

INTSIKA YETHU MUNICIPALITY



BY-LAW FOR THE CONTROL OVER BUILDING

INTSIKA YETHU MUNICIPALITY

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to the Control over Buildings that come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE CONTROL OVER BUILDINGS

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to provide for the control over buildings erected on land within the area of jurisdiction of the Municipality and for matters connected therewith;

Be it therefore enacted by the Council as follows:

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[1] DEFINITIONS

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

"Act" means the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], and shall include any regulation made in terms of section 17 of the Act;

"building" includes -

- [a] any structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in relation to –
 - [i] the accommodation or convenience of human beings or animals;
 - [ii] the manufacture, processing, storage, display or sale of any goods;
 - [iii] the rendering of any service;
 - [iv] the destruction or treatment of refuse or other waste materials;
 - [v] the cultivation or growing of any plant or crop;
- [b] any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- [c] any fuel pump or any tank used in connection therewith;
- [d] any part of a building, including a building as defined in sub-section [a], [b] or [c] of this sub-section;
- [e] any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm-water disposal, electricity supply or other similar service in respect of the building.

"Building Control Officer" means any person appointed or deemed to be appointed as Building Control Officer by the Municipality in terms of section 5 and section A16. of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977];

"Municipality" means the Intsika Yethu Municipality and includes any duly authorised political structure, political office bearer or official thereof; and
"Municipal Manager" means the person appointed as such in terms of section 82 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any person acting in this position.

[2] BUILDINGS ON LAND TO BE REFLECTED ON PLANS

[1] Subject to the provisions of these by-laws, the Municipality may not issue a certificate referred to in section 118[1] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] regarding land, unless the Municipality is satisfied that –

- [a]** any building erected on the land, in respect of which plans and specifications are to be drawn and submitted to the Municipality for approval in terms of the Act, is properly erected and maintained in accordance with such plans and specifications; and
- [b]** no building contemplated in subsection [1], in respect of which plans and specifications have not been approved by the Municipality, is erected on the land; and
- [c]** any building erected on the land complies with all the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977]; or
- [d]** there is no building on the land.
- [e]** any person intending to undertake minor alterations to buildings such as the enlargement of a window or the insertion of a door instead of a window, or the erection of a fence shall make written application to the Council's Engineer to do so and may only effect such minor alterations on receipt of permission in writing from Council's Engineer, and if permission is not acted upon within six months from the date it shall lapse and determine.

- [f]** no person shall erect or use temporary building or movable structure without the written permission of the Council. Such permission shall hold good for a period not exceeding six months .
- [2]** The Municipality must, in respect of subsection 1[a] to [d], make a statement to that effect before issuing the certificate referred to in subsection [1].
- [3]** An application to the Municipality for the issue of a certificate referred to in section 118[1] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], must, subject to section 4, be accompanied by the statement referred to in subsection [1].

[3] APPLICATION FOR AND ISSUE OF STATEMENT

- [1]** Any application for the issue of a statement referred to in subsection [1] must –
 - [a]** be directed to the Municipal Manager;
 - [b]** be in writing on the form made available by the Municipality for that purpose; and
 - [c]** be accompanied by the prescribed fees.
- [2]** The Municipal Manager must refer the application to the Building Control Officer, who must do, or cause to be done, an inspection of the land concerned and make a recommendation regarding the application to the Municipality.
- [3]** After the Municipality has considered the recommendations of the Building Control Officer, it must –
 - [a]** make the statement referred to in section 2[1]; or
 - [b]** refuse to make such statement, and forthwith, in writing, notify the applicant accordingly.

[4] If the Municipality refuses to make the statement, it must provide written reasons for its decision when notifying the applicant of the decision and indicate what steps must be taken before a new application in terms of subsection 3[b] could again be submitted.

[4] FAILURE BY THE MUNICIPALITY TO ACT WITHIN A CERTAIN PERIOD

Should the Municipality fail to act in accordance with section 3[4] within a period of 30 days after the application was made in terms of section 3[1], it will be deemed that the Municipality has made the statement referred to in section 2[1].

[5] DELEGATION OF POWERS

[1] The Council may, subject to such conditions as it may determine, delegate any of its powers: -

[a] to the Municipal Manager, in accordance with sections 55 and 59 of the Local Government: Municipal Systems Act, 2000; or

[b] to any committee appointed by it, or to any person in its employ in terms of section 28[4], of the National Building Regulations and Building Standards Act, 1977.

[6] PENALTIES

[1] Anyone who contravenes or fails to comply with any provision of these by-laws or any notice served in terms thereof is guilty of an offence and be liable upon conviction to –

[a] a fine, not exceeding R4000, or imprisonment for a period not exceeding twelve months or to such imprisonment without the option of a fine or to both such fine and such imprisonment; and

- [b]** in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued: Provided that any such fine and/or imprisonment may not exceed the penalty provided for in section 24 of the National Building Regulations and Building Standards Act, 1977.
- [c]** a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[7] REPEAL AND SAVINGS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.