Cederberg, South Africa

Credit Control, Debt Collection and Indigent Support By-law, 2024

Legislation as at 21 June 2024

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Repealed

Cederberg
South Africa

Credit Control, Debt Collection and Indigent Support By-law, 2024

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[Repealed on 9 June 2025 by Credit Control, Debt Collection and Indigent Support By-law, 2025]

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cederberg Municipality enacts as follows—

1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates—

"**Act**" means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

"**annually**" means once every financial year;

"**arrears**" means any amount due and payable to the municipality which has not been paid on or before the due date;

"**availability charges**" means a monthly levy that may be levied against immovable property with or without improvements, which is not connected to any municipal service works, where such property can be reasonably so connected;

"**consumer**" means any occupier of premises to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, the owner of the premises;

"**council**" means the municipal council of the municipality of Cederberg;

"**debt**" means any monies owing to the municipality in respect of the rendering of municipal services, and includes monies owing in regard to property rates, housing, motor vehicle registration and licensing, terminated leases, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality;

"**due date**" means the date specified on the tax invoice as the last date for payment;

"**indigent** " means a person or household as contemplated in the Indigent Policy of the municipality;

"**interest**" means a rate of interest equal to the prime rate as determined by the Reserve Bank of South Africa plus a percentage determined by council annually during the budget process;

"**municipal account**" includes levies or charges in respect of the following services:

- electricity consumption;
- water consumption;
- refuse removal;
- sewerage services;
- rates;

- interest and/or surcharge;
- housing rentals and instalments;
- availability charges; and
- miscellaneous and sundry charges.

and "tax invoice" has a corresponding meaning;

"**municipal manager**" means the person appointed in that capacity by the municipality in terms of section 54A of the Act;

"**municipality**" means the municipality of Cederberg established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof 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;

"**occupier**" means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

"**owner**" means—

(a) the person in whom the legal title to the premises is vested;

(b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the municipality is unable to determine the identity of such person, the person who is entitled to the benefit of such premises or a building thereon;

(d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof; in relation to—

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above provisions, the developer or the body corporate in respect of the common property; or

(ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, including the lawfully appointed representative of such person;

(e) any legal person including but not limited to:

(i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust *inter vivos*, Trust *mortis causa*, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), and a Voluntary Association;

(ii) any government department;

(iii) any council or board established in terms of any legislation applicable to the Republic of South Africa;

(iv) any Embassy or other foreign entity.

(f) a person to whom property owned by the municipality has been disposed of, but not yet transferred as from the date of disposal; and

(g) a person holding immovable property owned by or under the control or management of the municipality while held under a lease or under any other contract or under a servitude or right analogous thereto,

"**person**" includes—

(a) a natural person;

(b) a juristic person;

(c) for the purposes of this by-law any industrial or commercial undertaking; and

(d) an organ of State.

"**policy**" means the Credit Control and Debt Collection as well as the Indigent Policy of the municipality;

"**property**" means—

(a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or

(d) public service infrastructure;

2. Duty to collect debts

All debt owing to the municipality must be collected in accordance with this by-law and the policy.

3. Provision of services

New applications for services and the provision of new services must be dealt with as prescribed in the policy.

4. Consumer services deposit

The municipality may require the payment of a deposit for the provision of services and may adjust the amount of any existing deposit annually, as prescribed in the policy.

5. Interest charges

The municipality may charge and recover interest in respect of any arrear debt, as prescribed by the policy.

6. Arrangements to pay arrears

(1) The municipal manager may make arrangements with a consumer to pay any arrear debt under conditions as prescribed in terms of the policy.

(2) Should any dispute arise as to the amount of the arrear debt, the consumer must nevertheless continue to make regular payments in terms of the arrangement until such time as the dispute has been resolved.

7. Agreement with employer

(1) The municipal manager may—

(a) with the consent of a consumer who is in arrears with payments, enter into an agreement with that person's employer to deduct from his or her salary or wages—

(i) any outstanding amounts due by the consumer to the municipality; or

(ii) regular monthly amounts as may be agreed; and

(b) provide special incentives for—

(i) employers to enter into such agreements; and

(ii) consumers who consent to such agreements.

8. Power to restrict or disconnect supply of services

(1) The municipality may restrict or disconnect the supply of any service to any premises whenever such consumer—

(a) fails to make payment on the due date;

(b) fails to comply with an arrangement;

(c) fails to comply with a condition of supply imposed by the municipality;

(d) damages the infrastructure of the municipality for the supply of such service or tampers with any meter used regarding that service.

9. Recovery of debt

Subject to section 6, the municipal manager must, with regard to rates, and may, with regard to other debt —

(a) by legal action recover any debt;

(b) recover debt from any organ of state with due consideration of the provisions of Chapter 3 of The Constitution of the Republic of South Africa, 1996; and

(c) may refer debt to third party debt collection agencies.

10. Recovery of costs

(1) Where costs are incurred by or on behalf of the municipality in order to recover monies owed to it, the municipal manager may recover such costs, including but not limited to—

(a) costs and administration fees where payments made to the municipality by negotiable instruments are dishonoured by banks when presented for payment;

(b) legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;

(c) restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with this by-law;

(d) any losses the municipality may suffer as a result of tampering with municipal equipment or meters; and

(e) any collection commission incurred.

11. Attachment

The municipal manager may, in order to recover debt, approach a competent court for an order to attach movable or immovable property of a consumer.

12. Full and final settlement payments

(1) Any amount tendered in defrayment of a debt, shall be accepted at any cash receiving office of the municipality.

(2) No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount, may be accepted, unless confirmed in writing by the municipal manager.

(3) Notwithstanding subsection (2), the payment so offered must nevertheless be credited against the consumer's account, without prejudice to the municipality's rights.

13. Consolidation of accounts and appropriation of payments

(1) The municipality, in terms of section 102 of the Act, considers all separate accounts of a consumer to be consolidated regardless of the fact that separate accounts may be rendered and includes all pre-paid services.

(2) Payments received by the municipality shall be appropriated in the order determined by the Chief Financial Officer and must be revised annually during the budget process.

14. Indigent support

Financial assistance may be granted by the municipality to a person or household that meets the criteria as laid down in the Indigent Support Policy of the municipality.

15. Delegation

The municipal manager may delegate his or her powers in terms of this by-law to any official or service provider of the municipality.

16. Clearance certificates

On the sale of any property the municipality shall issue the required clearance certificate as prescribed in the policy.

17. Appeal

A person whose rights are affected by a decision of the municipality in terms of delegated powers, 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.

18. Offences and penalties

(1) A person who—

(a) obstructs or hinders any councillor or official of the municipality in the execution of his or her duties under this by-law or the policy;

(b) unlawfully uses or interferes with municipal equipment or consumption of services supplied;

(c) tampers with any municipal equipment or breaks any seal on a meter or damages a meter;

(d) fails to comply with a notice served in terms of this by-law or the policy;

(e) refuses an official of the municipality access to any premises; or

(f) gives false information regarding the supply of services or with regard to an application for assistance as an indigent;

shall be guilty of an offence and on conviction liable to the payment of a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

Repealed

19. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipality now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

20. Short title and commencement

This by-law shall be known as the Cederberg Municipality Credit Control, Debt Collection and Indigent Support By-law and shall come into effect upon promulgation in the Western Cape *Government Gazette*.