

MSUNDUZI MUNICIPALITY
STORMWATER MANAGEMENT BY-LAW

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The Msunduzi Municipality acting in terms of section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read with section 13 of the said Act, hereby publishes the By-laws set forth hereafter, as enacted by the Municipality, which By-laws shall come into effect on the date of publication thereof.

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1. Definitions

In this By-law, unless the context otherwise indicates—

- 1.1. **"Act"** means the National Water Act, 1998 (Act No. 36 of 1998);
- 1.2. **"authorised official"** means a person authorised to implement the provisions of this By-law including but not limited to—
 - (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
 - (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purpose of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;
- 1.3. **"damaging incident"** means an incident contemplated in section 5(1) and (2) of this By-law;
- 1.4. **"developer"** means a person who is making or on whose behalf an application for building or land approval is made;
- 1.5. **"development"** means any subdivision of land, use of or change of use of land, building or structure for which the approval from the Municipality is required in terms of any law;
- 1.6. **"drainage work"** includes any drain, water-supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or stormwater sewer or otherwise connected with the drainage of any premises;
- 1.7. **"entrance level"** means a level of the adjoining ground of the driveway from the shoulder or curb line of the road or verge leading into the premises;
- 1.8. **"environmental cost"** means the full cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

- 1.9. "**excavate**" includes the loosening, taking out or removal of stone, overburden, soil or other material;
- 1.10. "**fill**" means any soil, rock or other material placed in a manner which raises the ground level;
- 1.11. "**flood level**" means the level reached by flood waters resulting from a storm of a certain return period or recurrence interval;
- 1.12. "**flood plain**" means the area subject to inundation by flood waters from a storm of a frequency of a certain return period or recurrence interval;
- 1.13. "**foul water**" means soil water, wastewater and trade effluent;
- 1.14. "**hardened area**" means all paved areas, roofed areas, surfaced driveways, pool surrounds semipermeable or impermeable structures;
- 1.15. "**maintenance**" includes, but is not limited to, the repair, upgrading, refurbishment, reconstruction or alteration of a stormwater system;
- 1.16. "**Council**" means the Msunduzi Local municipal council, a municipal council referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996;
- 1.17. "**Municipality**" means Msunduzi Local Municipality, a category B municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa, 1996;
- 1.18. "**municipal manager**" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;
- 1.19. "**Municipal Systems Act**" means the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000);
- 1.20. "**National Building Regulations and Building Standards Act**" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
- 1.21. "**owner**" means an owner, occupier or responsible person in charge of the premises;
- 1.22. "**person**" includes a natural and juristic person;
- 1.23. "**policy**" means the Msunduzi Municipality Stormwater Management Policy adopted by Council, as may be amended from time to time;

- 1.24. **"pollution"** means the direct or indirect alteration of the physical, chemical or biological properties of a water resource so as to make it less fit for any beneficial purpose for which it may reasonably be expected to be used or which may be harmful or potentially harmful to—
- (a) the welfare, health or safety of human beings;
 - (b) any aquatic or non-aquatic organisms;
 - (c) the water resource quality; or
 - (d) property;
- 1.25. **"pollution incident"** means an incident or occurrence which has a detrimental impact or potential detrimental impact on the quality of water in the stormwater system to such an extent that public health or the health of the natural ecosystems may be threatened;
- 1.26. **"premises"** means land with or without improvements;
- 1.27. **"prescribed"** means as determined by resolution of the Council from time to time;
- 1.28. **"private stormwater system"** means a stormwater system owned, operated or maintained by a person other than the Municipality;
- 1.29. **"property"** means any land registered as a separate entity of land in the Deeds Office and includes any township and any land or unit contemplated in the Sectional Titles Act, 1986
- 1.30. **"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; or
 - (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- 1.31. **"Attenuation"** means the collection and storage of excess stormwater runoff from a site so that it can be released slowly into the storm water system.
- 1.32. **" servitude "** means a registered right that a person (in this case; the council) has over the immovable property of another. It allows the holder of

the servitude to do something with the other person's property, which may infringe upon the rights of the owner of that property.

- 1.33. "**stormwater**" means water resulting from natural precipitation or accumulation thereof and includes groundwater and spring water ordinarily conveyed by the stormwater system;
- 1.34. "**stormwater drain**" means the conduit of the stormwater system which conveys the discharge of excess stormwater or ground water from pervious and impervious surfaces.
- 1.35. "**stormwater system**" means both the constructed and natural facilities, including roads, culverts, pipes, canals, road crossings, bridges, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of stormwater; any natural or man-made system which functions independently or together with another such system to collect, convey, store, purify, infiltrate and discharge stormwater, including any stormwater facility and water course.
- 1.36. "**stormwater facility**" means a component of a man-made drainage feature for dealing with stormwater, designed or constructed to perform a particular function or multiple functions, and includes any pipe, marshy area, ditch, culvert, street gutter, detention facility, attenuation facility, wetpond, constructed wetland, infiltration device, catch basin, oil/water separator and sediment basin, but excludes any building gutter, downspout and stormwater drain serving one single family residence, or such residence and one or two additional residential units permitted by an applicable town planning scheme or other applicable law, on the same property
- 1.37. "**watercourse**" means—
 - (a) a river or spring;
 - (b) a natural channel or depression in which water flows regularly or intermittently;
 - (c) a wetland, lake or dam into which, or from which, water flows;

- (d) any collection of water which the Minister may by notice in the *Gazette*, declare to be a watercourse as defined in the Act; and
- (e) a watercourse's bed and banks, where relevant;

- 1.38. "**wayleave**" means an easement consisting of permission to cross land or of a right-of-way across land;
- 1.39. "**wetland**" means land which is usually at or near the surface, or where the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

2. Interpretation of By-law

If there is a conflict of interpretation between the National Legislation and this By-law, the National Legislation shall prevail.

3. Objectives of the By-law

- (a) to provide for the regulation of stormwater management within the Msunduzi Local Municipal area of jurisdiction; and
- (b) to regulate activities which may have a detrimental effect on development, operation or maintenance of stormwater systems.
- (c) to manage, control and regulate the quantity, quality, flow and velocity of storm water runoff from any property which it is proposed to develop or is in the process of being developed or is fully developed, in order to prevent or mitigate erosion and degradation of watercourses, sedimentation in ponds and watercourses, degradation of water quality and fish habitat and excess storm water runoff onto a public road which may pose a danger to life or property or both.

4. Application of By-law

This By-law applies to stormwater systems which fall under the jurisdiction of the Municipality and is binding on all persons to the extent applicable.

5. Responsibility for complying with By-laws

- (1) A developer who proposes to undertake or undertakes any work or action contemplated in these By-laws, is responsible for ensuring compliance with any provision of these By-laws relating to such work or action.
- (2) A contractor or agent appointed by a developer to carry out any work or action contemplated in these By-laws is jointly and severally responsible, together with that developer, for ensuring compliance with any provision of these By-laws relating to such work or action.
- (3) An owner of property, which has been developed, is responsible for ensuring compliance with any provision of these By-laws that are applicable in respect of that property after conclusion of that development.

6. Protection of stormwater system

- (1) Subject to the written consent of the Municipality and to any conditions that the Municipality may impose, a person may not—
 - (a) cause, discharge or permit to enter the stormwater system—
 - (i) any solid, liquid, foul-water or gaseous substance;
 - (ii) anything other than stormwater;
 - (iii) anything which may damage the stormwater system;
 - (iv) anything which may interfere with the operation of the stormwater system; or
 - (v) anything likely to pollute or contaminate the water in the stormwater system;
 - (b) obstruct, block or reduce the capacity of the stormwater system;
 - (c) open a pipe, culvert or canal which forms part of the stormwater system;
 - (d) construct or erect any structure over or in such a position or manner as to destroy, damage, endanger, block or interfere with the stormwater system or operation thereof;
 - (e) drain, abstract or divert any water directly from the stormwater system;
 - (f) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the stormwater system;

- (g) change the design, the use of or modify any feature of the stormwater system which alone or in combination with other existing activities may cause an increase in flood levels or create a potential flood risk;
 - (h) undertake any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk;
 - (i) undertake any activity which interferes with existing stormwater system Infrastructure;
 - (j) undertake any activity which will or which in the opinion of the Municipality could impair the effective functioning of the stormwater system;
 - (k) discharge water from a fountain, borehole, well, reservoir or swimming pool into the stormwater system except where required to lead away excess rainwater during an extreme storm;
 - (l) bridge over or enclose any gutter or stormwater drain which forms part of municipal property;
 - (m) remove manhole covers, grids and other equipment which form part of the stormwater system; and
 - (n) undertake any activity which may result in a potential increase in , unnatural or increased soil erosion to occur or which may cause damage to another person's premises.
- (2) A person may not cause or permit any stormwater to enter the sewerage disposal system.
- (3) If an incident contemplated in bylaw 6 (1) or (2) occurs without the written consent of the Municipality and the incident is not a result of natural causes—
- (a) the person responsible for the incident; or
 - (b) the owner of the property on which the event took place, or is taking place, must immediately report the incident to the Municipality.
- (4) A person referred to in bylaw (3) must, at his or her own cost, take all reasonable measures to contain and minimise the effects of the incident, which measures may include, but are not limited to—
- (a) the undertaking of cleaning up operations;
 - (b) where necessary, the rehabilitation of the surrounding environment and any environmental cost related thereto;

- (c) The property owner is responsible to rehabilitate and reconstruct all damaged Municipal infrastructure and related environment at their cost, including related costs, where the cause has emanated from negligence or bad management practices on their property. All repair work must be done to the original Municipal specifications.

6A. Control of erosion

Any property and watercourse downstream from a development site must be protected from erosion due to an increase in the volume, velocity, and peak flow rate of stormwater from that site by the utilisation of the appropriate best management practice to minimise any adverse downstream stormwater impact.

6B. Stormwater drain inlet protection

Any stormwater drain inlet made operable during construction on a development site must be protected so that stormwater runoff does not enter a municipal stormwater drainage system without first being or otherwise treated effectively to remove sediment.

7. Development applications,

- (1) The disposal of stormwater on any premises must comply with the requirements of Part R of the National Building Regulations and may, where the developer is notified in writing of the reasons for the requirement, require the submission of a rational design stormwater solution in accordance with the regulation AZ4 of the National Building Regulations and all applicable municipal framework.
- (2) The approval of a development application is subject to—
 - (a) the submission by the developer of a stormwater management plan which is in accordance with the floodline and stormwater design requirements or guidelines as specified in the applicable framework and in accordance with the requirements of regulation AZ4 of the National Building Regulations;
 - (b) any other requirements or guidelines for the approval of a development application; and

- (c) any amendment which the Municipality may require the developer to make to the development application regarding the stormwater management plan.

8. Storm Water Management Plan. –

- (1) Where the submission of an approved stormwater management plan is a condition of approval for development applications, the person responsible must submit plans detailing the proposed stormwater control measures to the designated official. No physical work may commence without the prior written approval of the Municipality.
- (2) A stormwater management plan must describe and indicate –
 - (a) the control measures to be implemented before and during the construction period;
 - (b) the final stormwater control measures required for the site on completion of site development;
 - (c) the person responsible for the design of the control measures; and
 - (d) the person who is, or will be, designated as the responsible person on site during each stage of the implementation of the control measures.
- (3) If the approved stormwater management plan contemplated in bylaw 8 (1) and (2) is not adequately implemented or complied with, the owner or developer, as the case maybe, is responsible to repair and restore all consequential environmental and other damages at his or her own cost.
- (4) The Environmental Management Unit will determine where storm water attenuation is required during the building plan and SPLUMA application stages. Attenuation is required for any property that is not a single homestead. In cases where there is excessive hardened areas around single homesteads, the Environmental Management Unit may at their discretion require attenuation. Mass housing schemes and residential complexes still require attenuation. Attenuation will be required, not only for new developments, but also for the following:
 - (a) Building plan submissions: For alterations and additions an engineer must show and confirm that the previously approved storm water for the property is currently in place. If not, then the entire property needs to be

- attenuated. Otherwise, the area of all new works, additions or alterations must be attenuated to bring it up to current standards (regardless of it originally being a hard surface);
- (b) All applications for subdivisions, consolidations, special consent, rezoning, change of land use, etc.
 - (c) The storm water attenuation plans for sections “a” and “b” must fully comply with the requirements and checklist supplied by the Roads Unit.
- (5) Where attenuation is required, a Storm Water Management Plan (SWMP) must be designed to the SWMP specifications of the Municipality by a competent engineering professional and be signed off by a registered engineering professional.
- (6) The Roads Unit’s “Guidelines to private Township Developers” apply to all developments.

9. Servitudes

- (1) If the Municipality at any time decides to accept responsibility for the maintenance of any stormwater conveyance system, on any development site or property, the owner of that site or property must, prior to commencement of such maintenance, register a servitude acceptable to and in favour of the Council for the protection of the Council's rights of inspection and maintenance of and its right of access to such system.
- (2) Any stormwater facility that is to be maintained by the Municipality and any vehicular access to such facility must be located in a servitude in favour of the Council, or located in any open space on Council property designated by the Council.
- (3) Any conveyance pipe for storm water that is to be maintained by the Municipality must be located within a servitude and an access structure to such pipe must be positioned in a public road reserve so that it can be accessed for purposes of Inspection, without entering the property on which such pipe is situated.
- (4) Where an existing stormwater open channel runs within a registered servitude over a property, that property owner shall ensure that the channel is kept free of debris and shall maintain it. Wayleave applications must be made for all

work undertaken within the road reserve, up to the Municipal storm water system.

- (5) Where a property owner constructs new or makes alterations to his property:
- (a) The property owner shall ensure that predevelopment runoff is maintained and shall attenuate the extra runoff generated from the new or altered property.
 - (b) The property owner shall ensure that an adequately sized conduit channels his/her runoff appropriately to the nearest stormwater outfall.
 - (c) The property owner shall obtain consent by legal agreement where a storm water conduit is necessitated to be constructed through a neighbouring property, whereas:
 - (i) a servitude for this conduit is to be registered over the neighbouring property in favour of the user property;
 - (ii) the conduit within the servitude shall be maintained in proper working order by the property owner using the conduit;
 - (iii) no building, erection of structures or the planting of trees and large shrubs shall be allowed over the registered servitude.

10. Duties of owners

- (1) An owner of a premises must provide suitable means for the control and disposal of accumulated stormwater in accordance with Part R of the National Building Regulations and applicable municipal framework.
- (2) An owner is required at his or her own cost to maintain the effective functioning of the private stormwater system, in accordance with regulation A15 of the National Building Regulations, unless the Municipality has undertaken to accept responsibility for the duties either in the form of a maintenance agreement or in terms of a condition of servitude.
- (3) Where the Municipality is a holder of a servitude over an owner's premises, the owner must allow an authorised official reasonable access to the servitude area for purposes of inspection maintenance, repair or installation of a stormwater drain or manhole within the servitude area.
- (4) An owner must take reasonable measures to prevent the occurrence of a health nuisance as a result of any rainwater harvesting, rainwater storage or attenuation measures implemented.

- (5) An owner must maintain any existing stormwater soakpits, roof valleys gutters, downpipes or any other infrastructure which has been used to ensure the control, management and run-off of stormwater in accordance with regulation A15 of the National Building Regulations.
- (6) The owner of a lower lying property must manage all storm water being received from higher lying, privately owned properties, via registered drainage servitude, through their property to the municipal system.
 - (a) Where new construction is being done on the above properties, the cost and installation of the storm water from these higher lying properties is to be paid by the owners of the higher lying properties. The maintenance and related costs of the system thereafter is to be carried by the lower property owner;
 - (b) If the lower property owner refuses to receive concentrated water from the higher lying property, then the higher property may discharge his storm water as sheet flow over the boundary into the lower lying property.
 - (c) All storm water problems between private properties is strictly a civil matter in which the Municipality does not involve itself.

11. Vehicle Entrance levels

- (1) Where an existing entrance level of premises require modification, the municipality may give notice of such fact to such owner, and in the notice it shall, if possible, supply the levels at which such portion of the street will be reconstructed.
- (2) The Municipality may notify the owner in writing of the reasons for the necessity of the modification of the entrance level design.
- (3) All new driveway entrances are to comply with the entrance level calculations detailed in the applicable Msunduzi Guidelines.
- (4) The Municipality reserves the right to exempt any premises from the application of subsection (1) and (3).
- (5) The property owner is responsible for the construction, maintenance and related costs for access from the Municipal roadway across the road reserve to their premises to Municipal approval. This includes any structures across

existing storm water systems which are to comply with Municipal specifications.

- (6) Wayleave applications must be made for all work undertaken within the road reserve.

12. Pollution incidents

- (1) No person may –

- (a) discharge any substance other than unpolluted stormwater runoff and other unpolluted natural surface water runoff into a stormwater system or on to a public road or other area from which such substance will be conveyed to a stormwater system;

- (b) make or allow any connection to be made to a stormwater system which could result in the discharge to it of any pollutant; or

- (c) make any connection to a stormwater system from the interior of any building or other structure.

- (2) Any person or owner must immediately report the occurrence of a pollution incident to the Municipality.

- (3) Discharge from any place onto any surface, any substance other than storm water, where that substance could reasonably be expected to find its way into the storm water system;

- (4) Discharge permit to enter or place anything likely to damage the storm water system or interfere with the operation thereof or contaminate or pollute the water therein.

- (5) A pollution incident is subject to the provisions of this By-law and any other applicable legislation dealing with pollution.

- (6) In the event that storm water discharge from a property causes damage to the Municipal storm water infrastructure, due to whatever cause, the property owner shall be liable for the repairs and related costs (fines, Municipal overheads, etc.) of the Municipal system. The repairs will be done by a qualified construction company to the original specifications within 30 working days of the incident, to the satisfaction of the Municipal technical team.

- (7) Should the owner fail to repair within the specified 30 days, the Municipality will conduct the repairs and recover all costs from the owner.

- (8) The property owner must ensure that his driveway is designed and constructed in such a manner that excessive storm water from the road and road reserve does not enter their private property in the event of heavy storms.

13. Powers of the Municipality

- (1) The Municipality may, subject to the requirements of section 12 of the National Building Regulations and Building Standards Act—
- (a) demolish, alter or otherwise deal with any building, structure or other thing constructed, erected or laid in contravention of this Bylaw;
 - (b) fill in, remove and make good any ground excavated, removed or placed in contravention or resulting from a contravention of this Bylaw;
 - (c) remove anything discharged into the stormwater system or watercourse in contravention of this Bylaw;
 - (d) repair and make good any damage in contravention of this By-law;
 - (e) remove anything that may be damaging, obstructing or endangering or is likely to damage, endanger or obstruct any part of the stormwater system;
 - (f) seal off or block any point of discharge from any premises if such discharge point is in contravention of the provisions of this Bylaw, irrespective of whether the point is used for lawful purposes; and
 - (g) discharge any stormwater onto any watercourse, whether private or not, subject to the National Environmental Act and National Water Act.
- (2) The Municipality may by written notice in terms of the National Building Regulations and Building Standards Act, direct the responsible owner to effect repairs to the stormwater system and where required remedy a contravention in terms of bylaw 10(1).
- (3) The Municipality may, where any action or neglect by an owner of a premises is in contravention of this Bylaw, the National Building Regulations and Building Standards Act, give written notice in terms thereof to the owner to comply.
- (4) Should the owner of a premises or a responsible person in respect of municipal property, fail to comply with any notice issued in terms of the National Building Regulations and Building Standards Act or this Bylaw by not carrying out repairs required by the Municipality. The Municipality may carry out the

necessary work and recover the full cost of the repairs from the owner or responsible person.

- (5) The Municipality may enter into an agreement with a person in terms of which the person at his or her own cost may, subject to section 4 of the National Building Regulations and Building Standards Act, install a stormwater system or part of a stormwater system, subject to the construction thereof being in terms of the relevant South African Bureau of Standards available and any conditions which may be imposed by the Municipality.

14. Offences

- (1) A person commits offence if he or she—
 - (a) Contravenes any provision of this Bylaw;
 - (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this Bylaw;
 - (c) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this Bylaw; or
 - (d) fails to obey any lawful instruction or direction given to him or her in terms of this Bylaw.

15. Compliance notices

- (1) An authorised official who becomes aware that any provision of these Bylaws has been contravened or not complied with may, on a form prescribed by the Municipality issue a compliance notice to an owner, developer or other person who is in contravention of or has not complied with such provision.
- (2) A compliance notice issued in terms of subsection (1) must set out –
 - (a) the provision which has been contravened or not complied with;
 - (b) details of the nature and extent of the contravention or noncompliance;
 - (c) any stops that are required to be taken to remedy the contravention or non-compliance and the period within which those steps must be taken.
- (3) An authorised official who is satisfied that the person to whom a compliance notice was addressed has complied with the terms of that compliance notice, must issue a compliance certificate to that effect to that person on a form prescribed by the Municipality.

- (4) A compliance notice issued in terms of subsection (1) remains in force until an authorised official has issued a compliance certificate in respect of that notice, in terms of subsection (2).
- (5) If any person fails to comply with a compliance notice within the period contemplated in subsection (2)(c), the Municipality may, if in the opinion of an authorised official, such non-compliance may result in a danger to life or property, after having served a written notice of its intention on the person to whom the compliance notice was addressed, enter the property concerned, do any work that is necessary to prevent such danger and recover the cost thereof from that person.

16. Stop work orders

- (1) If an authorised official reasonably believes that there has been a contravention of or failure to comply with any provision of these Bylaws, he or she may by notice on a form prescribed by the Municipality, served on an owner or developer concerned, instruct that owner or developer, immediately to cease all site development activities on the property concerned, except for erosion' and sedimentation control activities authorised in writing by such an official, until further notice.
- (2) A notice in terms of subsection (1) –
 - (a) must contain the particulars specified in section 15(2)(a) and
 - (b) may be issued in conjunction with a compliance order in terms of section 15(1).

17. Serving of notices

- (1) Any notice that is required to, or may, be served, delivered or given in terms of, or for the purposes of these By-laws, must be served in any of the following ways:
 - (a) By handing a copy of the notice at the person to whom it is addressed,
 - (b) by leaving a copy of the notice at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time;
 - (c) by faxing a copy of the notice to the person, if the person has in writing furnished a fax number to the Municipality or an authorised official;

- (d) by handing a copy of the notice to any representative authorised in writing to accept service on behalf of the person concerned;
- (e) if the person concerned has chosen an address or fax number for service, by leaving a copy of the notice at that address or by faxing it to that fax number;
- (f) by sending a copy of the notice by prepaid registered or certified post to the last-known address of the person concerned, and, unless the contrary is proved, it is deemed that service was effected on the seventh day following the day on which the document was posted;
- (g) If the person is a company or other body corporate, by serving a copy of the notice on an employee of the company or body corporate at its registered office or its place of business or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of the office or place of business;
- (h) if the person is a partnership, firm or voluntary association, by serving a copy of the notice on a person who at the time of service is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of such partnership, firm or association or if such partnership, firm or association has no place of businesses, by serving a copy of the notice on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of such association, as the case may be.

18. Penalties

- (1) Any person who –
 - (a) contravenes or fails to comply with any provision of these Bylaws;
 - (b) refuses or fails to comply with any notice addressed to him or her in terms of or for the purposes of these By-laws;
 - (c) refuses or fails to comply with the terms or conditions of any permit issued;
 - (d) obstructs, hinders or interferes with an authorised official in the exercise of any power or the performance of any duty under these By-laws;

- (e) fails or refuses to furnish to an authorised official with any documentation or information required for the purposes of these By-laws or furnishes a false or misleading document or false or misleading information;
 - (f) Fails or refuses to comply with any instruction given for the purposes of these By-laws;
 - (g) pretends to be an authorised official, is guilty of an Offence.
- (2) Any person who is convicted of an offence under this By-law is liable to a fine ranging between R2000.00 and R100 000.00, an amount not exceeding R100 000.00 or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment as determined by a court of law.
- (3) In the case of a continuing offence, an additional fine of an amount not exceeding R500.00 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

19. Inspections

- (1) In addition to any power of inspection, which an authorised official may have in terms of these By-laws, he or she may for any purpose relating to the implementation and enforcement of these By-laws, between 8:00 and 17:00, enter any property and carry out an inspection for the purposes of these By-laws.
- (2) An authorised official must, before the commencement of, or during an inspection in terms of subsection (1) or other provision of these Bylaws, at the request of the owner or developer concerned or any other person involved with the development on the property concerned, produce written confirmation or identification of his or her appointment as an authorised official empowered to carry out inspections for the purposes of these Bylaws.
- (3) An authorised official carrying out an inspection in terms of these Bylaws, must conduct himself or herself with strict regard to decency and orderliness and with due regard to any person's rights contained in the Bill of Rights set out in Chapter 2 of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996).

20. Appeals

- (1) A person whose rights are affected by a decision taken by the Manager responsible for matters relating to stormwater management or any authorised official in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Municipal Systems Act by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must act in accordance with the provisions outlined in section 62 of the Municipal Systems Act in response to the appeal.

21. Delegations

- (1) Subject to the Constitution and applicable national and provincial laws, any—
 - (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) function; or
 - (c) duty conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.
- (2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Municipal Systems Act, subject to the criteria set out in section 59(2) of said Act.
- (3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—
 - (a) entity or person issuing the delegation or sub-delegation;
 - (b) recipient of the delegation or sub-delegation; and
 - (c) conditions attached to the delegation or sub-delegation.

22. Short title and commencement

- (1) This By-law is called the Stormwater Management By-laws, of 2023 and takes effect on the date of publication thereof in the *Provincial Gazette*.