Cederberg, South Africa

Commonage By-law, 2026

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Cederberg
South Africa

Commonage By-law, 2026

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Cederberg Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has enacted this by-law set out below:

1. Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and *vice versa*, the Afrikaans text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates:—

"**agriculture**" means the Department of Agriculture, Forestry and Fisheries including its successor in title;

"**brand**" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002);

"**commonage**" means any land or portion of land which is in possession or under control of the municipality and includes any street, road, thoroughfare or public place;

"**Council**" means the municipal council of the Municipality referred to in section 157 of the Constitution;

"**day/s**" means calendar days unless the context indicates otherwise;

"**delegated authority**" means any person or committee delegated with authority by the Municipality in terms of the provisions of section 59 of the Municipal Systems Act and/or other relevant legislation;

"**Environmental Affairs**" means the Department of Environmental Affairs including its successor in title;

"**IDP**" means the adopted integrated development plan of the Municipality envisaged in section 25 of the Systems Act;

"**large stock**" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof;

"**lease agreement**" means the agreement which is concluded between the Municipality and a land user;

"**lessee**" means a person with whom a lease agreement has been concluded and who utilises the commonage for agricultural purposes and "land user" shall have a corresponding meaning;

"**MFMA**" means the Local Government: Municipal Finance Management Act, 1998 (Act 117 of 1998);

"**municipality**" means the Municipality of Cederberg established in terms of section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 482 dated 22 September 2000 and includes any political structure, political office-bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this bylaw 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;

"**Municipal Asset Transfer Regulations**" means the Municipal Asset Transfer Regulations published in *Government Gazette* 31346 of 22 August 2008;

"**Municipal Manager**" means the "Accounting Officer" as defined in section 1 of the MFMA, or person appointed in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"**person**" includes a natural person or legal entity;

"**small farmer**" means a person who utilizes or wishes to utilizes commonage for agricultural purposes and "emerging farmer" shall have a corresponding meaning;

"**small stock**" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof;

"**Supply Chain Management Policy**" means the Supply Chain Management Policy of the Municipality adopted in terms of section 111 of the "MFMA;"

"**Supply Chain Management Regulation/s**" means the Municipal Supply Chain Management Regulations published under GN868 in *Government Gazette* 27636 of 30 May 2005 in terms of the MFMA;

"**Systems Act**" means the Local Government: Municipal Systems Act, 32 of 2000;

"**the Act**" refers to the Animal identification Act, 2002 (Act 6 of 2002);

"**Training Facilities**" means the training facilities at Eisenburg and Bienne Donne which provide training for upcoming emerging farmers;

"**Water Affairs**" means the Department of Water Affairs including its successor in title;

2. Purpose of this by-law

(1) The purpose of this by-law is to provide for the control and administration of commonage land;

(2) To promote the achievement of a safe environment for the benefit of all residents;

(3) To provide for the conservation of the commonage through the prohibition of damaging of vegetation, bird and animal life, the removal of any material and the unlawful occupation of the commonage.

3. Prohibited actions

(1) No person shall erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp on any portion of the commonage or in any street, road, thoroughfare or public place without the consent of the municipality.

(2) No person shall, without prior permission of the municipality, accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof.

(3) No person shall on the commonage dig or remove soil, clay, sand, gravel, or boulders without being in possession of a valid and current permit issued by the municipality.

(4) The municipality may issue permits upon payment in advance of the charges fixed by it for the removal of soil, clay, sand, gravel or boulders from demarcated sites.

(5) No person shall make bricks, or erect brick, lime or charcoal kilns, on any land within the municipal area, or on land under control of the municipality, without prior written consent of the municipality, except on land denoted for such purposes in terms of an approved spatial

development plan and zoning scheme and further subject to payment of the fees determined by the municipality.

(6) No person shall cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage without prior written permission of the municipality.

(7) No person shall interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage.

(6) No person shall make use of any road over the commonage other than such roads as shall be allowed open by the municipality from time to time, and such roads to the use of which the public have a legal right.

[Please note: Numbering as in original.]

(9) No person shall deposit or in any way leave any poison for whatever purpose on the commonage or on any street, thoroughfare of public place without the written permission of the municipality.

(11) The municipality has the right to set apart any portions of the commonage for the purpose of forming a rifle range or rifle ranges and no person shall practice target shooting with any rifle on any other portion of the commonage except on such range or ranges.

[Please note: Numbering as in original.]

(12) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin there from or in any way disposing of any bodies there from without the prior approval of the municipality, shall be guilty of an offence.

(13) No person shall kill, catch, capture or hunt or attempt to kill, any game or birds of whatsoever description on the commonage.

(14) No person shall set traps of whatsoever description on the commonage without the prior consent of the municipality.

(15) No person shall destroy the nest, or remove the eggs or young there from, of any birds or waterfowl on the commonage or any public place within the municipality.

(16) The municipality may take, or cause to be taken, any steps necessary to rectify any contravention of any provision of this by-law and may claim the costs incurred by the municipality from the person responsible for the contravention.

4. Consultation before area clearing

The Environmental Officer of Cederberg Municipal Council must be consulted and must approve any clearing of plant species, before the afore-mentioned actions are undertaken.

5. Establishment of camps for grazing

(1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents. All fencing cost will be recouped from the lessees.

(2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.

(3) The municipality may erect paddocks or enclosures for animals of residents. All costs will be recouped from the lessees.

6. Closing of camps

(1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp on the commonage, during certain periods of the year.

(2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.

(3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).

(4) A person who contravenes subsection (2) commits an offence.

7. Approval to graze animals

(1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.

(2) A person who wishes to obtain approval must apply on the prescribed form to the municipality which may, after considering the following factors, grant approval:

(a) the total number of animals already accommodated in the camps;

(b) the number of animals, and the kind of animal which he or she wishes to accommodate in a camp;

(c) the condition of the meadows (pastures), and if any further animals can be accommodated; and

(d) any other factor which the municipality deems necessary.

(3) The right to depasture may not be ceded or transferred to any other person.

(4) A person who contravenes subsection (1) commits an offence.

8. Confinement of stock to camps

(1) A person depasturising on commonage must confine the stock to the camp set apart by the municipality.

(2) A person who contravenes subsection (1) commits an offence.

9. Numbers and condition of animals

(1) The municipality may determine the numbers and kinds of animals that may be accommodated on the commonage by a person.

(2) A person keeping an animal on the commonage must ensure that the animal is in a healthy condition.

(3) The municipality may require from a person keeping or applying to keep an animal on the commonage to file with the municipality a sworn declaration as to the ownership and condition of the animal.

(4) A person who:

(a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;

(b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);

(c) fails to file a declaration as contemplated in subsection (3); or

(d) provides false information to the municipality, commits an offence.

10. Branding of stock

(1) A person who depastures any stock on the commonage must ensure that all his or her animals are branded in terms of section 7 of "the Act."

(2) Stock found on the commonage without such branding, may be impounded by the municipality. Impounded stock can be claimed back after verification and branding of such impounded stock.

11. Grazing fees

(1) The municipality may determine grazing fees that must be paid to the municipality.

(2) Should a person fail to pay a grazing fee, the municipality may take such measures as provided for in its Customer Care and Revenue Management By-law.

12. Infected or contagious animals

(1) No person may graze, bring or leave any stock suffering from, or suspected of being infected with, any contagious or infectious disease, on the commonage.

(2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon, and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.

(3) A person who contravenes subsection (1) commits an offence.

13. Carcasses of animals

(1) The owner of an animal which has died on the commonage must immediately cause the carcass to be buried, and should he or she fail to do so, the municipality will bury the carcass and claim the expenses from the owner.

(2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

14. Agreements

The municipality may enter into a written agreement with any party regarding the use of the commonage or any part thereof.

15. Authentication and service of notices and other documents

(1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality has signed it.

(2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served—

(a) when it has been delivered to that person personally;

(b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;

(d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by section 15.2.1. to 15.2.3. if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;

(e) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or

(f) when it has been delivered, at the request of that person, to his or her e-mail address.

(g) Service of a copy is deemed to be service of the original.

16. Appeal

A person whose rights are affected by a decision of the municipality in terms of this by-law, 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: Systems Act, to the municipal manager within 21 days of the date of the notification of the decision.

17. Penalties

Except for the erection of a hut, building or any other structure for residential purposes on the commonage, in which case the provisions of the Prevention of Illegal Eviction from and the Unlawful Occupation of land Act, Act 19 of 1998, shall prevail, any person who contravenes or fails to comply with the provisions of this by-law shall be guilty of an offence and shall on conviction be liable to:

(1) a fine or imprisonment, or either such fine or such imprisonment or both such fine and such imprisonment;

(2) in the case of a continuing offence, an additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and

(3) 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.

18. Repeal of by-laws

The provisions of any by-law previously promulgated by the municipality or the previously disestablished municipalities are hereby repealed in so far as they relate to matters provided for in this by-law, and insofar as it has been applicable to the municipality by the authorization for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, Act 117 of 1998.

19. Short title and commencement

This by-law shall be known as the Cederberg Commonage By-law and shall come into operation on the date of publication thereof in the *Provincial Gazette*