h) any other matters which it considers will ensure the safety or welfare of members of the public either when in or using the car park, or in or using the surrounding areas.
- (4) The Council may require that any of the conditions it may seek to impose shall be complied with prior to the establishment of a private car park.

**Control and
Maintenance
of private car
parks**

17. The owner of any private car park established in terms of these Bye-laws shall —

- (a) provide means, to the satisfaction of the Council for the supervision and control of parking in the car park;
- (b) assume full responsibility for the safety and proper maintenance of the area and all facilities provided in connexion therewith, to the satisfaction of the Council;
- (c) indemnify the Council against any cost or liabilities arising from any accident, event or consequence resulting from the use of the area as a car park.

**Contraventions
of conditions**

18. (1) If any person fails to comply with any of the conditions imposed in accordance with bye-law 15, or fails to control and maintain the car park in terms of bye-law 16, the Council may serve a notice in writing on the owner of the car park, requiring him, at his own cost to comply with all or any specified conditions or provisions of these Bye-Laws within a period of seven days from the date of service upon him of the said notice.

(2) If the notice referred to in sub-bye-law (1) is not complied with within seven days from the date of service thereof, or within such further period as the Council may allow, the Council may by notice in writing require the car park to be closed to the public with immediate effect, and may revoke, modify or vary the permit, or any of the conditions of the permit, granted in terms of bye-law 15.

Penalties

19. (1) Any person who fails to comply with any of the provisions of these Bye-Laws with which it is his duty to comply, or to comply with any directions issued under or in pursuance thereof shall be guilty of an offence, and any person guilty of an offence under this bye-law, or any other provision of these Bye-laws shall be liable to a fine of P50 for a first offence, and for a second or subsequent offence to a fine of P100 and to imprisonment for three months.

(2) An authorised official, or police officer may affix a wheel clamp on any vehicle, or tow to a Council pound any vehicle, which contravenes, or whose owner or person in charge contravenes or fails to comply with any provision of the bye-laws in Part II of these Bye-Laws, and may decline to release such vehicle until a fee of P50 has been paid for its release.

(3) An authorised official or any police officer may affix to a vehicle contravening any provision of these Bye-Laws, or serve upon the owner or person in charge of any vehicle who is reasonably suspected of having committed an offence under these Bye-Laws, a notification of the offence or offences concerned, in the prescribed form and requesting the owner or person in charge of the vehicle to attend the court specified therein, at such time, being not later than 20 days after service of such notification, to answer such alleged offence or offences;

Provided that the owner or person in charge of the vehicle concerned shall be excused attendance at the specified court if, before the date specified in the notification, he pays an admission of guilty fine of P50 at the revenue office of such court.

PART V — *Defences*

20. (1) It shall be a sufficient defence to any charge of contravening a provision of these Bye-Laws relating to parking that there were no legible signs or markings displayed in the relative section of the road to indicate that parking was prohibited or that it was restricted to a particular period, purpose or type of vehicle. Defences

(2) It shall be a sufficient defence to any charge of contravening any provision of these Bye-Laws relating to parking in a metered parking place that there was no legible sign affixed to the parking meter indicating the prescribed charges and period of time during which charges are payable.

MADE this 7th day of August, 1997.

C.M.C. KEALOTSWE,
Town Clerk.
Francistown Town Council.

APPROVED this 11th day of August, 1997.

P.K. BALOPI,
Minister of Local Government,
Lands and Housing.

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