

## **LANGEBERG MUNICIPALITY STORM WATER MANAGEMENT BY-LAW, 2023**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 Langeberg Municipality, enacts as follows:-

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### **1. Definitions**

In this By-law, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:-

**“built-up areas”** means those portions or areas of the municipality which are divided into erven by means of physical survey or which are surrounded by surveyed erven, including the public roads adjacent thereto as well as portions or areas falling within the urban edge of the approved Spatial Development Framework;

**“floodplain”** means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

**"municipality"** means Langeberg Municipality established in terms of Section 12 of the Municipal Structures Act 1998, (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this By-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“organ of state”** bears the meaning assigned to it in section 239 of the Constitution.

**“person”** includes any natural person, juristic person, association or organ of state;

**'pollute'** means the direct or indirect alteration of the physical, chemical or biological properties of a water resource so as to make it-

- (a) less fit for any beneficial purpose for which it may reasonably be expected to be used;
- (b) harmful or potentially harmful-
  - (aa) to the welfare, health or safety of human beings;

- (bb) to any aquatic or non-aquatic organisms;
- (cc) to the resource quality; or
- (dd) to property;

“**private storm water system**” means a storm water system which is owned, operated or maintained by a person on his own property;

“**storm water**” means water resulting from natural rainfall or the accumulation thereof, and includes –

- (a) groundwater and spring water ordinarily conveyed by the storm water system; and
- (b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

“**storm water system**” means both the constructed and natural facilities, including roads, 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 or disposal of storm water;

“**watercourse**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**water source**” includes any water way, surface water, estuary or aquifer;

## **2. Purpose of By-law**

The purpose of this By-law is to regulate storm water management and activities that may have an adverse impact on the development, operation and maintenance of the storm water system.

## **3. Application of By-law**

This By-law binds an organ of state and applies to storm water systems in built-up areas and the natural environment on which it may have a negative impact.

## **4. Prohibited conduct**

- (1) No person may, except with the written consent of the municipality-
  - (a) discharge, place or permit to enter into the storm water system –
    - (i) anything other than storm water;
    - (ii) anything likely to damage the storm water system or interfere with the operation thereof;
    - (iii) anything likely to pollute the water in the storm water system;
  - (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) undertake any action that is likely to destroy, damage, alter, endanger or interfere with the free flow of water or the storm water system, or the operation thereof, which action includes, but is not limited to -
    - (i) obstructing or reducing the capacity of the storm water system;
    - (ii) opening a pipe, culvert or canal which forms part of the storm water system;

- (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the storm water system or the operation thereof;
  - (iv) draining, abstracting or diverting any water directly from the storm water system;
  - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the storm water system;
  - (vi) changing the design or the use of, or otherwise modify any feature 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
  - (vii) 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.
- (2) No person may carry out any activity that causes storm water to flood the property of the municipality or that of any other person or to create the risk of such flooding.
- (3) When an incident contemplated in subsection (1) (a) or (b) occurs without the consent of the municipality–
- (a) if the incident is not the result of natural causes, 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, and take, at own cost, all reasonable measures to contain and minimise the effects of the incident, which measures include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.
- (4) A person who contravenes a provision of subsection (1), (2), or (3) commits an offence.

## **5. Application and conditions which municipality may impose**

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application in the form prescribed by the municipality.
- (2) When considering an application the municipality may require the applicant to submit, at own cost, impact studies such as, but not limited to, environmental impact studies or environmental impact investigations which are required by environmental legislation.
- (3) The municipality may also require the applicant to establish and provide documentation indicating flood lines.

## **6. Storm water systems on private land**

- (1) An owner of property on which a private storm water system is located –
- (a) may not carry out any activity which may impair the effective functioning of the storm water system or which could reasonably be expected to impair the effective functioning of the storm water system; and
  - (b) must, at own cost, keep the storm water system functioning effectively, including undertaking, on written instruction by the municipality, the

refurbishment and reconstruction thereof if the municipality has reasonable grounds for issuing such instruction;

(2) Subsection (1)(b) does not apply where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.

(3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b) or sub section (3), the municipality may undertake measures to refurbish or reconstruct the storm water system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.

(4) If, in the opinion of the municipality, it is impracticable for storm water to be drained from any high-lying erf direct to a public street, the owner of any lower lying erf shall be obliged to accept or permit the passage of such storm water and the owner of such high-lying erf, discharging over the lower lying erf, shall be liable for a proportionate share of the cost of any pipe-line or drain which the owner of such lower lying erf may find necessary to construct for the purpose of conducting the water so discharged.

(5) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

## **7. Powers of municipality**

(1) The municipality may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test to determine the current status of a storm water system.

(2) The municipality may, for the purpose of providing and maintaining infrastructure for a storm water system –

- (a) on any premises, construct, expand, alter, maintain or lay any drain, pipe or other structure related to the storm water system on or under any immovable property, and may do any other thing necessary or desirable or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance;
- (b) drain storm water or discharge water from any municipal service works into any watercourse;
- (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to –
  - (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
  - (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
- (d) remove anything –
  - (i) discharged or permitted to enter into the storm water system or watercourse in contravention of section 4(1)(a) or (b);
  - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the storm water system;
- (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;

- (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
  - (g) by written notice, instruct any owner of property where storm water is generated or accumulated –
    - (i) to retain storm water on such property or to lay, at the cost of such owner, a storm water drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
    - (ii) 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;
  - (h) drain storm water into any water source, whether on private premises or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such storm water or to lay such storm water drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of this By-law, the municipality may notify, in writing, such person or owner to comply with such requirement as may be necessary to prevent the occurrence of such contravention.
- (5) The municipality may recover all reasonable costs incurred as a result of action taken –
- (a) in terms of subsection (2)(c) or (d), from the 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; or
  - (b) in terms of subsection (3), from the owner of the property.
- (6) Any drain, pipe or structure provided in terms of subsection (2)(a) vests in the municipality.
- (7) A person commits an offence if he or she –
- (a) fails to comply with a notice contemplated in subsection (2)(g);
  - (b) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this By-law; or
  - (c) impersonates an employee or contractor of the municipality.

## **8. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting the storm water activities of the municipality;
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person in the spirit of section 2(4)(f) to (h) of the national Environmental Management Act, 1998;

- (b) a designated official or officials of the municipality;
  - (c) a councillor; and
  - (d) any other person or persons on which the municipality may decide.
- (3) (a) the municipality may, in the implementation and application of this By-law, request the input of a liaison forum.
- (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality.

#### **9. Authentication and service of notices and other documents**

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by the municipal manager.
- (2) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served if such notice or document has been served in terms of section 115(1) of the Municipal Systems Act, 2000 (Act 32 of 2000.)
- (3) Service of a copy is deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

#### **10. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **11. Exemptions**

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this By-law.
- (2) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

#### **12. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this By-law commits an offence and shall on conviction be liable to-

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**13. Conflict with other legislation**

In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**14. Short title and commencement**

This By-law shall be known as the Langeberg Municipality Storm Water Management By-law, 2023 and commences on the date of publication thereof in the Provincial Gazette.

**LANGEBERG MUNISIPALITEIT**  
**VERORDENING INSAKE STORMWATERBESTUUR, 2023**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden Langeberg Munisipaliteit soos volg:-

Inhoudsopgawe

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**1. Woordomskrywing**

In hierdie Verordening, tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis:

“**beboude gebiede**” die gedeeltes of gebiede van die munisipaliteit wat deur fisiese opmeting in erwe verdeel is of wat deur opgemete erwe omring word en ingeslote die openbare paaie aangrensend daaraan asook gedeeltes binne die stedelike soom van die goedgekeurde Ruimtelike Ontwikkelingsraamwerk;

“**besoedel**” beteken die direkte of indirekte verandering van die fisiese, chemiese of biologiese samestelling van ‘n waterbron om dit-

- (a) minder geskik te maak vir enige voordelige gebruik waarvoor dit redelikerwys verwag word om te wees vir gebruik, of
- (b) skadelik of potensieel skadelik te maak-
  - (aa) vir die welstand, gesondheid of veiligheid van mense;
  - (bb) vir enige water of nie-water organismes;
  - (cc) vir enige waterbron of waterbron oorsprong gehalte
  - (dd) vir enige eiendom;

“**munisipaliteit**” beteken Langeberg Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture 1998, (Wet 117 van 1998), ingestel is en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie Verordening optree uit hoofde van ‘n bevoegdheid wat by die munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;



“**persoon**” sluit in enige natuurlike persoon, regs persoon, vereniging of staatsorgaan;  
“**privaat stormwaterstelsel**” ‘n stormwaterstelsel wat deur 'n persoon wat dit op sy eiendom besit, bedryf en in stand gehou hou;

“**staatsorgaan**” die betekenis wat ingevolge Artikel 239 van die Grondwet daaraan toegeskryf word.

“**stormwater**” water afkomstig van natuurlike reënval of die opgaar daarvan, en sluit in:

(a) grondwater en fonteinwater wat normaalweg deur die stormwaterstelsel gevoer word; en

(b) seewater binne riviermondings,

maar sluit water in ‘n drinkwater- of afvalwaterretikulasiestelsel uit;

“**stormwaterstelsel**” sowel geboude as natuurlike fasiliteite, insluitende openbare paaie, pype, duikers, waterlope en die gepaardgaande vloedvlaktes, hetsy bo of onder openbare of privaat grond wat gebruik word vir die bestuur, opgaar, afvoer, tydelike bewaring, beheer, monitering, behandeling, gebruik of wegdoening van stormwater;

“**vloedvlakte**” grond langs ‘n waterbron wat geneig is om herhalend in 100-jaar siklusse te oorstroom; en

“**waterbron**” sluit in enige waterweg, oppervlakwater, riviermond of waterdraer;

“**waterloop**” die betekenis wat ingevolge die Nasionale Waterwet, 1998 (Wet 36 van 1998) daaraan toegeskryf word;

## **2. Doel van Verordeninge**

Die doel van hierdie Verordening is om stormwaterbestuur en -aktiwiteite wat moontlik ‘n nadelige uitwerking op die ontwikkeling, bedryf en instandhouding van die stormwaterstelsel mag hê, te reguleer.

## **3. Toepassing van Verordeninge**

Hierdie Verordening bind ‘n staatsorgaan en is van toepassing op stormwaterstelsels in beboude gebiede asook die natuurlike omgewing waarop dit ‘n moontlike negatiewe impak kan hê.

## **4. Verbode gedrag**

(1) Niemand mag, sonder die skriftelike toestemming van die munisipaliteit –

(a) die volgende in die stormwaterstelsel laat afvoer, plaas of toelaat dat dit die stormwaterstelsel binnegaan nie –

(i) enigiets anders as stormwater;

(ii) enigiets wat die stormwaterstelsel waarskynlik sal beskadig of die werking daarvan sal beïnvloed;

(iii) enigiets wat die water in die stormwaterstelsel waarskynlik sal besoedel;

(b) enige materiaal wat nie stormwater is nie, van enige plek afvoer of op enige oppervlak plaas waar daardie materiaal redelikerwys in die stormwaterstelsel kan beland;

(c) enige stap doen wat die stormwaterstelsel of die werking daarvan waarskynlik sal vernietig, beskadig, in gevaar stel of daarmee inmeng nie, welke handeling die volgende insluit, maar nie daartoe beperk is nie –

- (i) versperring of vermindering van die kapasiteit van die stormwaterstelsel;
  - (ii) oopmaak van 'n pyp, waterloop of kanaal wat deel van die stormwaterstelsel uitmaak;
  - (iii) versperring of oprigting van enige struktuur of ding oor of in so 'n posisie of op so 'n manier dat die stormwaterstelsel of die werking daarvan vernietig, beskadig, in gevaar gestel of daarmee ingemeng word;
  - (iv) die dreinering, onttrekking of afleiding van enige water regstreeks uit die stormwaterstelsel;
  - (v) die opvul, uitgrawe, vorming, landskappering, oopmaak of verwydering van die grond bo, binne, onder of reg langs enige deel van die stormwaterstelsel;
  - (vi) verandering van die ontwerp of die gebruik van of andersins die wysiging van enige kenmerk van die stormwaterstelsel wat op sigself of in kombinasie met ander bestaande of potensiële grondgebruike die vloedvlakke kan laat styg of 'n potensiële vloedgevaar kan skep; of
  - (vii) enige aktiwiteit wat op sigself of in kombinasie met ander bestaande of toekomstige aktiwiteite 'n styging in vloedvlakke kan veroorsaak of 'n potensiële vloedrisiko kan skep.
- (2) Niemand mag enige aktiwiteit onderneem wat veroorsaak dat stormwater die eiendom van die munisipaliteit of enige ander persoon oorstroom, of die risiko van sodanige oorstrooming veroorsaak nie.
- (3) Wanneer 'n insident beoog in subartikel (1)(a) of (b) sonder die toestemming van die munisipaliteit voorkom –
- (a) indien die insident nie die gevolg van natuurlike oorsake is nie, moet die persoon wat vir die insident verantwoordelik is; of
  - (b) die eienaar van die eiendom waarop die gebeurtenis plaasgevind het of besig is om plaas te vind, die insident onmiddellik by die munisipaliteit aanmeld en op eie koste alle redelike maatreëls tref om die uitwerking van die insident te beperk, welke maatreëls die instel van opruimingsaksies met inbegrip van die rehabilitering van die omgewing insluit maar nie daartoe beperk is nie.
- (4) 'n Persoon wat 'n bepaling van subartikel (1), (2) of (3) oortree, pleeg 'n misdryf.

## **5. Aansoek en voorwaardes wat die munisipaliteit mag instel**

- (1) 'n Persoon wat die toestemming van die munisipaliteit wil verkry, soos beoog in artikel 4, moet 'n aansoekvorm indien wat van die munisipaliteit verkrygbaar is.
- (2) By die oorweging van 'n aansoek kan die munisipaliteit die aansoeker vra om op eie koste, impakstudies te doen wat omgewingsimpakstudies of omgewingsimpakondersoeke wat ingevolge omgewingswetgewing vereis word kan insluit, maar nie daartoe beperk is nie.
- (3) Die munisipaliteit mag die aansoeker ook gelas om dokumentasie oor vloedlyne te vind en te voorsien.

## **6. Stormwaterstelsels op privaat grond**

- (1) 'n Eienaar van eiendom waarop 'n privaat stormwaterstelsel geleë is –
  - (a) mag geen aktiwiteit uitvoer wat afbreuk kan doen aan die doeltreffende funksionering van die stormwaterstelsel of wat redelikerwys verwag kan word om afbreuk te doen aan die doeltreffende funksionering van die stormwaterstelsel nie; en
  - (b) moet die stormwaterstelsel op eie koste doeltreffend aan die werk hou met inbegrip van, na 'n skriftelike opdrag van die munisipaliteit, die opknapping en herkonstruksie daarvan indien die munisipaliteit redelike gronde vir die uitreiking van sodanige opdrag het.
- (2) Subartikel (1)(b) is nie van toepassing indien die munisipaliteit verantwoordelikheid aanvaar het vir enigeen van die pligte vervat in 'n onderhoudsooreenkoms of ingevolge 'n voorwaarde van 'n serwituut nie.
- (3) Indien 'n eienaar versuim of weier om te voldoen aan 'n instruksie wat die munisipaliteit ingevolge subartikel (1)(b) of subartikel (3) uitreik, kan die munisipaliteit maatreëls instel om die stormwaterstelsel op te knap of te herbou, en die munisipaliteit kan alle redelike koste wat as gevolg van die stappe wat gedoen is, aangegaan is, van die eienaar verhaal.
- (4) Waar dit na die mening van die munisipaliteit onmoontlik is vir stormwater om vanaf 'n hoërliggende erf na 'n openbare straat te dreineer, sal die eienaar van 'n laerliggende erf verplig wees om sodanige stormwater te ontvang of deur te laat en sal die eienaar van die hoërliggende erf, wat die stormwater dreineer, aanspreeklik wees vir 'n proporsionele gedeelte van die koste van enige pyplyn of dreineringsstelsel wat deur die laerliggende eienaar aangegaan moet word om die stormwater af te voer.
- (5) 'n Eienaar wat 'n bepaling van subartikel (1)(a) oortree of wat versuim of weier om te voldoen aan 'n opdrag beoog in subartikel (1)(b), pleeg 'n misdryf.

## **7. Bevoegdhede van munisipaliteit**

- (1) Die munisipaliteit mag enige perseel of enige gedeelte daarvan op alle redelike tye binnegaan met die doel om 'n inspeksie of toets uit te voer om die huidige status van 'n stormwaterstelsel te bepaal.
- (2) Die munisipaliteit mag, vir die doel om infrastruktuur vir 'n stormwaterstelsel te voorsien en in stand te hou –
  - (a) op enige perseel enige drein, pyp of ander struktuur wat met die stormwaterstelsel verband hou, op of onder enige onroerende eiendom bou, uitbrei, wysig, instandhou of lê en mag enige ander stappe doen wat nodig of wenslik is of verband hou met, of aanvullend of bykomstig is tot sodanige konstruksie, uitbreiding, wysiging of instandhouding;
  - (b) stormwater of afvoerwater uit enige munisipale dienswerke in 'n waterbron dreineer;
  - (c) enige skade wat gedoen is of skade wat voortspruit uit 'n oortreding van artikel 4(1)(a)(ii) of 4(1)(c) soos die volgende, maar nie daartoe beperk nie, herstel en regmaak –
    - (i) slooping, wysiging of ander hantering van enige gebou, struktuur of ander ding wat in stryd met artikel 4(1)(c)(iii) gebou, opgerig of gelê is;

- (ii) invul, verwydering en regstelling van enige grond wat in stryd met artikel 4(1)(c)(v) uitgegrawe, verwyder of geplaas is.
  - (d) enigiets verwyder –
    - (i) wat in stryd met artikel 4(1)(a) of (b) in die stormwaterstelsel of waterloop afgevoer is of toegelaat is om dit binne te gaan;
    - (ii) wat enige deel van die stormwaterstelsel beskadig, versper of bedreig of dit waarskynlik sal versper, in gevaar stel of vernietig;
  - (e) enige afvoerpunt vanaf enige perseel, ongeag of die punt vir wettige doeleindes gebruik word al dan nie, afseël of blokkeer;
  - (f) enige toestemming wat ingevolge artikel 5 verleen is, kanselleer indien daar nie aan enige voorwaarde waarkragtens die toestemming verleen is, voldoen word nie;
  - (g) by wyse van skriftelike kennisgewing, opdrag aan enige eienaar van eiendom gee –
    - (i) om stormwater op sodanige eiendom te behou of om op die koste van sodanige eienaar ‘n stormwaterdreineerpyp of afvoersloot na ‘n geskikte plek wat deur die munisipaliteit aangedui word, te lê, ongeag of die pyp of afvoersloot oor privaat eiendom sal loop al dan nie;
    - (ii) om die eienaar van ‘n hoërliggende eiendom toe te laat om ‘n stormwaterdreineerpyp of afvoersloot oor sy of haar eiendom te lê ten einde gekonsentreerde stormwater te dreineer;
  - (h) stormwater in enige waterbron, hetsy dit op privaat grond is al dan nie, afvoer.
- (3) Indien ‘n eienaar van eiendom versuim om te voldoen aan ‘n opdrag beoog in subartikel (2)(g)(i), kan die munisipaliteit maatreëls tref om sodanige stormwater terug te hou of om ‘n stormwaterdreineerpyp of afvoersloot te lê.
- (4) Waar dit voorkom asof enige optrede of versuim deur ‘n persoon of die eienaar van ‘n eiendom kan lei tot ‘n oortreding van ‘n bepaling van hierdie Verordening, kan die munisipaliteit sodanige persoon of eienaar skriftelik gelas om te voldoen aan ‘n vereiste ten einde te voorkom dat sodanige oortreding geskied.
- (5) Die munisipaliteit mag alle redelike koste wat aangegaan is as gevolg van optrede geneem –
- (a) ingevolge subartikel (2)(c) of (d), verhaal van die persoon wat verantwoordelik was vir die oortreding van die bepaling van hierdie Verordening of die eienaar van die eiendom waarop ‘n oortreding geskied het; of
  - (b) ingevolge subartikel (3), van die eienaar van die eiendom.
- (6) Enige drein, pyp of struktuur wat ingevolge subartikel (2)(a) voorsien is, word die eiendom van die munisipaliteit.
- (7) ‘n Persoon pleeg ‘n misdryf indien hy of sy –
- (a) versuim om te voldoen aan ‘n kennisgewing beoog in subartikel (2)(g);
  - (b) ‘n werknemer of kontrakteur van die munisipaliteit in die uitvoering van enige magte of die verrigting van enige funksie of plig ingevolge hierdie Verordening dreig, teenstaan, hinder, belemmer of hom of haar andersins pla of vuiltaal of skeltaal teenoor hom of haar gebruik; of

- (c) hom of haar as 'n werknemer of kontrakteur van die munisipaliteit voordoën.

## **8. Skakelforums in gemeenskap**

- (1) Die munisipaliteit mag een of meer skakelforums in die gemeenskap instel vir doeleindes om -
  - (a) omstandighede vir 'n plaaslike gemeenskap te skep om deel te neem aan die sake van die munisipaliteit; en
  - (b) die stormwater aktiwiteite van die munisipaliteit te bevorder.
- (2) 'n Skakelforum mag bestaan uit –
  - (a) 'n lid of lede van 'n belangegroep of 'n geaffekteerde persoon, in die gees van Artikel 2(4)(f) tot (h) van die Wet op Nasionale Omgewingsbestuur, 1998;
  - (b) 'n aangewese beampte of beamptes van die munisipaliteit;
  - (c) 'n raadslid; en
  - (d) sodanige ander persoon of persone wat die munisipaliteit mag besluit.
- (3) (a) Die munisipaliteit mag, in die implementering of toepassing van hierdie Verordening, die insette van 'n skakelforum versoek.
  - (b) 'n Skakelforum, of enige persoon of persone bedoel in subartikel (2) mag op eie inisiatief 'n inset aan die munisipaliteit voorlê.

## **9. Waarmerking en betekening van kennisgewings en ander dokumente**

- (1) 'n Bevel, kennisgewing of ander dokument wat deur die munisipaliteit gewaarmerk moet word, moet behoorlik onderteken wees.
- (2) Enige kennisgewing of ander dokument wat ingevolge hierdie Verordening aan 'n persoon beteken word, word geag as beteken te wees wanneer dit ooreenkomstig Artikel 115(1) van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000, beteken is.
- (3) Betekening van 'n afskrif word geag betekening van die oorspronklike te wees.
- (4) Enige regsgeeding is doelmatig en genoegsaam aan die munisipaliteit beteken wanneer dit by die munisipale bestuurder of 'n persoon wat by die munisipale bestuurder se kantoor is, afgelewer is.

## **10. Appèl**

'n Persoon wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is, mag ingevolge Artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000 teen daardie besluit appèl aanteken deur binne 21 dae van die kennisgewing van die besluit skriftelike kennis van die appèl en die redes daarvoor aan die munisipale bestuurder te gee.

## **11. Vrystellings**

- (1) Enigiemand mag by wyse van 'n skriftelike aansoek, waarin die redes volledig verstrekkend word, by die munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie Verordening.
- (2) Die munisipaliteit mag –
  - (a) skriftelik vrystelling verleen en die voorwaardes waarvolgens en die tydperk waarvoor sodanige vrystelling verleen word, moet in die vrystelling uiteengesit word;

- (b) enige vrystelling of voorwaarde van 'n vrystelling verander of kanselleer; of
  - (c) weier om vrystelling te verleen.
- (3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan alle voorwaardes wat die munisipaliteit ingevolge subartikel (2) opgelê het, te voldoen nie, en indien daar met 'n aktiwiteit begin word voordat sodanige onderneming aan die munisipaliteit voorgelê is, verstryk die vrystelling.
- (4) Indien daar nie aan enige voorwaarde van 'n vrystelling voldoen word nie, verval die vrystelling onmiddellik.

## **12. Strafbepalings**

'n Persoon wat enige bepaling van hierdie Verordening oortree of versuim om daaraan te voldoen, pleeg 'n misdryf en kan by skuldigbevinding –

- (a) 'n boete of gevangenisstraf opgelê word, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
- (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur; en
- (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die munisipaliteit aangegaan is weens sodanige oortreding of versuim.

## **13. Teenstrydigheid met ander wetgewing**

In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne voorrang geniet.

## **14. Kort titel en inwerkingtreding**

Hierdie Verordening staan bekend as die Langeberg Munisipaliteit Verordening insake Stormwaterbestuur, 2023 en tree in werking op die datum van publikasie in die Provinsiale Koerant.