

**SENQU MUNICIPALITY MUNICIPAL NOTICE**

**LOCAL AUTHORITY NOTICE NO...**

**2017**

**BY-LAW RELATING TO ROADS AND STREETS**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law on Roads and Streets.

**SCHEDULE**

**TABLE OF CONTENTS**

CHAPTER 1 ..... 2

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW ..... 2

2 Objectives ..... 2

3 Definitions ..... 2

4 Applicability of By-law ..... 3

CHAPTER 2 ..... 3

PUBLIC ROADS AND MISCELLANEOUS ..... 3

5 Ropes, wires or poles across public road ..... 3

6 Damage to trees ..... 4

7 Barbed wire, dangerous and electrical fencing ..... 4

8 Protection of public roads ..... 4

9 Cleanliness of public roads ..... 5

10 Article placed in building facing public road ..... 5

11 Damaging of Municipality's property ..... 5

12 Cleaning and repairing on public roads ..... 5

13 Defacing, marking or painting public roads ..... 5

14 Races and sports events ..... 5

15 Loitering on public roads ..... 6

16 Loitering and touting at places of public entertainment ..... 6

17 Public decency ..... 6

18 Public road collections ..... 6

19 Control of stormwater and watercourses on public road ..... 7

20 Obstruction on public roads ..... 7

21 Planting on sidewalks ..... 7

22 Permission to hoard in footway ..... 8

CHAPTER 3 ..... 8

LAW ENFORCEMENT ..... 8

23	Appointment of compliance officer .....	8
24	Powers and functions of a compliance officer .....	8
25	Offences and penalties .....	9
26	Prosecution of corporate body and partnership .....	10
CHAPTER 4 .....		10
GENERAL MATTERS .....		10
27	Appeals .....	10
28	Repeal of by-laws .....	11
29	Short title and commencement .....	11

## CHAPTER 1

### OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

#### 1 Objectives

The objectives of this By-law are to provide the mechanisms for the control of the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area,

#### 2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law shall have the meaning so assigned to it and, unless the context otherwise indicates:

**“compliance officer”** means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

**“Council”** means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

**"demarcated space"** means a space so laid out and marked on the roadway as a place within which a vehicle is to be parked;

**"fee"** means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

**"form"** means a form approved by the Municipality for the purposes of this By-law;

**"municipal store"** means the municipal store of the Municipality;

**"Municipality"** means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

**"parking meter"** means a device for registering and visibly recording of a parking period in accordance with the insertion of a coin or other prescribed object therein and includes a post or fixture to which it is attached;

**"parking period"** means that period of parking in a demarcated space which is permitted by the insertion into the parking meter allocated to such space of a coin or other object as prescribed;

**"public road"** means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is vested in the Municipality;

**"storekeeper"** means the person in the service of the Municipality who holds the position of storekeeper or a person acting in that capacity;

**"token"** in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

**"watercourse"** means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);

### **3 Applicability of By-law**

(1) This By-law must be read with any provisions of applicable national and provincial legislation.

(2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates roads and streets, the provisions of this By-law shall prevail to the extent of the inconsistency.

## **CHAPTER 2**

### **PUBLIC ROADS AND MISCELLANEOUS**

#### **4 Ropes, wires or poles across public road**

No person may place any rope, wire or pole on, under or across any public road, or hang or place anything whatsoever thereon, without the prior written permission of the Municipality.

## **5 Damage to trees**

No person may climb upon, or break or damage or in any way mark or paint on any tree on any public road within the municipal area of the Municipality, and no person may, without the prior written permission of the Municipality, lop, top, trim, cut down or remove any such tree unless the person is authorised to do so in terms of this By-law or any other law.

## **6 Barbed wire, dangerous and electrical fencing**

No owner or occupier of land –

- (a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed-wire fence or any 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 any member of the public using such public road;
- (b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of this By-law, have along a public road any electrified fence, railing or other electrified barrier unless -
  - (i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than 1,8 metres high; and
  - (ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Municipality and any standard issued in terms of the Standards Act, 29 of 1993; or
  - (iii) may erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier referred to in paragraph (b) without the prior written permission of the Municipality, in terms of the National Building Regulations and Building Standards Act, 103 of 1977.
  - (iv) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Municipality.

## **7 Protection of public roads**

(1) No person may place upon or off-load on a public road any material or goods that are likely to cause damage to a public road unless the person has taken reasonable precautions to protect the surface of the public road against damage.

(2) No person may operate on a public road a vehicle with a system of vehicle propulsion in which a continuous band of treads or track plates is driven by two or more wheels or a vehicle used for excavation.

(3) If a person operates a vehicle on a public road that is prohibited by subsection (2) and that vehicle damages the public road, the owner of the vehicle shall be liable for the costs of repairing the public road.

## **8 Cleanliness of public roads**

(1) No person may spill, drop or place or permit 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 is likely to cause annoyance, danger or accident to any person, animal, vehicle or other traffic using the public road, without removing it or causing it to be removed from the public road immediately.

(2) If the person referred to in subsection (1), fails to remove the matter or substance, the Municipality may remove such matter or substance and recover the cost of removal from that person.

## **9 Article placed in building facing public road**

No person may place any article likely to cause injury or damage to any person or property if it were to fall on a public road, in any near a public road without taking all reasonable steps to prevent it falling onto the public road.

## **10 Damaging of Municipality's property**

Subject to the provisions of section 12, no person may deface, tamper, damage, remove, or in any way interfere with any of the Municipality's property or work on or along any public road, including a road traffic sign.

## **11 Cleaning and repairing on public roads**

No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in the case of an emergency breakdown of a vehicle, when emergency repairs may be done.

## **12 Defacing, marking or painting public roads**

No person may in any way deface, mark or paint any public road or part of a public road or any structure related to such road, without the prior written permission of the Municipality.

## **13 Races and sports events**

(1) An application for consent to hold a race or sports event on any public road in terms of regulation 317(2) of the National Road Traffic Regulations, 2000, under the National Road Traffic Act, 93 of 1996, must be submitted in writing to the Municipality on the prescribed form at least 60 days prior to the envisaged event.

(2) The applicant must pay the prescribed deposit for the costs to be incurred by the Municipality during and after the race or sports event, to the Municipality prior to commencement of the race or sports event and an adjustment must be made after the conclusion of the race or sports event as soon as the Municipality has determined actual costs incurred by it.

## **14 Loitering on public roads**

No person may -

- (a) lie, sit stand, congregate, loiter or walk, or otherwise act, on any public road in a manner that may obstruct traffic;
- (b) jostle or loiter at or within 20 metres of the entrance of any place of public worship during the time of divine service or during an assembly at the place of worship or departure from such place of the congregation so as to obstruct or annoy any person going to, attending at, or leaving such place of worship.
- (c) Any person contravening subsection (2) must, upon instruction by a compliance officer, discontinue doing so.

## **15 Loitering and touting at places of public entertainment**

(1) No person may loiter or, except when forming part of a queue, congregate 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) No person may, without the prior written permission of the Municipality 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 pretext of looking after or watching over the motor vehicle during the assembly thereat or the departure therefrom.

## **16 Public decency**

(1) No person may appear unclothed or indecently clothed on any public road.

(2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.

(3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language,

(4) No person may on any public road in any way loiter or solicit or inconvenience or harass any other person for the purpose of begging,

(5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

## **17 Public road collections**

(1) No collection on a public road may be organised or held without the prior written permission of the Municipality.

(2) Application for such permission must be made on a form provided for this purpose by the Municipality.

(3) Every application must be accompanied by proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Non-profit Organisations Act, 71 of 1997, or the Fund-raising Act, 107 of 1978, as the case may be.

(4) The Municipality may grant permission referred to in subsection (l) to an organisation or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.

(5) Every organisation or person, holding a public road collection is entitled to use his, her or its own identifiable collection boxes and if any organisation or person does not possess any boxes, the Municipality's collection boxes may be used upon payment of the prescribed fee.

## **18 Control of stormwater and watercourses on public road**

(1) No person may, without prior written permission of the Municipality, which permission may be conditional or unconditional -

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

(2) The Municipality may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any, of the land concerned -

- (a) deviate any watercourse, 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 and the Municipality, 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 terms of the Arbitration Act, 42 of 1965.

## **19 Obstruction on public roads**

No person may 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 any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written permission of the Municipality has been obtained.

## **20 Planting on sidewalks**

No person may plant or cause to be planted, any tree, shrub or other plant on any public road or any sidewalk, footway or road reserve forming part thereof, which obstructs or interferes with pedestrian traffic on such sidewalk, footway or road reserve or allow any such tree, shrub or plant to remain on that sidewalk, footway or road reserve.

## **21 Permission to hoard in footway**

(1) Any person who intends erecting, removing, altering, repairing or painting any part of a building or structure or carrying out any excavation, on part of any land which is within 2 metres of a public road, must before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building, structure or land by means of a hoarding, fence or other enclosure or an enclosure specified in a permit issued in terms of subsection (3).

(2) If the enclosure contemplated in subsection (3) occupies or projects over any portion of a public road, the person concerned must apply for a written permit to the Municipality and if the person making the application is not the owner of the building or land on which the work is to be done, the owner must countersign the application.

(3) The Municipality may determine what portion of the public road is necessary for the purpose of carrying out any operations contemplated in subsection (3), and in every case where it determines that portion of a public road may be used for such purpose, grant a permit in writing specifying the portion which may be occupied for such purpose and the conditions under which such permit is granted.

(4) The Municipality reserves the right to withhold the issue of a permit required in terms of subsection (3), until all prescribed fees have been paid and the acceptance of any such permit by the applicant without objection, is taken to indicate that all kerbs, gutters and other works in the portion of the public road concerned were in good order and condition on the date of issue of such permit.

(5) Every permit granted by the Municipality for the erection of a hoarding, fence, scaffolding or an enclosure or a planked shed, must specify the area and precise position of that part of the public road where the enclosure, overhanging or covering is permitted and the period for which the permit is granted.

## **CHAPTER 3**

### **LAW ENFORCEMENT**

## **22 Appointment of compliance officer**

(1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.

(2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.

(3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

## **23 Powers and functions of a compliance officer**

(1) In ascertaining compliance with this By-law, a compliance officer may:

- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;



- (b) question any person who is or was on the applicable property or vehicle, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
- (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
  - (i) an offence in terms of this By-law; or
  - (ii) a breach of an approval or a term or condition of such approval;
- (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
- (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
- (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
- (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
- (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
- (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
- (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.

(2) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

## **24 Offences and penalties**

- (1) A person shall be guilty of an offence if such person
  - (a) fails to comply with a decision taken, condition imposed or notice issued by the Municipality in terms of this By-law.

- (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
- (b) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
- (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
- (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
- (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
- (f) impersonates a compliance officer;
- (g) contravenes or fails to comply with any provision of this By-law;
- (h) fails to comply with any lawful instruction given in terms of this By-law; or
- (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

(2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

(4) In addition to the penalties referred to in subsections (2) and (3) the Municipality may recover any cost for the repair of a public road or property of the Municipality as a result of damage caused by the offender.

## **25 Prosecution of corporate body and partnership**

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and

such person failed to take reasonable steps to prevent the offence.

## **CHAPTER 4**

### **GENERAL MATTERS**

## **26 Appeals**

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

## **27 Repeal of by-laws**

The By-Laws Relating to Roads and Streets published in the *Provincial Gazette* by Notice Number 197 of 2005 is hereby repealed.

## **28 Short title and commencement**

This By-law shall be known as the Senqu Municipality: Roads and Streets By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.