

MSUKALIGWA MUNICIPALITY



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STORM WATER MANAGEMENT

BY-LAWS

2018

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1. DEFINITIONS

In this by-law, unless inconsistent with the Context: --

“Catchment Area” means an area of land in its natural state, from which storm water runoff originates

“Council” means the municipal council of the Msukaligwa Local Municipality, or any political structure, political office-bearer, committee, councillor, or official of the council, delegated to exercise powers or perform duties in terms of this by-law;

“Developed Property” means the condition of a property following completion of a development, or if a property is developed in phases, any phase of development on that property;

“Diversion” means the routing of storm water in a direction other than its natural discharge direction and “divert” has a corresponding meaning;

“Floodplain” means the land adjoining a watercourse which, in the opinion of the Council, is susceptible to inundation by floods up to the one hundred year recurrence interval;

“Grading” means any excavation, filling or embankment building with earth materials on any property;

“Impervious Surface” means –

- (a) a hard surface area on a property which prevents or retards the entry of storm water into the soil; and
- (b) a hard surface area on a property which causes storm water to run off its surface in a greater quantity or at an increased rate of flow, compared to the pre-development condition of that property, and includes any roof, walkway, patio, driveway, parking lot, storage area, concrete or asphalt paving, gravel road with compacted subgrade, compacted earth material, naturally compacted earth surface such as a path or swept garden, an oiled or macadamised surface and any other surface which may similarly impede the natural infiltration of storm water, and any open uncovered attenuation or detention facility;

“Major Development” means any development which results in –

- (a) the creation or cumulative addition of 500 m² or greater of impervious surface; or
- (b) land disturbing activity of 4000 m² and greater; or
- (c) grading involving the movement of 5,000 m³ or more of earth material;

“Minor Development” means any development which results in –

- (a) the creation or addition of less than 500 m² of new impervious surface area; or
- (b) land disturbing activity of less than 4 000 m²; or

(c) grading involving the movement of less than 5 000 m³ of earth material;

"Private Storm water System" means a storm water system owned, operated or maintained by a person other than the Council;

"Public Road" means a road, street or thoroughfare or any other right of way to which the public or a section of the public has a right of access or which is commonly used by the public or a section of the public and includes any portion of a public road between the road edge and the boundary of the land reserved for such road including a sidewalk;

"Retention Facility" means a storm water facility designed to store storm water runoff for an indefinite period with the volume of stored water being reduced by evaporation, infiltration or pumped out for the irrigation of land, and which may be combined with a detention facility;

"Storm water" means water resulting from natural precipitation and/or the accumulation thereof and includes groundwater and spring water ordinarily conveyed by the storm water system, but excludes water in a drinking water or wastewater reticulation system;

"Stormwater Drainage Facility" means any facility installed or constructed for the purpose of the conveyance or retention of storm water;

"Stormwater Drainage Feature" means any natural or man-made structure, facility, conveyance or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate or affect the flow rate of storm water;

"Stormwater Facility" means a component of a man-made drainage feature for dealing with storm water, 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, wet pond, constructed wetland, infiltration device, catch basin, oil/water separator and sediment basin, but excludes any building gutter, downspout and storm water 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;

"Stormwater System" means

- a) any natural or man-made system which functions independently or together with another such system, including pipes, culverts, 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 and disposal of storm water;
- b) every storm water drainage facility and storm water drainage feature forming part of a system that combines to lead storm water from a higher lying area;

"Water Pollution Incident" means an incident or occurrence which has a detrimental impact on a potential detrimental impact on the quality of the water in the storm water system to such an extent that public health or the health of natural ecosystems may be threatened, and

"Watercourse" means: -

- (a) a river, spring, stream, channel or canal in which water flows regularly or intermittently, and
- (b) a vlei, wetland, dam or lake into which or from which water flows, and includes, where relevant, the bed and the banks of such watercourses.

2. PURPOSE OF BY-LAWS

- 2.1. The purpose of these By-laws is 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 –
 - 2.1.1. erosion and degradation of watercourses;
 - 2.1.2. sedimentation in ponds and watercourses;
 - 2.1.3. degradation of water quality and fish habitat; and
 - 2.1.4. excess stormwater runoff onto a public road which may pose a danger to life or property or both.

3. APPLICATION

- 3.1. This by-law binds any organ of state.
- 3.2. Any provision in any other by-law dealing specifically with stormwater is subject to the provisions of this by-law.

4. RESPONSIBILITY FOR COMPLYING WITH BY-LAWS

- 4.1. A developer who proposes to undertake or undertakes any work or action contemplated in these By-laws, is responsible for compliance, and for ensuring compliance, with any provision of these By-laws relating to such work or action.
- 4.2. 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 with that developer for compliance, and for ensuring compliance, with any provision of these By-laws relating to such work or action.
- 4.3. An owner of property which has been developed is responsible for compliance, and for ensuring compliance, with any provision of these By-laws which is applicable in respect of that property after conclusion of that development.

5. PROHIBITED DISCHARGES

- 5.1. No person may, except with the written consent of the Council and subject to any conditions it may impose, discharge, permit to enter or place anything other than storm water into the storm water system.

6. NEW DEVELOPMENTS

6.1. GEOTECHNICAL REPORTS

6.1.1. Msukaligwa Municipality may require a geotechnical and soils investigations reports prepared by an geotechnical engineer, to accompany an application for a new development if –

- a) an authorised official considers that the proposed development on the property concerned poses a potential storm water hazard due to its proximity to a slope in the topography on that property either natural or man-made

6.1.2. The report required must include the effects of groundwater interception and infiltration, seepage, potential slip planes, changes in soil bearing strength and any other factor required by an authorised official.

7. PROTECTION OF STORM WATER SYSTEM

7.1. No person may, except with the written consent of the Council and subject to any conditions it may impose-

- (a) damage, endanger, destroy or undertake any action likely to damage, endanger or destroy, the stormwater system or the operation thereof;
- (b) discharge from any place, or 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;
- (c) discharge, permit to enter or place anything likely to damage the stormwater system or interfere with the operation thereof or contaminate or pollute the water therein;
- (d) construct or erect any structure or thing over or in such a position or in such a manner so as to interfere with or endanger the stormwater system or the operation thereof;
- (e) or make an opening into a stormwater pipe, canal or culvert; or
- (f) drain, abstract or divert any water directly from the stormwater system, or

- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the [stormwater system](#).

8. PREVENTION OF FLOOD RISK

- 8.1. No person may, except with the written consent of the Council and subject to any conditions it may impose-
- (a) obstruct or reduce the capacity of the stormwater system;
 - (b) change the design or the use of, or otherwise modify any aspect of the stormwater system which, alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
 - (c) 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.
 - (d) Any adverse effect of increased stormwater runoff resulting from any land disturbing activity or land development activity, on a development site must be controlled by the application of an appropriate best management practice.

9. STUDIES AND ASSESSMENTS

- 9.1. The conditions which the Council may impose may include, but are not limited to –
- (a) the establishment of flood lines;
 - (b) the undertaking of impact assessments, and
 - (c) environmental impact studies or investigations which may be required by any applicable environmental legislation.
- 9.2. The costs of any study undertaken in terms of the provisions of subsection (1), will be for the account of the applicant.

10. WATER POLLUTION INCIDENTS

- 10.1. In the event of an incident contemplated in Section 3 or Section 4(b) and (c) –
- (a) the owner of the property on which the incident took place, or is still in the process of taking place, or
 - (b) the person responsible for the incident, if the incident is not the result of natural causes, shall immediately report the incident to the council, and at own cost, take all reasonable measures which, in the opinion of the Council, will contain and minimise the effects of the

pollution, by undertaking cleaning up procedures, including the rehabilitation of the environment, as required by the Council.

11. STORMWATER SYSTEMS ON PRIVATE LAND

- 11.1. Every owner of property on which private stormwater systems are located, shall-
- (a) not carry out any activity which will or which, in the opinion of the Council, could reasonably be expected to impair the effective functioning of the storm water system, and
 - (b) at own cost, keep such stormwater systems functioning effectively, including undertaking the refurbishment and reconstruction thereof if, in the opinion of the Council, it should be reconstructed or refurbished.
- 11.2. The provisions of subsection (1) do not apply to the extent that the Council has accepted responsibility for any of the duties contained therein, either in a formal maintenance agreement or in terms of a condition of servitude.

12. PROVISION OF INFRASTRUCTURE

- 12.1. The Council may-
- (a) construct, expand, alter, maintain or lay any drains, pipes or other structures related to the stormwater system on or under any immovable property, and ownership of these drains, pipes or structures shall vest in the municipality;
 - (b) drain stormwater or discharge water from any municipal service works into any natural watercourse, and
 - (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by subsection (a).
- 12.2. When the Council exercises its powers in terms of subsection (1)(a) in regard to immovable property not owned by the municipality, it shall comply with the provisions of the By-law Relating to the Management and Administration of the Msukaligwa Local Municipality immovable Property.

13. POWERS OF THE COUNCIL

- 13.1. The Council may-
- (a) demolish, alter or otherwise deal with any building, structure or other thing constructed, erected or laid in contravention of the provisions of this by-law;
 - (b) fill in, remove and make good any ground excavated, removed or placed in contravention with the provisions of this by-law;

- (c) repair and make good any damage done in contravention of the provisions of this by-law or resulting from a contravention;
 - (c) remove anything discharged, permitted to enter into the stormwater system or natural watercourse in contravention of the provisions of this by-law;
 - (e) remove anything damaging, obstructing or endangering or likely to obstruct, endanger or destroy 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 by-law, irrespective of whether the point is used for lawful purposes;
 - (g) cancel any permission granted in terms of this by-law if the conditions under which the permission was granted are not complied with;
 - (h) by written notice, direct any owner of property to allow the owner of a higher lying property to lay a storm water drain pipe or gutter over his or her property for the draining of concentrated storm water,
 - (i) by written notice, direct any owner of property to retain stormwater on such property or, at the cost of such owner, to lay a drain pipe or gutter to a suitable place indicated by the Council, irrespective of whether the course of the pipe or gutter will run over private property or not, and
 - (j) discharge stormwater into an watercourse, whether on private land or not.
- 13.2. The Council may, in any case where it seems that any action or neglect by any person or owner of property may lead to a contravention of the provisions of this by-law, give notice in writing to such person or owner of property to comply to such requirements as the Council may deem necessary to prevent the occurrence of such contravention.
- 13.3. The Council may recover all reasonable costs incurred as a result of action taken in terms of subsection (1) from a person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred.

14. OFFENCES AND PENALTIES

- 14.1. Any person who-
- (a) contravenes any provision of this by-law;
 - (b) fails to comply with the terms of any notice issued in terms of this by-law;
 - (c) threatens, resists, hinders or obstructs or uses foul, abusive or insulting language towards or at a councillor or an employee or contractor of the Council in the exercise of any powers or

performance of any duties or function in terms of this by-law, or falsely holds himself or herself to be a councillor or an employee or a contractor of the Council, shall be guilty of an offence and be liable, on conviction, to the payment of a fine.

15. AUTHORITY

Council Approval: _____

Resolution number: _____

Signatures on behalf of the Employer

Municipal Manager

Date