

Guidelines with regards to stormwater issues to private properties

Dear professionals, owners & competent persons

The general term for the category 'water' is "STORMWATER", though it includes any water which is the effect of natural rain or ponding, groundwater, fountain water and other known water streams, be it constant or intermittent, which flows through the municipal area.

1. Regulation R1 of the National Building Regulations states:

1. The owner of any property is responsible for controlling and disposing of any accumulated stormwater that might come off any building, paving, or earthworks.
2. Regulation R1 is only applicable if stormwater from a high-lying property, at the discretion of the Municipality, would cause "significant damage" to a low-lying property. ("Significant" = major)
3. In this case, Regulation R1 can be enforced by the Municipality.
4. In the case that water from neighbouring properties create a nuisance only, and not *significant damage*, Regulation R1 cannot be enforced and any issues arising thus remains the responsibility of the owners.
5. It is each property owner's right to connect to the municipal stormwater system. It is the owner's responsibility to direct any water to the erf boundary, by means of a suitable pipe or channel, at which point the Municipality will provide the connection into the system free of charge. This is only applicable to residential properties and not the case at larger developments where internal stormwater pipes and systems are required.
6. Such a connection from residential property, where it runs over a sidewalk into the stormwater system or street, must be coordinated with an engineer from the Technical Department.

2. Special cases

1. In a block of properties, where water cannot be taken to a road, but rather accumulates at the lowest property, it is the owner of the higher-lying property's responsibility to lead the water over the neighbouring property. (refer to paragraph 2 - 4)
2. In the case where the owner of a lower-lying property builds a boundary wall and is causing the owner of a higher-lying property the inconvenience of ponding surface water, the matter must be resolved among the property owners.

3. Stormwater connection to the Sewage system

As per Article 56(6), 67(7) and 69(3) of the Municipal By-laws, it is an offence to dump storm water into the sewage system.

4. Conclusion

According to common law, the owner of a property must when developing the site, dispose of stormwater off the property without causing damage to any lower-lying properties. This can be achieved by directing water to the nearest street where possible, or alternatively, cross the lower-lying property by means of a suitable stormwater system – in consultation with the owner of such property – taking reasonable precaution to not cause damage to any lower-lying properties.

- The owner of the low-lying property must allow the owner of a higher-lying property to route water over the property by means of an acceptable stormwater system.