APPENDIX 27

STELLENBOSCH MUNICIPALITY

SPECIAL RATING AREA POLICY

2023/2024

STELLENBOSCH MUNICIPALITY

SPECIAL RATING AREA POLICY

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1. DEFINITIONS

In this Policy, words or expressions shall bear the meaning assigned to them and, unless context otherwise indicates: –

"additional rate" means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act and in section 12(2) of the By-Law;

"applicant" means any owner who makes an application for the determination of a special rating area in accordance with provisions of Chapter 1 of the By-Law, or if a management body is established in terms of section 10 of the By-Law, any reference to **"the Applicant"** means the management body;

"By-Law" means the Stellenbosch Municipality's Special Rating Area (SRA) By-Law;

"CFO" means the Chief Financial Officer of Stellenbosch Municipality, or his or her nominee;

"Council" means Council of Stellenbosch Municipality;

"implementation plan" means an Implementation Plan as contemplated in section 6 of the By-Law;

"majority" means the majority of properties represented by the members of the local community in the proposed special rating area who will be liable for paying the additional rate;

"management body" means the management body of a special rating area to be established in accordance with the provision of section 10 of the By-Law;

"motivation report" means a motivation report as contemplated in section 6 of the By-Law;

"**the Municipality**" means Stellenbosch Municipality (WC024),

"owner" has the meaning assigned to it in section 1 of the Property Rates Act;

"Policy" means the policy for the determination of special rating areas and will be referred to as this Policy;

"Property Rates Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004);

"rateable property" has the meaning assigned to it in section 1 of the Property Rates Act;

"special rating area" means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 8 of the By-Law.

2. INTRODUCTION

2.1. This policy for the establishing of special rating areas must be read together with the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and the Municipality's Special Rating Area (SRA) By-law, as in force from time to time.

2.2. This policy is strictly applicable to Special Rating Areas that have been established in terms of sub-sections 22(1) to 22(4) of the Property Rates Act. Therefore, this policy does not deal or apply to internal municipal service districts as envisaged in section 85 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and in sub-section 22(5) of the Property Rates Act.

2.3. All words and phrases defined in the Property Rates Act and the By-Law have the same meaning in this Policy.

2.4. In the event of any conflict between the provisions of the By-Law and the provisions of this Policy, the By-Law prevails.

2.5. This Policy needs to be read together with the Municipality's Rates Policy.

3. AIM OF THE POLICY

This Policy aims to –

3.1. Set out Council's position on special rating areas and the factors that will influence Council's decision whether or not to institute a particular Special Rating Area.

3.2. Provide guidance to members of the local community and to decision-makers within the Municipality in relation to the establishment of special rating areas; and

3.3. Strike an appropriate balance between facilitating self-funded community initiatives that aim to improve and/or upgrade neighbourhoods by –

(a) making use of Council resources and structures; or

(b) making use of a Non-Profit (previously known as a Section 21) company structure (refer paragraph 8.12.5 of this Policy); and to

(c) ensure commitment to good, fair and transparent governance by the managing body, by implementing a transparent process when appointing service providers to improve and/or upgrade the special rating area in the public areas and ensuring that these improved and/or upgraded services are not provided on private properties.

4. POLICY STATEMENT

4.1. The special rating area model is aimed at preventing the degeneration of towns and the consequential urban decay, and facilitating their upliftment, economic growth and sustainable development.

4.2. The purposes of a special rating area are to –

(a) enhance and supplement the municipal services provided by Stellenbosch Municipality;

(b) facilitate investment in the special rating area;

(c) facilitate a cooperative approach between Stellenbosch Municipality and the private sector in the provision of municipal services;

(d) halt the degeneration and facilitate the upliftment of distressed business and mixed-use areas; and

(e) promote economic growth and sustainable development and in this way, assist the Council in the fulfilment of its objects and developmental duties as set out in its Integrated Development Plan ("IDP").

4.3. Stellenbosch Municipality regards special rating areas as a potential tool for allowing it to fulfil its constitutional and statutory obligations to promote;

(a) social and economic development; and

(b) a safe and healthy environment in a way which balances the guiding principles underlying its Rates Policy.

4.4. Special rating areas allow property owners within an explicitly defined geographical area to improve and upgrade their area by means of a property rate in addition to the standard property rate.

4.5. Special Rating Areas do not give property owners or the management structures of the Special Ratings Area the right to infringe on any of the constitutional rights as enshrined in the Bill of Rights, Chapter Two of the Constitution of South Africa, 1996 of any juristic or natural person in any way. Specifically, the right to freedom of movement and residence of any juristic or natural person referred to in Section 21 of the Constitution must be guaranteed by the Special Rating Area as a pre-requisite for approval by the municipality.

5. FACTORS CONSIDERED WHEN DETERMINING A SPECIAL RATING AREA

The Council will consider instituting a special rating area where the requirements of Section 22 of the Property Rates Act are complied with, including that –

5.1. the purpose of the special rating area is to allow an additional rate to be levied on property in the defined area to raise funds for improving or upgrading the area;

5.2. the special rating area will not be used to reinforce existing inequities in the development of the Stellenbosch Municipality's (WCO24) area of jurisdiction;

5.3. the determination of the special rating area is consistent with Stellenbosch Municipality's IDP;

5.4. residential special rating area refers to an area in which more than 40% (forty percent) of the rates based municipal valuation consists of Residential Property as defined in the Rates policy.

5.5. any residential special rating area must comply fully with the provision of the By-Law, save that, with reference to the majority support the applicant must provide written proof to the Council that owners of rateable property within the boundary of the special rating area who own not fewer than 60% (sixty percent) in number of such properties, approve the formation of the special rating area. Subject to paragraph 6.3, municipal-owned properties will be excluded from such voting procedures.

5.6. the majority of members of the local community who will be liable for paying any additional rate in the special rating area, other than residential special rating areas, have consented to its

establishment. Subject to paragraph 6.3, municipal-owned properties will be excluded from such voting procedures.

5.7. the procedural requirements of Section 22 of the Property Rates Act as well as the By-Law and this Policy are complied with, which include the community consultation requirement as determined by the Municipality's Chief Financial Officer (CFO);

5.8. the proposed improvement or upgrade has been clearly and fully defined;

5.9. the proposed improvement or upgrade can be clearly and logically linked to a geographical area, the boundaries of which must be clearly determined;

5.10. there is evidence that it will be financially viable to use a special rating area to raise funds for the proposed improvement or upgrade;

5.11. Stellenbosch Municipality is satisfied with the institutional arrangements proposed in respect of the special rating area; and

5.12. Ultimately, the decision whether or not to determine a special rating area rests with the Council in its sole discretion.

6. APPLICABILITY OF STELLENBOSCH MUNICIPALITY'S RATES POLICY AND OTHER POLICIES

6.1. When Stellenbosch Municipality grants any measure of relief to Senior Citizens, Disabled Persons and Non-Profit Organisations in terms of the Rates Policy, or registered indigents in terms of the Indigent Policy, the relevant property owner will be granted a full (100%) discount in relation to the additional special rating area rate.

6.2. The granting of the above discount as per paragraph 6.1 will however not in any way modify the voting rights in relation to said property as described in paragraphs 5.5 and 5.6.

6.3. Subject to paragraph 6.4, municipal-owned properties will be exempted from the additional special rating area rates and will not participate during any voting procedures as described in paragraphs 5.5 and 5.6.

6.4. The occupants of municipal-owned properties which are leased in terms of a lease agreement or the occupants of those properties which are allocated to beneficiaries but not yet transferred will be liable for the additional special rating area rates and will retain the voting rights as described in paragraphs 5.5 and 5.6.

7. PROCESS

This Policy sets out –

(a) the institutional arrangements for special rating areas (paragraph 8 of this Policy)

(b) the establishment requirements which must be followed (paragraph 9 of this Policy);

(c) the information which needs to be submitted to Stellenbosch Municipality in order to motivate a request for determination of a special rating area (paragraph 10 of this Policy);

(d) the annual requirements which must be followed (paragraph 11 of this Policy);

(e) the amendments and/or extension of term for a special rating area (paragraph 12 of this Policy);

(f) the dissolution requirements which must be followed (paragraph 13 of this Policy)

(g) financial arrangements (refer paragraph 14 of this Policy).

8. INSTITUTIONAL ARRANGEMENTS

Section 22 of the Property Rates Act is not prescriptive as to the structural arrangements which need to be put in place to administer a special rating area. The structural arrangement that will be considered by the municipality is the following:

8.1. Administration by a Non-Profit Company

8.1.1. Stellenbosch Municipality will require the ratepayers within the special rating area to establish and participate in an appropriate structure to carry out planning, contracting, financial control and administrative functions within the special rating area.

8.1.2. This does not entail ratepayers setting the additional rate, which under law can only be done by Stellenbosch Municipality (paragraph 14 of this Policy).

8.1.3. This places funds collected by government in the hands of the private sector, thus the requirements set out in this Policy must be met.

8.1.4. The functions of the Non-Profit Company would include:

(a) Determining the funding required each year (refer paragraph 14.2 of this Policy);

(b) Appointing contractors or service providers to effect the improvement/s or upgrade/s;

(c) Receiving the additional rate collected by Stellenbosch Municipality and expending the funds in accordance with the approved Business Plan.

8.1.5. Structural requirements of the Non-Profit company:

(a) Before Stellenbosch Municipality will consider allowing ratepayers in a special rating area to carry out administrative and other functions in relation to the area, the Steering Committee must establish a Non-Profit company (company not for gain) as per the Companies Act, Act 71 of 2008 (as amended or replaced) ("the Companies Act") for that purpose. The provisions of the Companies Act must be complied with, particularly those relating to non-profit companies (which effectively replaced Section 21 companies as per the old Companies Act, Act 61 of 1973), subject to the transitional provisions contained therein;

(b) The founding documentation ("the Memorandum of Incorporation") in relation to the structure established by ratepayers (this is equivalent to the Memorandum and Articles

of Association, as per the old Companies Act, Act 61 of 1973), must be as per the prescribed format determined by the CFO;

(c) The Non-Profit company must be managed under the Companies Act, and also comply with any other legislation as a result of the financial connections to Council; and

(d) The Non-Profit company must give a written notice by the most effective manner to all the property owners within the special rating area of the intention to hold an Annual General Meeting (AGM) on the date stated in the notice;

(e) A Special General Meeting ("SGM") must be called within 6 months of the establishment of the Non-Profit Company. The purpose of the SGM is to:

(i) Accept new members;

(ii) Appoint directors;

(iii) Amend the Memorandum of Incorporation if required; and

(iv) Approve the following year's Budget and Implementation Plan (refer paragraph 14.2 of this Policy).

9. APPLICATION FOR THE ESTABLISHMENT OF A SPECIAL RATING AREA

9.1. The process for establishing special rating areas as set out in Chapter 1 of the By-Law must be followed.

9.2. The special rating area application must be submitted by end of September of the financial year preceding the establishment of the special rating area.

9.3. Further to section 7.2 of the By-Law the applicant must hold another public meeting within 30 days after submitting the application to confirm that it was lodged and to discuss details with the community.

10. MOTIVATING A SPECIAL RATING AREA

The Motivation Documentation must comprise of the following:

10.1. Business Plan –

The Business Plan must clearly define and indicate all the required improvements or upgrades and must contain -

10.1.1. Introduction;

(a) an executive summary of the improvement or upgrade proposed for the special rating area as set out in the Implementation Plan;

(b) An explanation of how the proposed improvement or upgrade is linked to the geographical area of the proposed special rating area;

(c) An explanation of why the proposed special rating area will not reinforce existing inequities in the development of Stellenbosch Municipality;

(d) An explanation of how the special rating area, if instituted, will be consistent with Stellenbosch Municipality's IDP as per the Service Departments' Business Plans;

(e) An explanation of the institutional arrangements proposed in relation to the special rating area.

10.1.2. Vision;

10.1.3. Mission;

10.1.4. Goal;

10.1.5. A diagram clearly indication the boundaries of the proposed special rating area;

10.1.6. Management;

(a) Administrative policies of the Non-Profit company;

(b) Proposed management structure:

- Composition of the management body including allocation of portfolios and;
- Operational Arrangements

10.1.7. Services;

Service providers must be appointed as per paragraph 3.3(c) and 10.1.1(d) of this Policy.

10.1.8. Financial Impact;

(a) Provide details regarding the calculation of the cent-in-the-rand and as acted on the municipal valuation value of each property;

(b) Provide details of criteria to qualify for exemption of additional rate;

10.1.9. A list of all rateable properties within the proposed special rating area, contact details of owners and the value of each property as set out in the Council's municipal valuation role. Differentiation between categories of properties, as provided for in Section 8 of the Property Rates Act and used in the valuation role, must be considered;

10.1.10. Proof of the consent of the majority of the members of the local community as per paragraph 5.5 of this Policy, in the proposed special rating area who will be liable for paying the additional rate;

10.1.11. Proof of the notice of the public meeting or meetings contemplated in the By-Law;

10.1.12. Minutes of the public meeting or meetings; and

10.1.13. Compilation date.

10.2. Implementation Plan

The Implementation Plan is a schedule of goals to implement improvements or upgrades as per the motivation report and must at least address the following:

10.2.1 Milestones;

10.2.2 Tasks per milestone;

10.2.3 Start and finish date per task;

10.2.4 Assign responsibility per goal, milestone & task; and

10.2.5 Performance indicators per milestone.

10.3. Budget Plan

The Budget Plan for the proposed improvements or upgrades must at least address the following:

10.3.1 a budget line item should be set for each milestone or task and grouped in such a way that there is a clear indication how the Implementation Plan is financially structured;

10.3.2 an annual budget per line item commencing on 01 July of the first year and end on 30 June of the last year of the term; and

10.3.3 a budget split for the provision of improvements or upgrades between the different categories of properties.

11. ANNUAL REQUIREMENTS

11.1. Confirm property data base (Register of properties and owners in the special rating area);

11.2. Submit an audited financial Statement and Trail Balance as approved/accepted at a SGM called for that purpose and

11.3. Submit an annual budget and an Implementation Plan as approved at the Annual General Meeting (AGM) by 31 January (refer paragraph 14.2 of this Policy).

12. AMENDMENT AND/OR EXTENSION OF TERM

In the event that a special rating area seeks to extend the term over which it will operate or amend the goals as per its Implementation Plan, then the procedures set out in Chapter 3 of the By-Law must be followed and submitted by the end of October.

13. DISSOLUTION

The special rating area may be cancelled by resolution of the Council, subject to the provision of section 16 of the By-Law.

14. FINANCIAL CONTROL

14.1. As stated in the By-Law, the amount of any additional rate levied in a special rating area is determined by the Council. The additional rate as imposed by the Council, is debt owing to

Stellenbosch Municipality and is payable and collected in the same manner as other property rates imposed by the Council.

14.2. The management structure must recommend the annual budget amount of the additional rate to the Stellenbosch Municipality by 31 January, with appropriate motivation including an Implementation Plan and a Budget Plan for the next financial year, and the Council will consider the recommendation during its budgeting process.

14.3. Before Stellenbosch Municipality will pay over any additional rate collected to the management structure, the management structure and Stellenbosch Municipality must have concluded a written finance agreement regulating, amongst other things;

(a) the mechanisms and manner of payment;

(b) how the additional rate is to be held by the management structure;

(c) any parameters relating to expenditure; and

(d) any obligations on the management structure to take out and maintain appropriate insurance.

14.4. The financial year of the Municipality shall be deterministic and shall be applied to the Budget plan and all financial transactions.

15. COMMENCEMENT AND IMPLEMENTATION

15.1. Implementation of this Policy will commence on 01 July 2020.

15.2. Where Stellenbosch Municipality is legally empowered to do so, requirements set out in this Policy may be imposed as conditions attached to the determination of a special rating area.

15.3. This Policy and its implementation will be reviewed annually.

16. COST

Stellenbosch Municipality shall not be liable for any costs incurred by ratepayers within the relevant proposed special rating area in respect of the implementation of the steps set out in this Policy and in the By-Law.

17. SHORT TITLE

This policy is the Special Rating Area Policy of the Stellenbosch Municipality.