



# TSWELOPELE

LOCAL MUNICIPALITY  
A MUNICIPALITY IN PROGRESS

**TSWELOPELE LOCAL MUNICIPALITY**  
**BUILDING CONTROL**  
**BY- LAWS**

**TSWELOPELE LOCAL MUNICIPALITY**

**BUILDING CONTROL**

**BY-LAWS**

**Table of Contents**

- 1. Definitions**
- 2. Objectives of these By-Laws**
- 3. Approval of applications in respect of erection of buildings**
- 4. Building Inspections**
- 5. Certificates of occupancy in respect of buildings**
- 6. Demolition or alteration of certain buildings**
- 7. Restriction of additional buildings**
- 8. Design and Appearance**
- 9. Encroachments**
- 10. Exemption from liability**
- 11. Notices**
- 12. Penalty clause**
- 13. Presumption**
- 14. Short Title**

## **1. Definitions -**

### **'application'**

means an application referred to in section 4(2) of National Building Regulations and building standards, (Act 103 of 1977);

### **'applicant'**

means any person who makes an application;

### **'architect'**

means an architect as defined in section 1 of the Architects' Act, 1970 (Act 35 of 1970);

### **'architectural area'**

means the sum of the areas of the several floors of a building, including basements, mezzanine and intermediate floor tiers and penthouses of headroom height, measured from the exterior faces of the exterior walls;

### **'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, 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 a local authority in terms of section 5(10) of National Building Regulations and building standards, (Act 103 of 1977);

**'building line'**

In relation to a site, means a line prescribed in any town planning scheme or any other law designating the boundaries of the area of the site outside of which the erection above ground of any building is prohibited;

**'council'**

means the council as defined in section 1 of the Standards Act;

**'dwelling-house'**

means a single dwelling unit and any garage and other domestic outbuildings thereto, situated on its own site;

**'erection',**

in relation to a building, includes the alteration, alteration, extension, rebuilding, re-erection, subdivision of or addition to, or repair of any part of the structural system of, any building; and

**'erect'**

put together and set upright (a building, wall, or other structure).

**'land surveyor'**

means a land surveyor as defined in section 49 of the Land Survey Act, 1927 (Act 9 of 1927);

**'local authority'**

means-

(a) any institution, council or body contemplated in section 84(1)(f) of the Provincial Government Act,

1961 (Act 32 of 1961);

(b) any statutory body designated by the Minister, after consultation with the Administrator of the

province in question, by notice in the Gazette as a local authority for the purposes of this Act or

any provision thereof;

[Definition of 'local authority' substituted by s. 1 (f) of Act 62 of 1989.]

**'municipality'** means the Tswelopele Local Municipality;

**'municipal manager'** means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 177 of 1998).

**'national building regulations'**

means the national building regulations made in terms of section 17;

**'owner',**

in relation to a building or land, means the person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question:

Provided that if-

(a) such person, in the case of a natural person, is deceased or was declared by any court to be

incapable of managing his own affairs or a prodigal or is a patient as defined in section 1 of the

Mental Health Act, 1973 (Act 18 of 1973), or if his estate has been sequestrated, the executor or

curator concerned, as the case may be;

(b) such person, in the case of a juristic person, has been liquidated or placed under judicial

management, the liquidator or judicial manager concerned, as the case may be;

(c) such person is absent from the Republic or if his whereabouts are unknown, any person who, as

agent or otherwise, undertakes the management, maintenance or collection of rentals or other

moneys in respect of such building or land or who is responsible therefor;

(d) the local authority in question is unable to determine the identity of such person, any person who is entitled to the benefit of the use of such building or land or who enjoys such benefit, shall be deemed to be the owner of such building or land;

**'regulations'**

means the regulations made in terms of section 20 of Building Standards Act;

**'specification'**

means a specification as defined in section 1 of the Standards Act;

**'standard method'**

means a standard method as defined in section 1 of the Standards Act;

**'Standards Act'**

means the Standards Act, 1982 (Act 30 of 1982);

**'statutory body'**

means any board, fund, institution, company, corporation or other organization established or constituted by or under any law;

**'structural system',**

in relation to a building, means the system of constructional elements and components of any building which is provided to resist the loads acting upon it and to transfer such loads to the ground upon which the foundation of the building rests;

**'this Act'**

includes the national building regulations made and directives issued in terms of it.

**2. Objectives of these By-Laws**

To provide the promotion of uniformity with regard to the erection of buildings, submission and approval of building plans in the areas of jurisdiction of Tswelopele Local Municipality; for the prescribing of building standards; and for matters connected therewith.

**3. Approval of Applications in Respect of Erection of Buildings**

[1] No person shall without the prior approval in writing of the Municipality, erect any building in respect of which building plans and specifications are to be drawn (by a registered draughtsman/architect) and be submitted to the Municipality for approval.

[2] Any application for approval referred to in subsection (1) shall be in writing on a form made available for that purpose by the Municipality.

[3] Any application referred to in subsection (2) shall-

(a) contain the name and address of the applicant and the applicant must be the owner of the land on which the building in question is to be erected,

(b) be accompanied by such plans, specifications, documents and information as may be required by or under these by-laws, and by such particulars as may be required by the Municipality for the carrying out of the objects and purposes of these by-laws.

[4] Any person erecting any building in contravention of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 for each day on which he was engaged in so erecting such building.

[5] If the Municipality, having considered a recommendation referred to in subsection (2),

(a) is satisfied that the application in question complies with the requirements of these by-laws and any other applicable law, it shall grant its approval in respect thereof;

(b)

(i) is not so satisfied; or

(ii) is satisfied that the building to which the application in question relates-

(aa) is to be erected in such manner or will be of such nature or appearance that-

(aaa) the area in which it is to be erected will probably or in fact be disfigured thereby;

(bbb) it will probably or in fact be unsightly or unpleasant;

(ccc) it will probably or in fact derogate from the value of adjoining or neighbouring properties;

(bb) will probably or in fact be dangerous to life or property, such the Municipality shall refuse to grant its approval in respect thereof and give written reasons for such refusal.

[6] When the Municipality has granted its approval in accordance with subsection (5)(a) in respect of any application, such approval shall be permitted on at least two copies of the plans, specifications and other documents in question returned to the applicant.

[7] The provisions of this section shall not be construed so as to prohibit the Municipality, before granting or refusing its approval in accordance with subsection (5) in respect of an application, from granting at the written request of the applicant and on such conditions as the Municipality may think fit, provisional authorization to an applicant to commence or proceed with the erection of a building to which such application relates.

#### **4. Building Inspections**

[1] The applicant/owner shall inform the Building Control officer after the excavations have been completed. Thereafter the Building Control Officer will conduct the following building inspections [Inspection holding points]:

[2] [\(a\) Foundation/Trench:](#)

- (i) Check width and depth as well as steel structure.
- (ii) Check if layouts are according to approved building plan.
- (iii) Authorise castings.

(b) Walls:

- (i) Check acceptance practices at corners and wall intersections.
- (ii) Check bond practices.
- (iii) Interim inspections to check on brick force and damp course.

(c) Completion of roof:

- (i) Check it has been constructed according to the approved building plan.

(d) Completion of building:

- (i) Final inspection and issuing of occupation certificate if required, on written request of the owner.

**5. Demolition or Alteration of Certain Buildings**

[1] If the Municipality is of the opinion that-

- (a) any building is dilapidated or in a state of disrepair or shows signs thereof;
- (b) any building or the land on which a building was or is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property, it may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork, within the period specified in such notice to demolish such building or to alter or secure it in such manner that it will no longer be dilapidated or in a state of disrepair or show signs thereof or be dangerous or show signs of becoming dangerous to life or property or to alter or secure such land or earthwork in such manner that it will no longer be dangerous or show signs of becoming dangerous to life or property

[2] If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous to life or property, the owner of such building, land or earthwork shall immediately notify the Municipality thereof.

[3]

- (a) If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous or is showing signs of



becoming dangerous to life or property, the Municipality, irrespective of whether it was notified in terms of subsection (2), may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork to instruct at the cost of such owner the building control officer to investigate such condition and to report to the Municipality on the nature and extent of the steps to be taken, in the opinion of the building control officer, in order to render such building, land or earthwork safe.

(b) The Municipality may by notice in writing, served by post or delivered, order that any activities be stopped or prohibit the performance of any activities which may increase the danger or hinder or obstruct the building control officer referred to in paragraph (a).

[4] If the Municipality deems it necessary for the safety of any person, it may by notice in writing, served by post or delivered-

(a) order the owner of any building to remove, within the period specified in such notice, all persons occupying or working or being for any other purpose in such building therefrom, and to take care that any person not authorized by the Municipality does not enter such building;

(b) order any person occupying or working or being for any other purpose in any building, to vacate such building immediately or within a period specified in such notice.

[5] No person shall demolish a building without the approval of the Municipality.

## **6. Certificates of Occupancy in Respect of Buildings**

The Municipality shall within 14 days after the owner of a building of which the erection has been completed, or any person having an interest therein, has requested it in writing to issue a certificate of occupancy in respect of such building-

(a) issue such certificate of occupancy if it is of the opinion that such building has been erected in accordance with the provisions of National Building Standards Act (103 of 1977).

(b) If the building of the applicant/owner is not in accordance with the provisions of National Building Standards Act (103 of 1977), Building Control Officer shall in writing notify such owner or person that it refuses to issue such certificate of occupancy if it is not so satisfied.

## **7. Restriction of additional buildings**

[1] No person may erect an additional building to a building already approved by the Municipality; provided that the Municipality may grant approval for such building subject to the applicable legislation.

[2] If no prior approval for such building was obtained, the owner of the erf must within 15 days after receipt of a notice issued, submit a building to the Municipality for approval, failure to this Building Control Officer will issue the owner of unapproved building a final notice, if the owner of the building does not comply Building Control Officer will penalise the owner of the unapproved building in accordance to section 12 of these by-laws.

[4] If the owner of the building decides to add another storey on top of the existing dwelling an engineer's report will be required and plans must be submitted to the Municipality for approval.

## **8. Design and Appearance**

An enclosure/building which is visible from an adjacent street or public open space must comply with the following conditions -

- (a) All surfaces which are visible from such street or public open space must –
  - (i) be skillfully finished;
  - (ii) be of good quality material;
  - (iii) be without defect; and
  - (iv) have an exposed or finished side;
- (b) painted surfaces visible from such street or public open spaces must be skillfully finished.

## **9. Encroachments**

[1] Every dwelling house shall have on each side between the external wall of the building and the side boundary of the erf a minimum space of at least 1 meter. The distance from the Street boundary must at least be 3 metres.

[2] No person shall build on the building line unless the site is registered as a business site.

[3] No person shall build beyond the boundary / building lines.

## **10. Exemption from Liability**

No approval, permission, report, certificate or act granted, issued or performed in terms of these by-laws or on behalf of the Municipality or the council in connection with a building or the design, erection, demolition or alteration thereof, shall have the effect that-

(a) The Municipality or the council be liable to any person for any loss, damage, injury or death resulting from or arising out of or in any way connected with the manner in which such building was designed, erected, demolished or altered or the material used in the erection of such building or the quality of workmanship in the erection, demolition or alteration of such building;

(b) the owner of such building be exempted from the duty to take care and to ensure that such building be designed, erected, completed, occupied and used or demolished or altered in accordance with the provisions of these by-laws and any other applicable law;

(c) any person be exempted from the provisions of any other law applicable in the area of jurisdiction of the Municipality.

## **11. Notices**

[1] Every notice, order or other document issued or served by the Council in terms of these by-laws is valid if signed by the Municipal Manager or an official of the Council duly authorized thereto by the said Municipal Manager.

[2] If a notice is to be served on a person in terms of these by-laws, such service is effected by:

(a) delivering the notice to him or her personally or to his or her duly authorized agent;

(b) delivering the notice at his or her residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;

(c) If he or she has nominated an address for legal purposes, by delivering the notice to such an address;

(d) registered or certified post addressed to his or her last known address.

(e) in the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate; or

[3] if service cannot be effected in terms of sub-section (2) by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land to which it relates.

[4] Any notice, order or other document served in terms of these by-laws on any person must be so served by delivering it, or a true copy thereof, to the person to whom it is addressed personally or at his or her last known residence or place of business or by posting it to him or her by registered post.

[5] In every notice, order or other document issued or served in terms of these by-laws, the premises to which it relates must be specified but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his or her name is not known.

## **12. Penalty Clause**

Any person convicted of an offence under these by-laws in respect of which a fine or imprisonment is not expressly provided for, shall be liable to a fine not exceeding R4000 or to imprisonment for a period not exceeding 12 months, as referred to in Section 24 of the National Building Regulations and Building Standards, (Act 103 of 1977).

## **13. Presumption**

If in any prosecution for an offence in terms of these by laws it is necessary, in order to establish the charge against the accused, to prove that he failed to comply with the requirements of these by laws relating to standard or quality of materials, design or workmanship, an allegation in the charge sheet that such accused so failed, shall be sufficient proof thereof unless the contrary is proved.

## **14. Short Title**

These by-laws are called Building Control By-Laws of Tswelopele Local Municipality.