

PROVINCIAL NOTICE 54 OF 2019

COLLINS CHABANE LOCAL MUNICIPALITY

**COLLINS CHABANE
LOCAL MUNICIPALITY**
Since 2016



PLACES OF PUBLIC WORSHIP BY-LAW, 2019

COLLINS CHABANE LOCAL MUNICIPALITY

PLACES OF PUBLIC WORSHIP BY-LAW, 2019

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 place of public worship 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

In these By-laws, unless the context otherwise indicates –

“**Adjoining**” means all the adjoining property owners/occupiers which include the properties on the opposite side of a street or lane;

“**Applicant**” means a person who makes an application in terms of the provisions of this By-law on public or private land and it includes such person’s duly authorized agent;

“**Approved**” means approved in writing by the Municipality and “**written approval**” has a corresponding meaning;

“**Authorised official**” means any official of the Municipality who has been authorised by the Municipality to implement and enforce the provisions of these By-laws;

“**Building line**” means a building line determined under an applicable land use scheme or any other law or document that has the force of law;

“Building schedule” means a development programme for the construction or renovation of a building or structure specifying the different phases of the development or renovation and the type of construction prepared by a person undertaking the activities concerned;

“Clear height” means the vertical distance between the lowest edge of an advertising sign and the level of the ground, footway or roadway immediately below such sign;

“Dwelling house” means one dwelling unit forming a single building;

“Dwelling unit” means an interconnected suite of rooms designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

“Event” means an occasion organized for the general public;

“Interested party” means any person who has in terms of this By-law submitted an application or submitted comments or an objection or made representations in respect of any such application;

“Intersection” means that area embraced within the prolongation of the lateral boundary lines of two or more public streets, open to vehicular traffic, that join one another at any angle, whether or not one such public road crosses the other;

“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;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act, No. 32 of 2000) and any regulations made thereunder;

“National Building Regulations and Building Standards Act” means the National Building Regulations and Building Standards Act, 1977, (Act No. 103 of 1977), and any regulations made there under;

“National Environmental Management Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998) and any regulations made there under;

“Owner” means, in relation to –

- (a) property, the person registered as the owner or holder thereof and includes the trustee in an insolvent estate, the liquidator of a company or a close corporation which is an owner and the executor of any owner who has died or the representative recognized by law of any owner who is a minor or of unsound mind or is otherwise under disability, provided such trustee, liquidator, executor or legal representative is acting within the authority conferred on him or her by law;

“Place public of worship” is a dedicated building or building complex or other location where a group of people assembled in a congregation perform acts of religious praise, honor or devotion. It also includes places where religious instructions, ceremonies and festivities associated with the faith are carried out.

“Pre-evaluation submission” means the submission envisaged in section 3(4) of this By-law;

“Prescribed” means prescribed by the Municipality;

“Projected sign” means an advertisement projected by a cinematograph or other apparatus onto any surface, but does not include an advertisement projected onto the audience’s side of a drive-in cinema screen during a performance;

“Projecting sign” means an advertising sign, whether stationary or actuated, attached to and protruding from a building which is used for commercial business, offices, industrial or

entertainment purposes and which projects more than 300mm from the surface of the wall to which it is attached;

“Property” means any unit of land, including a public place, registered as a separate entity of land in the Deeds Office and includes any unit and land contemplated in the Sectional Titles Act, 1986 (Act No. 95 of 1986) and any public place depicted on the general plan of a township;

“Public place” means a public street, bridge, subway, a square, open space, garden and any other enclosed space to which the public has a right of access or which is commonly used by the public;

“Public street” means a road, street or thoroughfare or other right of way to which the public has a right of access or which is commonly used by the public and includes any portion of a public street between the edge of the roadway and the boundary of the land reserved for such public street, including a sidewalk, and it includes Provincial and National roads and/or motorways;

“rates penalty” means the rate penalty as prescribed by the Municipality’s Rates Policy and as envisaged in section 9(2) of this By-law;

“Religious purposes” Means a church, synagogue, mosque, temple, oratory meeting house, chapel, cathedral or other place for practicing a faith or religion, and includes associated uses such as the official residence registered in the name of the said religious community, which is occupied by an office bearer of that community and who officiates at services held by the community, an ancillary office and place for religious instruction, but does not include a funeral parlour, cemetery or crematorium.

“Registered person” means a person registered with the Engineering Council of South Africa as a professional engineer or professional engineering technologist, professional certified engineer or professional engineering technician under the Engineering Profession Act, 2000, (Act No. 46 of 2000);

“Residential building” means a building, other than a dwelling house and dwelling unit, designed for use or used for human habitation and includes a guest house, boarding house, hotel, residential club and hostel;

“Road reserve” means the full width of a public street including the roadway, shoulder and sidewalk and the air space above a roadway, shoulder and sidewalk and any other area within the road reserve boundary;

“Urban design” means the actions of conceiving and managing the special and aesthetic characteristics of urban space between and around buildings including physical elements that make up the streetscape and the combined visual effect of building facades and other structures; and

2. PURPOSE OF THE BY-LAW

Purpose of this By-law is to ensure minimal conflict between the community and churches, protect communities from being forced into illegal activities that victimize human and animal rights.

3. APPLICATION

- (1) This By-law applies to all places of public worship in the area and jurisdiction of the Collins Chabane Local Municipality.
- (2) Approval for places of public worship in terms of this By-law is required irrespective of the zoning of any property in terms of any applicable land use management scheme and irrespective of the provisions of any other law.
- (3) The owner of a places of public worship and any person who has applied for approval of a places of public worship in terms of this By-law must comply with any provision of this By-law relating to that places of public worship and must ensure that such

provisions are complied with, subject to anything to the contrary contained in such provision.

- (4) An approval in terms of this By-law does not exempt the applicant/owner from complying with any other applicable law.

4. APPROVAL OF PUBLIC PLACES OF WORSHIP

- (1) No person may establish a public place of worship without the prior written approval of the Municipality.
- (2) No public place of worship without approval contemplated in subsection (1) may in any way be utilized without prior written approval of the Municipality and subject to such conditions and requirements as the Municipality may consider appropriate which may include the submission of proof of compliance.
- (3) An application for approval envisaged in subsection (1) above must be on the prescribed form and accompanied by such documentation, information, maps, diagrams and plans as set out in Schedule 1 to this By-law.
- (4) An application envisaged in subsection (3) above shall be preceded by a pre-evaluation submission and such submission shall be accompanied by some but not all of the documentation, information, maps, diagrams and plans as set out in Schedule 1 as determined by the Municipality.
- (5) The Municipality may in its sole discretion exempt an applicant from complying with any of the requirements stipulated in Schedule 1 on good cause shown.
- (6) Every plan and drawing required in terms of Schedule 1 must be on a sheet of not less than A4 size.
- (7) If any information requested by the Municipality in terms of Schedule 1 is not provided within 60 days from the date of the first written request, or within such further period as the Municipality may in writing permit, the application concerned shall automatically lapse without further notice.
- (8) Any extension of time envisaged in subsection (7) above shall be submitted for consideration prior to the lapsing of the application.

5. CONSIDERATION OF APPLICATIONS

- (1) In considering an application submitted in terms of section 3(3), approved by the Municipality and any other relevant factor, legislation, policy, and by-laws of the Municipality, have due regard to the following:
 - (a) The compatibility of the proposed public place of worship with the environment and with the amenity of the immediate neighborhood and urban design.
 - (b) Whether the proposed public place of worship will –
 - (i) have a negative impact on any property according to applicable town-planning or land use scheme; or
 - (ii) constitute a danger to any person or property or to obstruct vehicular or pedestrian traffic or constitute a traffic hazard in general;
 - (iii) to ensure places of public worship are compatible with the prevailing character and amenity of the locality of the development.
 - (iv) to ensure the most suitable location is achieved, by consideration of the physical constraints of the site.
 - (v) to avoid places of public worship locating within close proximity to another existing or approved place of public worship unless it can be demonstrated that the cumulative impacts relating to traffic generation and on-street parking are within acceptable limits for the area; or

- (vi) in the Municipality's opinion, be unsightly or objectionable or detrimentally impact on any property or any adjacent or nearby property;
 - (c) Any restrictive or other condition and any existing building line and servitude specified in a title deed, land use scheme, conditions of establishment or any other law;
 - (d) Any comments/objections/representations submitted by and conditions determined or prescribed by any statutory authority in terms of any legislation applicable to public place of worship;
 - (e) Any written representations, objections and comments received from any interested party; and compliance with the provisions of this By-law.
- (2)
- (a) Any approval in terms of section 2 above may be for a period as determined by the Municipality.
 - (b) The period of approval contemplated in subsection (b) above must be specified in the approval.
- (3) The Municipality must forthwith, in writing, notify all the relevant parties to the application of its decision taken in terms of subsection (2)(a) above by registered post or by any other means available to the Municipality, including e-mail and/or fax, and must provide written reasons for its decision when requested to do so by any of the parties in writing as contemplated in Section 5 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
- (4) The Municipality must for its records retain every application, plans, drawings and other documentation submitted in terms of section 3(3) read with Schedule 1 for a period it considers appropriate.
- (5) No approval granted in terms of this section has the effect that –
- (a) any person is exempted from any provision of any other law that might be applicable to public places of worship; or
- (6) If an application submitted in terms of section 3(3) has been refused in terms of subsection (2)(a) above, no further application may be lodged in respect of the same exact application site for a period of two years from the date of such refusal, unless a motivation is submitted in writing for approval indicating a change of circumstances;
- (7) If a public place of worship is approved in terms of section (2)(2) above is not functional within six months from the date of notification of such approval or within a time specified in such approval or any further period which the Municipality on good cause shown allows in writing, the approval shall automatically lapse, where after a new application must be submitted in terms of section 3(3) above.
- (8) An application for an extension envisaged in subsection (7) above shall be submitted for consideration prior to the lapsing of the approval and if the extension is granted, it may not exceed a further 3 months.
- (9) Any application for renewal shall be submitted to the Municipality for consideration in terms of section 3(3) within 5 months prior to the expiry of such an approved advertising sign.

6. WITHDRAWAL AND AMENDMENT OF APPROVALS

- (1) The Municipality may, after having considered any representations made in terms of subsection (2) below, withdraw an approval granted in terms of section 4(2) above or granted in terms of any previously repealed By-law or other legislation applicable to public places of worship or amend any approval by adding, amending or deleting a condition in respect of such approval if, in the opinion of the Municipality, the public place of worship concerned –

- (a) is or has, as a result of a change to the nature of the environment or the amenity of the neighborhood, or urban design existing at the time of such approval, become detrimental to the area in which it is located by reason of its size, intensity of illumination, quality of design, social, material or its existence;
 - (b) constitutes, or has become, a danger to any person or property;
 - (c) has become prohibited in terms of these By-laws or any other law;
- (2) Prior to taking any decision in terms of subsection (1) above, the Municipality must in writing notify the owner of the public place of worship concerned and the owner of the property on which such public place of worship has been developed of its proposed decision and that he or she may within 21 days of the receipt of the notice make written representations concerning the proposed decision.
 - (3) The owner of the public place of worship concerned and the owner of the property concerned must forthwith be given notice in writing of any decision in terms of subsection (1).
 - (4) The Municipality must upon written request provide written reasons for its decision as contemplated in Section 5 of the Promotion of Administrative Justice Act, 2000.

7. GENERAL REQUIREMENTS FOR PUBLIC PLACES OF WORSHIP

- (1) The owner of a public place of worship and/or the owner of the property on which the approved public place of worship to be developed must ensure that such public place of worship is located so as not to –
 - (a) be detrimental to the nature of the environment, and urban design where such public place of worship is to be located,
 - (b) To maintain the amenity and character of residential areas.
 - (c) To ensure the size of site is suitable to accommodate a place of public worship.
 - (d) constitute a danger to any person or property;
 - (e) To ensure the most suitable location is achieved, by consideration of the physical constraints of the site.
 - (f) To ensure the location and size of places of public worship maintain the existing environmental capacity and service levels of streets.
 - (g) Places of public worship shall not be located within pedestrian view from an existing or approved sex industry premises.
 - (h) Temporary structures can only be for 5 years and after that if there is no a proper structure the rights will be revoked.
 - (i) There is a need to have parking space
 - (j) During the application for a church in terms of location there is a need to inform people at a certain radius that are going to be affected.
 - (k) There is a need to have a notice and the constitution of the church need to part of the requirements.
 - (l) The churches that are registered as NPOs are required to furnish the NPO certificate.
 - (m) The municipality will charge rates and taxes if the church is not registered as NPO.
 - (n) Every South African church has to be registered with a statutory body that will protect individuals from human rights violation.
 - (o) Churches must affiliate with the South African Council for Churches. The statutory body is against animalities that violates human rights.
 - (p) Households need to be notified of new churches to avoid complains.

8. APPEALS

- (1) Any interested party whose rights are affected by a decision by an authorized official in terms of or for the purposes of this By-law, may appeal against that decision to the Municipality Manager or his/her nominee(s), by lodging a written notice of appeal, specifically specifying the grounds of appeal, within 21 days of the date on which he/she was notified of that decision as per section 4(3) above.
- (2) The Municipal Manager shall give notice to all other interested parties, if any, that an appeal has been lodged and whether they want to make any further written submissions in respect of the appeal within 14 days of date of such notification.
- (3) The Municipal Manager shall consider the appeal on written submissions only and must consider such appeal and take a decision thereon within a reasonable time which shall not exceed 90 days from date of submission of the appeal or from date of expiry of the 14 day period as per subsection (2) above.
- (4) The Municipal Manager may uphold the appeal, with or without amendments, or dismiss the appeal.
- (5) The Municipal Manager must forthwith after a decision has been taken in terms of subsection (3), in writing, notify the appellant thereof and any other interested parties, if any.
- (6) An appellant and any other interested party, if any, may upon being notified of a decision in terms of subsection (5), in writing apply for reasons for the decision and the Municipal Manager must furnish written reasons to the applicant as contemplated in Section 5 of the Promotion of Administrative Justice Act, 2000.

9. 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) There should be a fine for noise pollution by churches, this will ensure that households are not affected at night.
 - (d) refuses or fails to comply with the terms or conditions of any approval issued in terms of this By-law;
 - (e) 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;
 - (f) 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;
 - (g) fails or refuses to comply with any instruction given in terms of or for the purposes of this By-law; or
 - (h) 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 for a period not exceeding three months or to both such fine and imprisonment.

- (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.

10. REPEAL OF BY-LAWS

By-laws on Places of Public Worship 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.

11. SHORT TITLE

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

SCHEDULE 1

Documentation, information, maps, diagrams and plans to be submitted as part of an application envisaged in section 3 of this By-law:

- (a) the prescribed fee;
- (b) the written consent of the owner of the proposed public place of worship and of the registered owner of the property or building upon which the public place of worship is to be developed or on behalf of the owner of the property or building by his or her agent duly authorized in writing by such owner;
- (c) a locality plan, in color, indicating the proposed position of the public place of worship within the area of jurisdiction of the Council;
- (d) a block plan of the property upon which an public place of worship is to be erected, drawn to scale acceptable to Council, showing every building, building line and servitude on the site and the position with dimensions of the advertising sign in relation to the two boundaries of the property closest to the proposed advertising sign and the location of any public street and any building on a property adjacent to the property upon which such public place of worship is to be developed;
- (e) a copy of the title deed of the property upon which the proposed advertising sign is to be erected, if applicable;
- (f) a zoning certificate of the property concerned issued under an applicable land use scheme and a zoning map indicating the land uses in terms of such scheme of every property adjacent to the property upon which the advertising sign is to be erected;
- (g) a diagram of the property indicating the position of the proposed advertising sign with measurements from that position to the closest two boundaries of the property concerned;
- (h) proof of compliance with any other law, including but not limited to, the the National Building Regulations and Building Standards Act, and the National Environmental Management Act, to the extent that such law is applicable in respect of the application concerned;
- (i) any comments/objections/representations submitted by and conditions determined or prescribed by any statutory authority
- (j) Detail operation management plan including hours of operation, regular services, special events and ceremonies.

The likely number of persons to attend each type of service or event

Whether street parades or road closures are proposed

The nomination of a contact person that will be responsible in responding to any issues or complaints raised by the community or Council.

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COLLINS CHABANE LOCAL MUNICIPALITY DEVELOPEMNT PLANNING DEPARTMENT

PLACE OF PUBLIC WORSHIP APPLICATION FORM			
1.	Name of owner/manager of the business/premises:		
2.	Name of Company or Organisation (if applicable):		
3.	Applicant:	Phone no:	
		Fax no:	
		Email:	
4.	Name of Event		
	Event location:		
5.	Date of event: _____ Time of event: _____ Start: _____ End: _____		
6.	Sound checks (if any): _____ Start and end times: _____ Start: _____ End: _____		
7.	Responsible Person:		
	Name: _____ Cellphone no: _____		
8.	Time of event, crusade and music		
9.	Is the event:	Indoor <input type="checkbox"/>	Outdoor <input type="checkbox"/> Number of guests <input type="text"/>
10.	Existing and/or proposed measures in place or to be adopted to limit m		

Signature of Applicant: _____

Date: _____

Complete this portion of the application if your church is in or near a residential area. ALL surrounding residents that are likely to be impacted by the church, are to SIGN the application below and indicate if they AGREE or DISAGREE with a church in their community. Council reserves the right to request additional measures should it be deemed necessary.

Event Description Day of Week Date Time of event From: To:

Name	Address	Phone	Agree	Disagree	Signature

I certify that the above signatures are valid and that they represent ALL affected properties.

Signature of Applicant

Date

The following documentation must be submitted with this application:

1. A site plan indicating the following
 - 1.1. Surrounding residential premises,
 - 1.2. The position of the possible church noise sources
 - 1.3. The direction of the possible church noise sources
 - 1.4. Distances from noise sources to surrounding residential premises.
 - 1.5. Positions of possible standby generators
2. A letter of consent from the owner/body corporate and that he/she/they are aware of the proposal.
3. Written comments from the Local Ward Councillor regarding the noise exemption being issued.
4. Written comment from the Local Rate Payers Association regarding the Place of Worship exemption being issued.

The Environmental Health Practitioner for that specific area reserves the right to ask for further requirements before issuing a Place of Worship Exemption.

An application would be considered incomplete if any of the above requirements are not completed or attached to the application and will **not** be processed.

A fully completed application must be submitted to Council at least 15 (fifteen) working days prior to the commencement of the event. Failing this, the application shall not be processed.

It must be noted that the exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality. If activities commence before the undertaking has been submitted to the Municipality, the exemption shall lapse.

The Events Office must receive the signed Place of Worship Exemption at least 3 (three) working days prior to the event. Failing this the exemption shall lapse.

Penalties

In addition, it must be noted that any person who contravenes or fails to comply with a provision of these By-Laws shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.