

Plumtree Town Council (Clamping and Tow-away) By-laws, 2016

IT is hereby notified that the Minister of Local Government Public Works and National Housing has, in terms of section 229 of the Urban Councils Act [*Chapter 29:15*], approved the following by-laws made by the Plumtree Town Council:---

Title

1. These by-laws may be cited as the Plumtree Town Council (Clamping and Tow-away) By-laws, 2016.

Application

2. These by-laws shall apply to the area under the jurisdiction of the Plumtree Town Council.

Interpretation

3. In these by-laws---

“authorised person” means any person employed or delegated by council to carry out any function in terms of these by-laws;

“Central Business District” means the area bounded by Kingsway Avenue, Dombodema Road, Commonage Street and Plumtree High School;

“clamp” means to immobilise a motor-vehicle by means of a wheel clamp;

“clamping, towing away and storage charges” means charges prescribed in the Second Schedule;

“council” means the Council of Plumtree Town Council;

“light motor vehicle” means a vehicle whose gross mass does not exceed three tonnes;

“heavy vehicle” means a goods vehicle having a carrying capacity of more than three tonnes but less than ten tonnes;

- “motor vehicle” means a motor vehicle as defined in the Road Traffic Act [*Chapter 13:11*];
- “owner” means any person in whose name a motor vehicle is registered, and includes any person having possession or control of the motor vehicle;
- “public parking area” means any area designated as a parking area in any other traffic by-laws which council may from time to time make;
- “prescribed penalty” means a penalty prescribed in the First Schedule;
- “secure compound” means any area designated under section 7(a);
- “towing away” means the removal by an authorised person of motor vehicle that is parked or stationery in violation of these by-laws;
- “traffic ticket” means a notice specifying that an offence against these by-laws has been committed and that is given to the occupant of the motor vehicle or securely affixed to a motor vehicle in a conspicuous position;
- “wheel clamp” means a device used to immobilise a motor vehicle that is designed to surround a vehicle wheel in such a manner as to prevent the removal of the wheel and the clamp.

Wheel clamping and towing away

4. (1) If an authorised person has reasonable suspicion that an offence has been committed against these by-laws he or she may clamp such motor vehicle:

Provided that the authorised person—

- (a) must first issue a traffic ticket; and
- (b) shall, if the person who is alleged to have committed the offence is present, afford him or her the opportunity to pay the prescribed penalty on the spot.

(2) If a person who is alleged to have committed an offence against these by-laws is not present when the authorised person issues the traffic ticket, or having been given the ticket, refuses or is unable to pay the prescribed penalty on the spot, the authorised person concerned may—

- (a) clamp the motor vehicle; or
- (b) remove or cause to be removed the motor vehicle that is subject of the offence to a secure compound.

(3) Risk in any motor vehicle that is being clamped or is being removed to or kept in a secure compound in terms of these by-laws shall be with the owner.

(4) Subject to section 6(5) a motor vehicle removed to a secure compound shall be released upon payment by the owner of such motor vehicle of—

- (a) the prescribed penalty; and
- (b) the clamping, towing away and storage charges.

Where liability for offences is denied by the alleged offender

5. If a person who is alleged to have committed any offence against these by-laws denies that he or she has committed the offence, and the authorised person who makes the allegation is not prepared to withdraw the allegation and cancel the traffic ticket, the authorised person shall be entitled to proceed in accordance with section 4(1) and (2) and shall—

- (a) note on the traffic ticket the fact that liability for the offence in question is being denied by the person to whom the ticket is being issued; and
- (b) refer the matter as soon as possible to the police with a view of prosecuting the offence; and
- (c) inform the person who is alleged to have committed the offence that—
 - (i) the matter will be referred to the police with the view of prosecuting the offence; and
 - (ii) if he or she does not pay the prescribed penalty on the spot the motor vehicle may be dealt with in accordance with section 4(2).

Unclaimed vehicles

6. (1) Council shall, in a newspaper circulating in its area of jurisdiction, publish a notice containing a list of motor vehicles stored in a secure compound in terms of these by-laws and advising the owners to claim their motor vehicles within a period of 30 days from the date of publication of the notice.

(2) Council may sell by public auction any motor vehicle that remains unclaimed by its owner 30 days after a notice referred to in subsection (1) has been published.

(3) Council shall deduct the prescribed penalties and the clamping, towing away and storage charges from the proceeds of the sale of the motor vehicle in terms of subsection (2), and any balance shall be paid to the owner as soon as possible after the date of sale or, if the owner cannot be found after a diligent search, the balance shall be forfeited to the council after 12 months from the date of sale.

(4) Council shall operate a special account into which money any balance referred to in subsection (3) shall be deposited.

(5) This section and section 4(4) does not apply to an owner of any motor vehicle who, in terms of section 5, denied that he or she has committed the offence, in which case the council shall retain the motor vehicle until the final determination of matter by a court:

Provided that if the court—

- (a) convicts the owner of the offence, the council may charge any additional storage charges to that person with effect from the date when the motor vehicle in question is clamped or removed to a secure compound;
- (b) acquits the owner of the offence the council shall immediately release the motor vehicle to its owner without any charge.

Designation

7. Council shall from time to time publish in any newspaper circulating within its jurisdiction—

- (a) any place designated as a secure compound; and
- (b) the names of any persons appointed as authorised persons.

Payments of penalties and other charges

8. (1) Payment of prescribed penalties and of clamping, towing away and storage charges shall be made to council's Town Treasurer or to an authorised person.

(2) No person shall be liable to pay wheel clamping charges referred to in item 1 of the Second Schedule if the motor vehicle concerned is not towed away within 24 hours.

Traffic offences

9. Any person who shall be guilty of an offence under these by-laws shall be liable to the prescribed penalties.

"FIRST SCHEDULE (Section 9)
OFFENCES AND PRESCRIBED PENALTIES

		US\$
(a)	Parks any vehicle in a service lane when actually engaged in picking up or setting down goods for a continuous period in excess of 30 minutes	5,00
(b)	Parks any vehicle in a service lane within 45 metres of the position previously occupied by it under paragraph (a) for more than 30 minutes	5,00
(c)	Parks or stops a motor vehicle other than a goods vehicles in any off-loading bay or zone	5,00
(d)	Parks any motor vehicle on a side walk or traffic island or cycle track	5,00
(e)	Parks any vehicle other than motor vehicle on a side walk or cycle track	5,00
(f)	Obstructs a cycle track by means of a motor vehicle or other vehicle	10,00
(g)	Parks within the exclusion zone any building undergoing demolition, erection or alteration	5,00
(h)	Drives on or uses a municipal service track, or a by-pass any path or road that is unauthorised or undesignated	10,00
(i)	Parks a motor vehicle in a restricted area	5,00
(j)	Parks a motor vehicle along any portion of Livingstone Way and Kazungula Road that is signposted as a clamping zone	5,00

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(k)	Accesses a weight restricted area with a motor vehicle having heavier axle load than is permitted in that area	10,00
(l)	Drives or operates any taxi cab without a Council licence	10,00
(m)	Obstructs an authorised person in the exercise of his or her functions under these by-laws	10,00
(n)	Unlawfully attempts to remove, removes or causes to be removed a wheel clamp	10,00
(o)	Unlawfully attempts to remove, removes or causes to be removed a motor vehicle from a secure compound	10,00
(p)	Load or loads vehicles or motor vehicles from the carriage in such a manner as to interfere with or obstruct the movement of traffic	10,00
(q)	Repair, oil, grease or cause to be repaired any motor vehicle on any parking bay or municipal car park so as to cause obstruction, dirt, nuisance or inconvenience	10,00
(r)	Wash, clean, repair or cause to be washed and repaired any motor vehicle on any parking bay or municipal car park so as to cause obstruction, dirt, nuisance or inconvenience	10,00
(s)	Stops a commuter omnibus, haulage truck except at designated place	10,00
(t)	Operate a commuter omnibus or taxi vehicle from any place other than parking place for the use of a commuter omnibus or taxi	10,00

SECOND SCHEDULE (Section 4)

PART I

WHEEL CLAMPING CHARGES

Item	Area	National reg.
		US\$
i	Anywhere in Council jurisdiction---	
	(a) Light motor vehicles	10,00 per day or
	(b) Heavy motor vehicles	20,00 per day
	

PART II
TOWING AWAY CHARGES

<i>Item</i>	<i>Area</i>	<i>National reg.</i>
		US\$
2	Anywhere in Council jurisdiction—	
	(a) Light motor vehicles	20,00 per day
	(b) Heavy motor vehicles	30,00 per day

PART III
STORAGE CHARGES

<i>Item</i>	<i>Vehicle size</i>	<i>National reg.</i>
		US\$
3	(a) Light motor vehicles	15,00 per day
4	(b) Heavy motor vehicles	20,00 per day.

A day will mean normal business hours starting at 0800 hours to close of business ending at 1700 hours.

All charges exclude VAT which will be calculated separately.

