

CITY OF uMHLATHUZE

BY-LAWS RELATING TO STORMWATER MANAGEMENT

The Council of uMhlathuze Municipality has in terms of Section 156 of the Constitution, 1996 (Act 108 of 1996), read in conjunction with section 11 of the Municipal Systems Act, 2000 (Act no 32 of 2000), made the following bylaws;

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CHAPTER ONE: GENERAL PROVISIONS

1. Definitions

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

“Act” means the Water Services Act No, 1997 (Act No. 108 of 1997);

“Approval or Approved” means approval or approved in writing by the Municipality either by resolution of the Council or by a Council officer;

“Authorized Official” means any official of the Council who has been authorized by the Council as the case may be to administer, implement and enforce the provisions of these By-Laws acting within the scope of such authorization as per **section 76 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)**;

“Best Practicable Environmental Option” means the option that provides the most benefit or causes the least damage to the environment as a whole, in both the long and the short term;

“Building Control Officer” means any person appointed or deemed to be appointed as building officer by the municipality in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977)

“Building Regulations” means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977)

“Chemical” is a substance that is produced by or used in a chemical process;

“Contaminant” includes any substance (including gases, odorous compounds, liquids, solids and micro-organisms) either by itself or in combination with the same, similar, or other substances that when discharged into water, changes or is likely to change the physical, chemical or biological condition of water;

“Council” means the municipal council of the uMhlathuze 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;

“Day” means a 24-hour period commencing at 00:00 and ending at 24:00;

“Drain” means that portion of the drainage installation that conveys storm water within any premises;

“Duly Qualified Sampler” means a person who takes samples for analysis from the storm water disposal systems and from public waters and who has been certified to do so by an authorized official;

“ECA” means the Environment Conservation Act, 1989 (Act No. 73 of 1989) and any regulations made in terms thereof, or any superseding legislation;

“EIA” means an environmental impact assessment as contemplated in NEMA, and/or the ECA and the EIA Regulations as published in Government Notice R 1183 on 5 September 1997, as amended from time to time;

“Emergency” means any situation that poses a risk or potential risk to life, health, the environment, or property, or declared to be emergency under any law;

“Enforcement Notice” Means any notice issued by an authorized official under these By-Laws, which instruct the person to whom it is issued to comply with terms of the notice, and includes a compliance notice contemplated in **Chapter 3, section 9** of this By-Law;

“Environmental Cost” means the full cost of all measures necessary to restore the environment to its condition prior to an incident, which causes damage to it and, in the event of this being possible, the value of the cost benefit that has been lost through the damage to or destruction of the environment;

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

“Industrial Effluent” means any liquid, whether or not containing matter in a solution or suspension, which is given off in the course of or as a result of any trade, manufacturing, mining, chemical or other industrial process or in any laboratory, or in the course of research, or agricultural activity, and includes any liquid or effluent emanating from the use of water, other than standard domestic effluent or storm water, and bears the same meaning;

“Law” means any law, including the common law;

“Measuring Device” means any method, procedure, process, device, apparatus, or installation that enables the quantity and/or quality of water services provided to be quantified of evaluation.

“Municipality” means –

- (1) The uMhlathuze Local Municipality established in terms of the Local Government Municipal Structures Act, No. 117 of 1998 and its successors in title, and included a structure or person exercising a delegated power or carrying out an instruction in terms of these By-Laws and legislation applicable to Local Government; or
- (2) A service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act 2000, or any other law,

As the case may be;

“National Water Act” means the National Water Act, 1998, (Act No. 36 of 1998)

“NEMA” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“Non-point Source Pollution” is pollution from many diffuse sources caused by rainfall moving over and through the ground. As this runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas;

“Person” means any natural or juristic person, an unincorporated body, and included a voluntary association or trust, an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) and the Minister of Water Affairs and Forestry;

“Pollution” means the contamination or alteration of the physical, chemical or biological properties of surface water or storm water and includes any changes in temperature, taste, colour, turbidity or odour of water and the discharge of any liquid, gaseous, solid, radioactive or other that can make it harmful or potentially harmful to:

- (1) The welfare, health or safety of human beings;
- (2) To any aquatic or non-aquatic organisms;
- (3) To the resource quality.

“Pollutant” is waste matter that contaminates the water, air or soil;

“Premises” means any piece of land, with or without improvements, the external surface boundaries of which are delineated on –

- (1) A general plan or diagram registered in terms of the Land Survey Act, 1927 (Act 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No.47 of 1937); or
- (2) A sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986); or
- (3) A township plan in terms of any law of the area previously described as KwaZulu; or
- (4) A permission-to-occupy certificate in terms of customary law;

“Prescribed” means determined by resolution of the Municipality from time to time;

“Prescribed Fee” means a fee determined by the Municipality by resolution;

“Private storm water system” means a storm water system owned, operated or maintained by a person other than the Council;

“Public Water” means any river, watercourse, bay, estuary, the sea and any other water which the public has the right to use or to which the public has the right of access;

“Service Provider” means a person or institution or any combination of persons and institution which provide a municipal service as stipulated in **section 76 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)**;

“Storm water” means water resulting from natural precipitation and /or the accumulation thereof and includes ground water and spring water ordinarily

conveyed by the storm water system, as well as sea water within estuaries, but excludes water in a drinking water or waste water reticulation system;

“Storm water quality control” means the control of the introduction of any pollutant into storm water and the process of separating any pollution from storm water, and including any source control, bio-filtration facility, wet pond, wetland, litter trap, oil/water separator, constructed wetland and any facility to control erosion and sediment;

“Storm water system” means both the constructed and natural facilities, 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;

“Water pollution incident” means an incident or occurrence which has a detrimental impact or 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 the natural ecosystems may be threatened, and

“Watercourse” means:-

- (1) A river, spring, stream, channel or canal in which water flows regularly or intermittently, and
- (2) A vlei, wetland, dam or lake into which water flows, and includes, where relevant, the bed and the banks of such watercourse.

“Water Quality sensitive area” means any area that is sensitive to a change in water quality and includes any lake, groundwater management area, aquifers defined in terms of the **National Water Act 36, 1998**, and a closed depression.

2. Application

- (1) This by-law binds the community of the City of uMhlathuze.
- (2) Any provision in any other by-law dealing specifically with storm water is subject to the provisions of this by-law.

3. Prohibited discharges

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

4. Protection of storm water system

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

- (1) Damage, endanger, destroy or undertake any action likely to damage, endanger or destroy, the storm water system or the operation thereof;
- (2) 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 storm water system or the operation thereof; or
- (3) Make an opening into the storm water pipe, canal or culvert; or
- (4) Drain, abstract or divert any water directly from the storm water system, or
- (5) Fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.

5. Prevention of flood risk

No person may, except with the written concern of the Council and subject to any conditions it may impose:-

- (1) Obstruct or reduce the capacity of the storm water system;
- (2) Change the design or the use of, or otherwise modify any aspect of the storm water 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
- (3) 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 risk.
- (4) ***Relay of stormwater from high-lying erven to lower-lying erven- If, in the opinion of the Municipality, it is impracticable for stormwater to be drained from a high-lying erf direct to a public street, the owner of a lower-lying erf is obliged to accept and permit the passage of such stormwater over the lower-lying erf. The owner of such high-lying erf from which stormwater is discharged over the lower-lying erf is liable for a proportionate share of the cost of any pipe-line or drain that the owner of the lower-lying erf may find necessary to construct for the purpose of conducting the stormwater so discharged.***
- (5) ***A holistic approach should be applied to catchment development, taking into account several factors. The following are to be complied with by all developers, owners, professionals and contractors:***
 - (a) ***Steep slopes and soil profiles, where they occur, require careful management before, during and after construction. Detailed plans to control and prevent erosion by water must be agreed to by the Municipality, prior to the commencement of any works, including site clearance on any portion of the site. Removal of vegetation cover must be carried out with care and attention to the effect that this removal will have on erosion potential.***

- (b) *Wall and fences around properties that cross natural drainage channels must, as far as possible, avoid concentration of flow onto downstream properties and must be designed so as not to impede the drainage process or cause a flood hazard by unsafely storing storm runoff on property.”*

(6) Restriction on the erection of buildings within the one-in-fifty-year flood-line:

- (1) *No building may without the express permission of the Municipality be erected so that the building is, at its nearest point to a natural watercourse, nearer to the centre of the natural watercourse than to a line indicating the maximum level likely to be reached every fifty years on average by flood water in the watercourse.*
- (2) *For the purpose of subsection (1) the Municipality is the sole judge as to the position of the line and of the centre of the natural watercourse.*
- (3) *For the purpose of this section, a natural watercourse means a topographic land depression that collects and conveys surface stormwater in a definite direction, and includes any clearly defined natural channel that conveys water in a definite course along a bed between visible banks, whether or not the channel’s conformation has been changed by artificial means and whether or not the channel is dry during any period of the year, and such channel includes any river, spruit or stream.*

6. Studies and assessments

- (1) The conditions which the Council may impose in terms of **Chapter 1, sections 3, 4, and 5**, may include, but are not limited to:-
 - (a) The establishment of the flood lines,
 - (b) The undertaking of impact assessment, and
 - (c) Environmental impact studies or investigations, which may be required by any applicable legislation.
- (2) The costs of any study undertaken in terms of the provisions of subsection (1), will be for the account of the applicant.

7. Storm water systems on private land

- “(1) (1) The seller must, before transfer of a property, submit a certificate from an accredited plumber certifying that –*
 - (a) the water installation conforms to the national Building Regulations and this By-law;*
 - (b) there are no defects;*
 - (c) the water meter registers; and*
 - (d) there is no discharge of stormwater into the sewer system.*
- (2) The certificate referred to in subsection (1) must be in the format of the form attached as Schedule 1.”*

~~(3)~~(1) owner of property on which private storm water system 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 storm water systems functioning effectively, including undertaking the refurbishment and reconstruction thereof if, in the opinion of the Council, it should be constructed or refurbished.

~~(4)~~(2) The provisions of subsection (a) 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.

8. Provision of infrastructure

(1) The Council may:-

- (a) Construct, expand, alter, maintain or lay any drains, pipes or other structures related to the storm water system on or under any immovable property, and ownership of these drains, pipes or structures shall vest in the municipality;
- (b) Drain storm water 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 (1).
- (d) When the Council exercises its powers in terms of subsection (a) (1) in regard to immovable property not owned by the municipality, it shall comply with the provisions of the Bylaws Relating to the Management And Administration of the uMhlathuze Local Municipality immovable property.

9. Washing Vehicles and Equipment

When vehicles are washed, the wash water should be contained through the use of wash pads and temporary seals over storm water drains.

CHAPTER TWO: STORM WATER POLLUTION

10. Prohibition of Pollution

No person may: -

- (1) Discharge any substance other than unpolluted storm water runoff and other unpolluted natural surface water runoff into the storm water system or and to

a public road or other area from which such substance will be conveyed to a storm water system;

- (2) Make or allow any connection to be made to a storm water system which could result in the discharge to it of any pollutant; or
- (3) Make any connection to a storm water system from the interior of any building or other structure.
- (4) 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;
- (5) 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.

“(6) A person may not place or deposit any waste or material in any public place or place not intended for such purpose, as this may cause damages to the storm water system.

11. Water pollution incidents

In the event of an incident contemplated in Chapter 1, section 3 and 4:-

- (1) the owner of the property on which the incident took place, or is still in the process of taking place, or
- (2) the person responsible for the incident, if the incident is not the result of natural causes, shall immediately report the incident to council, and at own cost, take all reasonable measures which, in the opinion of the Council, will contain and minimize the effects of the pollution, by undertaking cleaning up procedures, including the rehabilitation of the environment, as required by the Council.

12. Maintenance of Pollution Control Device

Any owner or user of:-

- oil/water separator,
- wet pond,
- bio-filtration facility,
- erosion and sediment storm water control facility,
- filtration system, and
- any other device to control pollution of storm water,

must operate and maintain such device to ensure that the performance thereof meets the level of pollutant removal intended by the manufacturer, in accordance with the maintenance schedule for such devices supplied by the manufacturer.

13. Exemption to Chapter 2, Section 10

The following discharges are exempt from the provisions of **Chapter 2, section 10**:-

- (1) Regulated effluent from any commercial or Municipal facility if the discharge of such effluent is authorized in terms of the **National Water Act, 1998, or any other law**;
- (2) Any discharge resultant upon an act of GOD or natural occurrence not compounded by human negligence;
- (3) Any discharge from a properly operating on-site domestic sewage system approved by the **Department: Water Affairs and Environmental** and the Council; and
- (4) Any discharge from land on which agricultural chemicals and materials have been applied.

CHAPTER THREE: ENFORCEMENT OF BY-LAWS AND LEGAL MATTERS

14. Exceptions to application of these By-laws

- (1) If authorization was given before the date of commencement of this By-Law, or if authorised work is in progress on such a date, such work must comply with any applicable laws, which were in force in the area of jurisdiction of the Municipality, immediately prior to such date.

15. Exemptions

- (1) The Municipality may by resolution exempt any person from complying with a provision of this By-Law, subject to conditions, if the provision is considered to be unreasonable, provided that an exemption may not be granted which will result in: -
 - (a) a danger for public health, safety or the environment
 - (b) non-compliance with the **National Water Act, 1998 (Act No. 107 of 1998)** and regulations made in terms thereof.
- (2) The Municipality may at any time withdraw an exemption given in terms of subsection (1), provided that it must give the person concerned reasonable notice in writing of its intention to withdraw an exemption previously granted.

16. Offences and penalties

- (1) Any person who;-

- (a) contravenes or fails to comply with any provisions of this By-Law;
 - (b) fails or refuses to comply with any lawful instruction given in terms of this By-Law,
 - (c) hinder any authorised official of the Municipality in the execution of his or her duties under this By-Law; is guilty of an offence and is:-
 - (i) liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months or to both the period of imprisonment and the fine ;
 - (ii) For every day the offence continues after the date on which he or she has been given written notice to perform or discontinue an act, such person is deemed guilty of a continuing offence and liable on conviction to a fine not exceeding R1 000 per day or to imprisonment for a period not exceeding 10 days or to both such fine and such imprisonment.
- (2) It is an offence for any person to: -
- (a) refuse to grant an authorised official access to premises to which that authorised official is duly authorised to have access;
 - (b) obstructs, hinders or interferes with an authorized official in the exercise of any power of the performance of any duty under this By-Law;
 - (c) uses foul, abusive or insulting language towards or at a Councillor or an employee of the Council or contractor of the Council in the exercise of any powers or performance of any duties or function in terms of this by-law;\
 - (d) fails or refuses to furnish an authorized official with any documentation or information required for the purposes of this By-Law;
 - (e) furnishes false or misleading documentation or false or misleading information;
 - (f) unlawfully prevent the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this By-law;
 - (g) pretend to be an authorised official;
 - (h) falsely alter an authorization to an authorized official or written authorization, compliance notice or compliance certificate issued in terms of this Chapter;
 - (i) enter any premises without a written authorization in circumstances requiring such authorization;\

- (j) act contrary to a written authorization issued in terms of this By-Law;
- (k) without authority enter or inspect premises;
- (l) disclose any information relating to the financial or business affairs of any person which was acquired in the performance of any function or exercise of any power in terms of this By-Law, except –
 - (i) to a person who requires that information in order to perform a function or exercise a power in terms of this By-Law;
 - (ii) if the disclosure is ordered by a court of law; or
 - (iii) if the disclosure is in compliance of the provisions of any law.

17. Powers of the Council

- (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;
 - (d) Remove anything discharged, permitted to enter into the storm water system or natural water course 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 storm water 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 storm water on such a property or, at the cost of such owner, to lay a storm water drain

pipe or gutter to a suitable place indicated by Council, irrespective of whether the course of the pipe or gutter will run over private or not, and

- (j) Discharge storm water into any watercourse, whether on private land or not.
- (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.
- (3) The Council may recover all reasonable costs incurred as a result of action taken in terms of sub-section (1) from a person who was responsible for a contravention of the provisions of this by-law or owner of the property on which a contravention occurred.

18. Authorization of an authorised official

A service provider as contemplated in the definition of the Municipality and in section 76 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), may authorize any person in its employ to be an authorised official.

19. Functions of an authorised official

- (1) An authorised official may execute work, conduct an inspection and monitor and enforce compliance with this By-Law.
- (2) Subject to the provision of any other law, an authorised official must carry out the functions contemplated in this section and the powers set out in section 15(1), in accordance with the procedure outlined in sections **17 and 18**.

20. Additional powers of an authorised official

- (1) An authorised official, in addition to any power conferred upon the authorised official in terms of this By-Law, may: –
 - (a) execute work on or inspect premises;
 - (b) question a person present on any premises in respect of any matter which may be relevant to the work or inspection;
 - (c) question a person whom the authorised official believes may have information relevant to the work or inspection;
 - (d) inspect any document that a person is required to maintain in terms of any law or that may be relevant to work or inspection;
 - (e) copy any document referred to in paragraph (d) or if necessary, remove the document in order to copy it;

- (f) take samples of any substance that is relevant to the work or inspection;
 - (g) monitor and take readings or make measurements;
 - (h) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises; and
 - (i) do what is necessary for the execution of work or the conducting of an inspection that the Municipality is required to undertake in terms of this By-Law.
- (2) An authorized official who removes anything other than a substance contemplated in subsection (1)(f) from the premises being worked upon or inspected, must: -
- (a) issue a receipt for it to the owner or person in control of the premises; and
 - (b) Return it as soon as is practicable after achieving the purpose for which it was removed.
- (3) Procedure to execute work or conduct an inspection: entry with a written authorization
- (a) An authorized official may subject to section 101 of the Systems Act, enter any premises if a justice of peace as contemplated in section 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963) has issued a written authorization to enter and execute work or inspect the premises, and the written authorization is still valid.
 - (b) A justice of peace may issue a written authorization to enter and execute work or inspect any premises if, from information on oath, there are reasonable grounds to believe that: –
 - (i) in the interest of the public, it is necessary to execute work or obtain information that cannot be obtained without entering those premises;
 - (ii) there is non-compliance with any provision of this By-Law in respect of the premises; and
 - (iii) significant environmental degradation or water pollution has taken, or is likely to take place, or is suspected.
 - (c) A justice of peace may issue a written instruction to the owner or person in control of the premises to do work, at the expense of such owner or person, which is necessary to enable an authorised official to: –

- (i) determine whether or not there has been a contravention of this By-Law on such premises;
 - (ii) properly or effectively execute work or inspect premises, as contemplated in subsection (1).
- (d) If, after the work contemplated in subsection (3) has been performed, it is established that no contravention of these By-laws has taken place, the expenses incurred in performing the work and restoring the premises to its former condition, shall be paid by the Municipality.
- (e) A written authorization in terms of subsection (2) may be issued at any time and must specifically: –
 - (i) identify the premises that may be worked on or inspected; and
 - (ii) authorize the authorized official to enter and execute work or inspect the premises and do anything listed in **Chapter 3, section 20(1)**.
- (f) A written authorization issued in terms of subsection (2) is valid until one of the following events occur:-
 - (ii) it is carried out;
 - (iii) is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
 - (iv) the purpose for which it was issued, has lapsed; and
 - (v) 3 (three) months have passed since the date of issue.
- (g) A written authorization issued in terms of subsection (2) may only be carried out between 07:00 and 19:00, unless the justice of peace who issues it states in writing that it may be carried out at a different time reasonable in the circumstances.
- (h) Before commencing any work or inspection, an authorised official who carries out a written authorization must either: –
 - (i) if the owner of or a person apparently in control of the premises is present:
 - (i) identify him or herself and explain his or her authority to that person or furnish proof of such authority; and
 - (ii) hand a copy of the written authorization to that person;
- (4) if the owner or person apparently in control of the premises is absent or refuses to accept a copy, attach a copy of the written authorization to the premises in a prominent and visible place.

21. Procedure to execute work or conduct an inspection: entry without a written authorization

- (1) An authorized official who does not have a written authorization may, subject to section 101 of the Municipal Systems Act, enter and execute work or inspect: –
- (2) any premises with the consent of the owner or person apparently in control of the premises; or
- (3) any premises, except residential premises, on a routine basis
- (4) no more frequently than 6 (six) times during a 12 (twelve) month period; or
- (5) more frequently if permitted by this By-Law for the purposes of any work or inspection;
- (6) any premises, if there are reasonable grounds to suspect that there is an emergency, and/or that any delay in commencing any work or inspection may:
-
- (7) have significant detrimental effects on public or private health and safety;
- (8) Unless the emergency and/or delay in commencing any work or inspection referred to in subsection (1)(c) was caused by an act or omission of the Municipality, the cost of any remedial action taken in connection with subsections (c), (d), (e) and (f) must be paid by the owner of the premises.
- (9) In addition to the entry permitted in terms of subsection (1), an authorized official may enter any premises without a written authorization in respect of which there is an outstanding compliance notice, issued in terms of **Chapter 3, section 25** for the purposes of determining whether that notice has been complied with.
- (10) Before commencing work or inspecting any premises in terms of this section, an authorised official must identify him or herself and explain his or her authority or furnish proof of such authority to the person apparently in control of the premises or the person who gave permission to enter.
- (11) Any entry and execution of work or inspection without a written authorization must be carried out at a reasonable time in the circumstances.

22. Using force to enter

- (1) An authorised official carrying out a written authorization in terms of **Chapter 3, section 20(3)** may overcome any resistance to entry, execution of work or inspection by using as much force as is reasonably required, including breaking a lock, door or window of the premises to be entered.

- (2) Before resorting to force, the person carrying out the written authorization must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, an article or document that is the object of the inspection.
- (3) The Municipality must compensate anyone who suffers damage because of forced entry during the execution of any work or any inspection when no one responsible for the premises was present.
- (4) Force may not be used to affect an entry or execute work or conduct an inspection in terms of **section 16(1)** unless an emergency arises.

23. Authorised official may be accompanied

During the execution of any work or an inspection, an authorised official may be accompanied by a member of the South African Police Services or by any other person reasonably required to assist in executing the work or conducting the inspection.

24. Duty to produce document

Any person who holds any document relevant to the execution of any work or inspection contemplated in this Chapter must produce it at the request of an authorised official.

25. Compliance notice

- (1) An authorized official, who becomes aware that any provision of this By-Law has not been complied with, may issue a compliance notice to the owner or person apparently in control of the relevant premises.
- (2) An authorized official who is satisfied that the owner or person apparently in control of any premises has satisfied the terms of a compliance notice may issue a compliance certificate to that effect.
- (3) A compliance notice remains in force until an authorized official has issued a compliance certificate in respect of that notice.
- (4) A compliance notice must set out: -
- (5) the provision that has not been complied with;
- (6) details of the nature and extent of non-compliance;
- (7) any steps that are required to be taken and the period within which those steps must be taken; and
- (8) any penalty that may be imposed in terms of this By-Law in the event of non-compliance with these steps.

26. Complaints against persons other than the Municipality

- (1) Anyone may lodge a complaint with an authorized official, either directly or through any other channel established by the Municipality, that another person:-
 - (a) is likely to act or has acted contrary to the provisions of this By-Law; in which event the authorised official, unless that authorised official has reasonable grounds to believe that the complaint is frivolous, must investigate the complaint and, take any necessary action which is competent in terms of this By-Law.

27. Official address

- (1) For the purposes of the service of any notice, order or other document relating to legal proceedings: –
 - (a) the address of the owner of the premises on which storm water is generated is deemed to be the official address of such owner; and
 - (b) the address of the user, as referred to in accounts sent for services provided is deemed to be the official address of the user.
- (2) Where any notice or other document is required by this By-Law to be served on any person other than for the purpose of criminal proceedings, it must be served on that person, failing which it may be served on an employee, at the place of business of that person, or if sent by registered post, to the official address contemplated in **subsection 1(a)**, it will constitute prima facie proof of the service of such notice.

28. Recovery of costs and fees

Any costs which the Municipality is entitled to recover from a user, owner or other person in terms of this By-Law include, where applicable, any prescribed fees, expenses incurred to remedy the pollution of water, the cost of any exploratory investigation, survey, plan, specification, or schedule of quantities compilation, supervision, administration or authorization charges, including the cost of any ancillary work associated therewith, wear and tear on plant and equipment utilised in any of these activities, the provision of labour and the costs, including environmental costs, involved in the disturbing and making good of any part of any street, ground or water services work.

29. Legal compliance warranty

Notwithstanding any provisions to the contrary, any user by making application for discharge into the storm water system, warrants that he or she will :–

- (1) comply with all relevant laws, regulations and standards governing the environment, health and safety;

- (2) take all reasonable measures to prevent pollution or environmental degradation from occurring, continuing or recurring;
- (3) in so far as such harm to the environment is authorised by law, or cannot reasonably be avoided or stopped, minimize and rectify such pollution or degradation of the environment; and
- (4) bear all costs and expenses incurred in meeting the above obligations and the implementation thereof.

30. False statement or information

No person may make a false statement or furnish false information to the Municipality, an authorised official or an employee of the Municipality or falsify a document issued in terms of this By-Law.



SCHEDULE 1

CERTIFICATE OF COMPLIANCE OF WATER INSTALLATION ON TRANSFER OF OWNERSHIP IN ACCORDANCE WITH THE WATER BY-LAW

PROPERTY ADDRESS

ERF NUMBER

NAME OF SELLER

CONTACT DETAILS OF SELLER

NAME OF BUYER

I,, a licenced plumber, certify that I inspected the plumbing installation at the above address, and confirm that:

Plumber's Checklist

- The water meter registers when a tap is open and stops completely when no water is drawn. If there is then movement on the meter, this points to a defect somewhere on the property.
- None of the terminal water fittings leak and they are correctly fixed in position
- The water pipes in the plumbing installation are properly saddled.
- No storm water is discharged into the sewerage system.
- There is no cross connection between the potable supply and any grey water or groundwater system which may be installed.
- The Hot Water Cylinder is plumbed correctly, PRV of the correct value, vacuum breakers correctly installed, emergency overflow installed with a suitable SABS approved material pipe, all three overflows to be separately plumbed to the outside and discharge to atmosphere.

Copy of Certificate of Compliance to be attached.

SIGNATURE: **DATE:**

ACCREDITED PERSON CONTACT DETAILS:

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.....

REGISTRATION NUMBER:

Conveyancing attorney to submit completed form to: Email: blinden@umhlathuze.go.za

**CERTIFICATE OF COMPLIANCE OF WATER INSTALLATION ON
TRANSFER OF OWNERSHIP IN ACCORDANCE WITH THE
WATER BY-LAW**

Transfer of ownership

14.(1) The seller must, before transfer of a property, submit a certificate from an accredited plumber certifying that –

- (a) The water installation conforms to the national Building Regulations and this By-law;
- (b) There are no defects;
- (c) The water meter registers; and
- (d) There is no discharge of stormwater into the sewer system.