

BY-LAW

To provide for the control of buildings erected on land in the EMTHANJENI municipality; and for matters connected therewith.

BE IT ENACTED by the Emthanjeni municipality, as follows:-

Definitions

1. In this By-law, 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 other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with -
 - (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 paragraph (a), (b) or (c);
- (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, stormwater 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 of the Act;

“**Municipality**” means the Emthanjeni municipality; and

“**Municipal Manager**” means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

Buildings on land to be reflected on plans

2. (1) Subject to the provisions of this By-law, the Municipality shall 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 paragraph (a), 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 Act; or
 - (d) there is no building on the land,

and in writing, makes a statement to that effect.
- (2) 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), shall, subject to section 4, be accompanied by the statement referred to in subsection (1).

Application for and issue of statement

3. (1) Any application for the issue of a statement referred to in section 2(1) shall –
 - (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 shall refer the application to the building control officer, who shall 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 shall -
 - (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 (1) could again be submitted.

Failure by the Municipality to act within a certain period

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

Delegation of powers

5. The Municipality may, subject to such conditions as it may determine, delegate any of its powers under this By-law to the Municipal Manager.

Short title

6. This By-law shall be called the Building Control By-law, 2008