

PROVINCIAL NOTICE 48 OF 2019

COLLINS CHABANE LOCAL MUNICIPALITY

**COLLINS CHABANE
LOCAL MUNICIPALITY**
Since 2016



CAR WASH BY-LAW, 2019

COLLINS CHABANE LOCAL MUNICIPALITY

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The Municipal Manager of Collins Chabane Local Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 32 of 2000, read with section 162(2) of the Constitution, 1996, publishes the Carwash By-law for Collins Chabane Local Municipality as approved by its Council which will come into operation on the date of promulgation of this notice.

PREAMBLE

WHEREAS the Constitution authorizes a municipality to pass By-laws; AND WHEREAS the Constitution authorizes a municipality to pass By-laws for municipal purposes respecting the safety, health, nuisances, pollutions and welfare of people and the protection of people and property; AND WHEREAS the Constitution authorizes a municipality to pass By-laws for municipal purposes respecting people, activities and things in, on or near a public place or place that is often open to the public; AND WHEREAS the Constitution authorizes a municipality to pass By-laws for municipal purposes respecting systems of approvals and permits; AND WHEREAS the Constitution authorizes a municipality to pass By-laws for municipal purposes respecting the implementation and enforcement of bylaws including providing for inspections to determine if by-laws are being complied with; and WHEREAS regulating car washes within the Collins Chabane Local Municipality is desirable; and WHEREAS it is deemed expedient to make the by-law which controls and regulates car washes in the Collins Chabane Local Municipality; NOW THEREFORE Collins Chabane Local Municipality ENACTS AS FOLLOWS:

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1. DEFINITIONS

In this By-law unless the context otherwise indicates-

“Adverse Effect” means impairment of or damage to, or the ability to cause impairment of or damage to:

- a) storm drainage system;
- b) human health or safety; or
- c) the environment.

“By-law Enforcement Officer” means a person appointed by the Municipality in order to implement and enforce the provisions of this By-law and other bylaws of the Municipality.

“Car Wash” means a business of cleaning vehicles as a main service and includes washing, detailing, drying, polishing, valet, vacuuming, or other cosmetic care of vehicles, either at a fixed location or as part of a mobile, on- demand, or “pop-up” service.

“Hazardous Substance” means a substance that is either a hazardous substance or a hazardous waste, or has the properties of hazardous waste, as described in the Municipal Environmental Health By-laws;

“municipality” means the Municipality of Collins Chabane or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No 308 and Notice No 397 of 2000 in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

“Municipal Manager” means the person appointed as the Collins Chabane Local Municipality Municipal Manager in terms of section 54A of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated;

“Operator” or **“Owner”** means a person who runs a car wash as his/her business.

“Person” means any of the following:

- a) an individual;
- b) a legal entity or business entity, including a firm, association, partnership, society or corporation;
- c) a trustee, executor, administrator, agent or employee of either (a) or (b);

“Premises” includes lands and buildings or both, or a part thereof;

“Prohibited Material” means any substance that may, directly or indirectly, obstruct the flow of water within the storm drainage system or may have an adverse effect and includes, but is not limited to:

- a) soil, sediment, waste or other solid matter;
- b) gasoline, motor oil, greases, transmission fluid, and antifreeze;
- c) solvents;
- d) paint;
- e) hazardous substances;
- f) soaps or detergents;
- g) any substance or combination of substances that emits an odour.

“Release” means to directly or indirectly conduct a substance to the storm drainage system by spilling, discharging, disposing of, abandoning, depositing, leaking, seeping, pouring, draining, emptying, or by any other means; or a spill, release, disposal, abandonment, deposit, leak, seep, pour, drain or emptying of a substance into the storm drainage system;

“Storm Drainage” means runoff that is the result of rainfall and other natural precipitation or from the melting of snow or ice;

“Spill” means when anything, whether big or small and of any size and whether chemical or biological, that is harmful is dumped into a storm sewer.

“Storm Drainage System” means the system for collecting, transmitting, storing, treating, and disposing of storm drainage and foundation drainage, and includes:

- a) the catch basins, sewers and pumping stations that make up the storm drainage collection system;
- b) the storm drainage facilities, structures or things used for storage, management and treatment to buffer the effects of runoff or improve the quality of the storm water;
- c) the sewers and pumping stations that transport storm drainage to the location where it is treated or disposed of,
- d) the storm drainage outfall structures; and
- e) the surface drainage facilities, but does not include plumbing or service connections in buildings;

“Street” means any thoroughfare, highway, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle-way, or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes:

- a) a sidewalk (including the boulevard portion of the sidewalk);
- b) if a ditch lies adjacent to and parallel with the roadway, the ditch; and
- c) if a street is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be, but does not include a place declared by the Council not to be a street.

“Substance” means any one or more of the followings:

- a) any solid matter;
- b) any liquid matter;
- c) any gaseous matter;
- d) any sound, vibration, heat, radiation, or other form of energy;
- e) any combination of (a), (b), (c) or (d);

“Wastewater System” means the system owned and operated by the municipality for the collection, transmission, treatment and disposal of wastewater;

“Water” means all water in any form on or under the surface of the ground;

- a) Each provision of this By-law is independent of all other provisions and if any provision is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this By-law remain valid and enforceable.
- b) Any headings or sub-headings in this By-law are included for guidance purposes and convenience only and shall not form part of the interpretation of this By-law.
- c) Any Schedule attached to this By-law shall form a part of this By-law.
- d) Where this By-law cites or refers to any other Act, by-law, regulation, agency, organization or publication, the citation or reference is to the Act, by-law, regulation, agency, organization or publication as amended, whether amended before or after the

commencement of this By-law, and includes reference to any Act, by-law, regulation, agency, organization or publication that may be substituted in its place.

2. PURPOSE OF THE BY-LAW

Purpose of this By-law is to regulate; provide proper establishment, control and management of car washes within the municipality and provide application procedures for the development of car washes.

3. SCOPE AND APPLICATION OF THE BY-LAW

- 1) The By-law applies to all owners or operators of car washes, whether formal or informal, and their employees within the area of jurisdiction of the Municipality.
- 2) The By-law does not cover car washing at home and businesses where cars were brought in for service or repairs purposes and their main service is not cleaning vehicles.

4. LEGISLATIVE FRAMEWORK

- 1) The following are, inter alia, major relevant by-laws in relation to matters regulated by this By-law:
 - (a) Waters Services By-laws;
 - (b) Waste Management By-laws;
 - (c) Environmental Health By-laws;
 - (d) Storm-water Management;
 - (e) Public Nuisance; and
 - (f) Electricity Supply
- 2) Nothing in this By-law relieves a person from complying with any provision of any provincial or national law or regulation or other by-law or any requirement of any lawful permit, order or license.
- 3) In case of conflict between this By-law and any other by-law of the Municipality, the provisions of this By-law shall prevail in as far as matters regulating car washes are concerned.

5. APPLICATION

- (a) A person who wants to operate a car wash business within the jurisdictional area of the Municipality must apply to the Municipality on prescribed forms available at Municipal offices.
- (b) The Municipality will consider the application within the period of ten (10) working days upon the date of the receipt of the application forms
- (c) For the application to be considered, the applicant must complete the forms fully, and attach to the forms the relevant documents mentioned in subsection (5) below.

6. CAR WASH PERMIT

- (a) If car washing is commercial, the operator must have a permit in order to run the car wash business.
- (b) The permit is not required if one _
 - I. sells, leases, rents or repairs motor vehicles as his/her main service and only offer car washing as an additional service to the main service; (e.g. one's business is a repair shop and washes the cars that he/she repairs)
 - II. washes cars on an intermittent basis to raise funds for a non-profit organization; and
 - III. washes his/her car(s) at home.
- (c) Submission of application does not mean that the application is automatically approved.
- (d) The following documents must accompany the application_
 - I. Prescribed form, from the Municipality;
 - II. Copy of South African Identity Document;
 - III. Identified site or premises; and

- IV. Prescribed fee, to be determined by Council from time to time.
- (e) All car wash operators, whether commercial or informal, should have a copy of set of good practices developed by the Municipality and it should include, inter alia, water conservation and treating wastewater and discharging it into the sanitary sewer system where it will receive further treatment.
 - (f) The operating card permit shall be issued by the Municipality and it is renewable after every 1 year.
 - (g) The following terms and conditions shall apply to the operating card permits:
 - I. operating card permit can only be issued by the Municipality upon the payment of the prescribed fee determined by Council from time to time;
 - II. operating card permit is not transferrable without the permission of the Municipality;
 - III. a car wash operator must at all times be in a position to produce the operating card permit on demand by the authorised officer whenever is required;
 - IV. if the operating card permit gets lost or accidentally or unwillingly damaged or destroyed the owner must immediately report the loss, damage or destruction thereof to the Municipality;

7. GENERAL TERMS AND CONDITIONS

Any approved car wash business must abide by the following terms and conditions, to the extent that they are applicable:

- 1) The owner must obtain a consent from the neighbours
- 2) If the owner is rendering the car wash on municipal land, they must apply for the rental of the land and pay the prescribed fee determined by the municipality.
- 3) The car wash must comply with the relevant Acts, Regulations and By-laws of the Municipality.
- 4) If there will be structures erected for the purpose of car wash, the building plans must be approved by the municipality
- 5) No car wash may operate if building plan for the structure has not been approved by the Municipality.
- 6) The sale of liquor or alcoholic beverages and hazardous substances is prohibited.
- 7) A car wash should not cause or be a cause of any kind of disturbance or public nuisance which will disturb people within the neighbourhood.
- 8) The operating hours for all car washes must be between 08h00, in the morning, and 19h00, in the night, every day except otherwise permitted by the Municipality.
- 9) If the car wash is closed for the period longer than 90 days, it will be presumed that the business is no longer operating and the operator thereof or the owner of the site should inform the Municipality in writing.
- 10) No car wash shall be approved at 1000m radius from a formally zoned business stand.
- 11) A person is allowed to own only one car wash registered in his/her name within a township and two within the municipality.
- 12) Where an operator has more than one car wash business in separate sites, a separate permit is required for each car wash operating.
- 13) No person is allowed to operate a car wash business if he/she has been declared by a court of law to be of unsound mind.
- 14) No signs advertising the business shall be larger than 600mm by 450 mm in size.
- 15) Such sign should indicate the name of the owner, the name of the car wash and operating hours.
- 16) Any other sign must be applied for and approved by the Municipality before it can be erected.
- 17) Advertising signs must comply with the Outdoor Advertising By-law of the Municipality.
- 18) In case where the municipality wants to expand the roads, the municipality will give a 3 months' written notice prior to the expansion of roads to the affected car wash owners.

8. STORMWATER DRAINAGE SYSTEM

- 1) No person may, except with the written consent of the Municipality and subject to any conditions that the Municipality may impose, discharge, permit to enter or place any harmful chemicals, oil, dirt and other pollutants that can pose serious threats to human health or safety into the storm-water system-
 - (a) damage, endanger, destroy or undertake any action likely to damage, endanger or destroy, the storm water system or the operation thereof;
 - (b) discharge from any place, or place onto any surface, any substance other than storm water, where that substance could reasonably be expected to find its way into the storm water system;
 - (c) discharge, permit to enter or place anything likely to damage the storm water system or interfere with the operation thereof or contaminate or pollute the water therein;
 - (d) construct or erect any structure or thing over or in such a position or in such a manner so as to interfere with or endanger the storm water system or the operation thereof;
 - (e) make an opening into a storm water pipe, canal or culvert;
 - (f) drain, abstract or divert any water directly from the storm water system, or
 - (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.
- 2) The operator must also ensure compliance with any other provision of the Storm-water Management By-laws of the Municipality.

9. WATER POLLUTION, RESTRICTIONS AND UNAUTHORIZED CONNECTIONS

- 1) An operator shall provide and maintain approved measures to prevent the entry of any substance, which may be a danger to health or adversely affect the portability of water or affect its fitness for use, into-
 - (a) the water supply system; and
 - (b) any part of the water installation on his or her premises.
- 2) The Municipality may by public notice to prevent the wasteful use of water or in the event of a water shortage, drought or flood prohibits or restricts the use of water for car wash purposes in the whole or part of its area of jurisdiction.
- 3) The Municipality may –
 - I. take, or by written notice require an operator at his or her own expense to take, such measures, including the installation of measurement device for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (2); or
 - II. discontinue or, for such period as it may deem fit, limit the supply of water to the business area in the event of a contravention on such area or failure to comply with the terms of a notice published in terms of subsection (2); and
 - III. where the supply has been discontinued, it shall only be restored when the prescribed fee for discontinuation and reconnecting the supply has been paid.
- 4) No person other than the Municipality shall affect a connection to the water supply system.
- 5) The use of water from unauthorized water connection is prohibited.
- 6) The operator must apply for water meter from the municipality.
- 7) The operator must also ensure compliance with any other provision of the Water Services By-laws of the Municipality.

10. WASTE MANAGEMENT

- 1) No operator is allowed to litter or dump any waste material on his or her business premise or will allow any person under his/her control to do any act of unlawful littering or dumping
- 2) If any litter has been discarded, dumped or left behind the operator must within a reasonable time after such act, remove such litter or cause it to be removed.

- 3) Any waste handled by the operator must not cause any nuisance to the public and at their own cost, clean any waste causing nuisance to the public.
 - 4) No operator may dispose of any waste by burning it unless authorized to do so by the Municipality.
 - 5) The operator must also ensure compliance with any other provision of the Waste Management By-laws of the Municipality.
11. ENVIRONMENTAL HEALTH
- 1) No person may dispose waste water from any car wash premises in a way or in a location that may –
 - a) cause dampness in or on any premises;
 - b) cause waste water to be discharged into the water drainage system and cause risk to public safety; or
 - c) create a public health nuisance and/or hazard.
 - 2) An operator creates a public health nuisance if he or she throws, dumps, stores, keeps or drops refuse, rubbish, glass, tins, paper, waste water or other litter or waste, whether liquid or solid, on or in a street, road, sidewalk, vacant stand, public place or erf, spruit or watercourse, or cause or permit it to be thrown, dumped or dropped there, or cause or permit any such liquid to flow into such a place.
 - 3) The operator must also ensure compliance with any other provision of the Environmental Health By-laws of the municipality, regulations and Health Act.
12. MISCELLANEOUS PROVISION
- 1) Prohibited or Restricted Areas
 - (a) The Council may, by resolution declare any place in its area of jurisdiction to be an area in which car washing business is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating the locations of boundaries of restricted or prohibited areas.
 - (b) Any sign erected in terms of this By-law or any other law, must serve as sufficient notice to an operator of the prohibition or restriction of the area concerned.
 - 2) Prohibited Conduct
 - (a) No person must cause excessive noise in violation of the Noise Control By-laws of the Municipality.
 - (b) No person must urinate in public in violation of the Public Nuisances By-laws of the Municipality.
 - (c) No person must use defamatory language or cause any violent act or disrupt the activities of the business.
 - 3) Car Wash Permit
 - (a) If car washing is commercial, the operator must have a permit in order to run the car wash business.
 - (b) The permit is not required if one:
 - I. sells, leases, rents or repairs motor vehicles as his/her main service and only offer car washing as an additional service to the main service; (e.g. one's business is a repair shop and washes the cars that he/she repairs)
 - II. washes cars on an intermittent basis to raise funds for a nonprofit organization; and
 - III. washes his/her car(s) at home.
 - (c) Submission of application does not mean that the application is automatically approved.
 - (d) The following documents must accompany the application:
 - I. Prescribed form, from the Municipality;
 - II. Copy of South African Identity Document;
 - III. Identified site or premises; and
 - IV. Prescribed fee, to be determined by Council from time to time.
 - (e) All car wash operators, whether commercial or informal, should have a copy of set of good practices developed by the Municipality and it should include, inter alia, water

conservation and treating wastewater and discharging it into the sanitary sewer system where it will receive further treatment.

13. OFFENCES AND PENALTIES

- 1) Any person who –
 - (a) contravenes or fails to comply with any provisions of these By-laws;
 - (b) Refuses or fails to comply with any notice served on him or her in terms of or for the purposes of this By-law;
 - (c) Refuses or fails to comply with the terms or conditions of any approval issued in terms of this By-law;
 - (d) obstructs, hinders or interferes with an authorised official or other official of the Council acting under power delegated to him or her, in the exercise of any power or the performance of any duty under this By-law;
 - (e) fails or refuses to furnish to an authorised official or other official of the Council acting under power delegated to him or her, with any documentation or information required for the purposes of this By-law or furnishes a false or misleading document or false or misleading information;
 - (f) fails or refuses to comply with any instruction given in terms of or for the purposes of this By-law; or
 - (g) pretends to be an authorised official or other official of the Municipality acting under power delegated to him or her, shall be guilty of an offence and –
 - I. upon conviction, be liable to a fine or imprisonment or to both a fine and such imprisonment. The fine shall be calculated in terms of the Municipal Tariff Structure and
 - II. a person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable to a fine, or upon conviction, to imprisonment or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- 2) Nothing in subsection (1) above shall be construed to prevent the Municipality from imposing, in addition to the civil and criminal options available, a rates penalty as per the Municipality's approved Rates Policy against an owner of a property who is in contravention of any provision of this By-law.

14. REPEAL OF BY-LAWS

By-laws on Noise Control previously made by the Thulamela and Makhado Local Municipalities' Councils or their constituents Predecessors in respect of any portion of the area of the Collins Chabane Municipality, are hereby repealed in so far as they are inconsistent with the provisions of these By-laws.

15. SHORT TITLE

This By-law shall be known as Collins Chabane, Car Washes By-law and comes into force on the date of publication thereof in the Provincial Gazette



SCHEDULE 1

APPLICATION FOR CAR WASH

DETAILS OF APPLICANT

Full Names of Applicant:			
Identity No:			
Postal Address:			Code:
Tel No: ()	Cell No:	Fax: ()	
E-mail:			
Signature:		Date:	

DETAILS OF AREA/S WHERE YOUR CAR WASH IS/WILL BE LOCATED:

Town:			
Address of the Business:			Code:
Tel No: ()	Cell No:	Fax: ()	
E-mail:			

DESCRIBE ALL EQUIPMENT THAT YOU ARE GOING TO USE:

OWNERS CONSENT

Full Names:			
Identity Number*:			
Signature:		Date:	

Complete this portion of the application for consent from the surrounding residents. ALL surrounding residents that are near the spaza shop, are to **SIGN** the application below and indicate if they **AGREE** or **DISAGREE** to have a Spaza Shop in their area.

Name	Address	Phone	Agree	Disagree	Signature

SHEDULE 2



CAR WASH LICENSE COLLINS CHABANE LOCAL MUNICIPALITY

ID/PASSPORT PHOTO			
NAME OF BUSINESS			
NAME OF APPLICANT			
ID/PASSPORT No.			
APPLICANT'S RESIDENTIAL ADDRESS			
APPLICANT CONTACT NUMBER			
STREET NAME			
TOWN			
CODE			
TYPE OF LICENCE APPLIED FOR		CAR WASH PERMIT VALID FOR ONE YEAR	
NATURE OF BUSINESS		CAR WASH	
GOODS/SERVICES OFFERED			
Signature of Applicant: _____ Date: _____			
FOR OFFICE USE ONLY (Mark the Applicable Fee)			
Local Resident	R172.50		Normal Permit
Non-Resident	R575.00		
Local Resident	R172.50		Seasonal Permit
Non-Resident	R575.00		
Local Resident	R172.50		Pensions
Non-Resident	R575.00		
RECEIPT NUMBER			
SERIAL No			
DATE RECEIVED			
DATE CAPTURED			
FILE NUMBER			
STREET NAME			
OFFICIAL: _____			
Signature: _____			
ON APPROVAL			
Signature of Licensing Officer: _____			
Date: _____			