

PROVINCIAL NOTICE 50 OF 2019

COLLINS CHABANE LOCAL MUNICIPALITY

**COLLINS CHABANE
LOCAL MUNICIPALITY**
Since 2016



HARDWARE STORAGE OF GOODS BY-LAW, 2019

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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 Hardware storage of goods 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.

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1. Definitions

“**Approval**” means approval by the Council and “approve” has a corresponding meaning;

“**Authorised Officer**” means any official of the Municipality who has been authorized by the Municipality to administer, implement and enforce the provisions of this By-law.

“**Council**” means the Council of Collins Chabane Local Municipality, a municipality established in terms of section 12 of the Local Government Municipal Structures Act, no.117 of 1998 and any member of administration to whom the Council has delegated the powers, functions and duties vesting in the Council in relation to this By-Law

“**Dangerous (hazardous) goods**” means dangerous substances or goods, as identified and classified in SANS 10228, that are stored before being offered for transport by a manufacturer, distributor, wholesaler or retailer, or that are stored by an end user

“**Goods**” means any movable material;

“**Hardware**” means a store selling tools, implements, and other items used in home life and activities such as gardening

“**litter**” means any object or matter which is discarded by a person;

“**Loading Zone**” means that portion of a street adjacent to the curb designated by a sign or a marking for the exclusive use of vehicles loading or unloading of goods;

“**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;

“**Owner**” means the person in whose name the site/erf is registered in the deed’s registry for Limpopo Province or he/she is the beneficial holder of a real right in the site/erf or he/she is the person in whom the site/erf vests

“**Person**” means a natural person or a juristic person and includes an organ of state.

“**Pedestrian**” means any person on foot or confined to a wheelchair and shall include a baby carriage;

“**public road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“**Sidewalk**” means the actual sidewalk where constructed on or adjacent to a part of a street or that portion of a street intended primarily for use by pedestrians, or any structure in a park or other public place designed and intended for use by pedestrians;

“**Sign**” means any sign, signal, marking or other device installed for the guidance, regulation, warning, direction or prohibition of traffic, parking, standing or stopping;

“**street furniture**” means any furniture installed by the Council on the street for public use;

“**Stockpile**” means a large accumulated stock of goods or materials, especially one held in reserve for use at a time of shortage;

“**Traffic**” means the movement of pedestrians, vehicles or animals on any street;

2. Purpose of the By-Law

The purpose of these By-laws is to enable the Collins Chabane Local Municipality to regulate the storage of goods in hardware; control the stockpiling of goods in the hardware, yards and in front of the yards; and to control storage of dangerous goods in builders’ yards.

3. Application on the By-Laws

These By-Laws shall apply to all the hardware stores within the area of jurisdiction of the Collins Chabane Municipal Council.

4. GENERAL TERMS AND CONDITIONS

Any hardware must abide by the following terms and conditions, to the extent that they are applicable:

- 1) The goods should not cause or be a cause of any kind of disturbance or public nuisance.

- 2) The storage of goods and equipment shall be within the area designated for that purpose on the plan which is to accompany the application detailing that area to be used for the business as well as any portion of that area in which goods or equipment will be stored.
- 3) No signs of advertising the goods shall be larger than 600mm by 450 mm in size.
- 4) Such sign should_
 - (a) indicate the name of the hardware the nature of the business and operating hours.
 - (b) Not be placed on sidewalk or public road or in a manner that will obstruct people and vehicles.
- 5) Any other sign must be applied for and approved by the Municipality before it can be erected.
- 6) Advertising signs must comply with the Outdoor Advertising By-law of the Municipality.

5. ENVIRONMENTAL HEALTH AND SAFETY

- 1) The owner of the hardware must -
 - (a) keep the area or site occupied by him or her for the purposes of goods storage in a clean condition;
 - (b) keep the storage in a well-maintained condition;
 - (c) dispose of litter generated by his or her hardware in whatever refuse receptacle as provided by the municipality for the public or at a designated dumping site of the municipality;
 - (d) take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a Public Road, or Public Place, or into a storm water drainage, of any oil or grease;
 - (e) ensure that no odours, or noise, emanating from his or her storage causes pollution of any kind;

6. AREAS WHERE STORAGE OF GOODS IS PROHIBITED

- 1) No person may, unless the Council has so permitted-
 - a) in terms of an agreement; or
 - b) by means of the display of a sign, store goods in any of the following places:
 - I. in a garden or a park to which the public has a right of access;
 - II. In their yard or in front of their yard
 - III. on a verge contiguous to-
 - (i) a building belonging to, or occupied solely by, the State or the Council;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999 (Act No. 25 of 1999).
- 2) No person may store goods in any of the following places:
 - a) at a place where it obstructs the use of the side walk by pedestrians
 - b) Within 5 meters of an intersection as defined in Regulation 322 of National Road Traffic Act, 1996 (Act No. 93 of 1996);
 - c) at the place where it obstructs -
 - I. the entrance to or exist from the building;
 - II. vehicular traffic;
 - III. access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
 - IV. access to or the use of the street furniture and other facilities designed for the use of the general public;
 - V. or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996;
 - VI. or obscures a marking, notice or sign displayed or made in terms of these By-laws;

- d) on a portion of sidewalk or public place in contravention of a notice or sign erected or displayed by the Council for the purposes of these By-laws;
- 3) A person who contravenes one or more of the provisions of this section commits an offence.

7. PROHIBITED CONDUCT

- 1) The owner of the hardware -
 - a) may not place stockpile in front of his or her hardware in such a manner that it-
 - I. constitutes a danger to any person or property; or
 - II. is likely to injure any person or cause damage to any property;
 - b) may not leave forklifts in front of the hardware or storage;
 - c) may not place forklifts or other machinery on a sidewalk;
 - d) may load or unload goods between 7:00 and 17:00 everyday
 - e) may leave flammable/dangerous goods on an open place
 - f) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
 - g) may not carry on his or her hardware and storage business in such a manner as to -
 - I. damage or deface the surface of a public road or public place or public or private property; or
 - II. create a traffic or health hazard;
 - h) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council.
- 2) No person shall keep rubble, debris, lumber, refuse, old motor bodies, chassis of motor vehicle, parts of motors, old motor tyres, scrap material or any other material which is unsightly or is likely to become a nuisance or hazard or injurious to health or is likely to cause nuisance to any person in front of a premises owned or occupied by him or her.
- 3) A person who contravenes one or more of the provisions of subsections (1) and (2) commits an offence.

8. POWERS OF THE MUNICIPALITY

- 1) An authorized official-
 - a) if he or she reasonably suspects or see that hardware stores the goods in a prohibited manner and
 - b) whether or not the property is in possession or under the control of any person, may-
 - I. remove and impound the goods which he or she finds at an area where storage of goods is restricted or prohibition;
- 2) An official who acts in terms of subsection (1) must, expect in the case of goods that have been left or abandoned, issue to the owner of the hardware/storage with a compliance notice for the goods that are removed and impounded and the receipt must contain the following particulars:
 - a) The address where the impounded goods will be kept and the period thereof;
 - b) the conditions for the release of the impounded goods; and
 - c) that unclaimed goods will be sold by public auction.
- 3) when a person fails to comply with an order to remove the impounded goods, an authorized official may take such steps as may be necessary to remove the impounded goods.
- 4) council is not liable for any loss of and/or damage to any goods removed and impounded in terms of these By-laws.
- 5) An official mentioned in subsection (1) cannot remove and impound goods without any reasonable or valid proof that the goods are found in a prohibited area.
- 6) Council must charge such official if found guilty of wrongfully removing and impounding such goods

- 7) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the goods when ordered to do so by an official, commits an offence.
9. General prohibitions regarding storage of dangerous goods
- 1) No person who stores a flammable substance or allows them to be stored on any premises may –
 - (a) do anything or allow anything to be done that may result in or cause a fire or explosion;
 - (b) do anything or allow anything to be done that may obstruct the escape to safety of any person or animal during an emergency.
 - 2) No person may –
 - (a) dump or spill or allow the dumping or spilling of any flammable goods into any borehole, sewer, drain system or surface water;
 - (b) discard or allow the discarding of any flammable substance from any premises in any way other than by a competent person who is properly equipped and authorised to do in terms of these By-laws;
 - (c) make or bring any fire or device capable of producing an open flame or allow any other person to do so, within 5 metres of any place where a flammable substance is stored;
 - (d) use or allow to be used any device in connection with a flammable substance in any basement level of a building, other than a gas welding or cutting device, used for the sole purpose of maintenance of the building;
10. OFFENCES AND PENALTIES
- 1) Any person who-
 - a) contravenes or fails to comply with any provision of this By-law;
 - 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 Bylaw 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 not exceeding 20 years or to both a fine and such imprisonment and the fine shall be calculated according to the ratio determined for such imprisonment in terms of the Adjustment of Fines Act; 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 for a period not exceeding three months 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.

11. REPEAL

By-laws on street trading previously made by the Thulamela and Makhado Municipal Councils or their constituent 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.

12. SHORT TITLE

This By-law is referred to as the Collins Chabane Local Municipality Hardware Storage of Goods By-law and will come into operation on date of promulgation of the By-law in the Provincial Gazette.