APPENDIX 12

STELLENBOSCH MUNICIPALITY

SPECIAL RATING AREA BY-LAW

Effective from 01 July 2025

2025/2026

Approved per Council Resolution/ Item 8.2 at 32nd Council Meeting on 30 May 2025

STELLENBOSCH MUNICIPALITY

SPECIAL RATING AREA BY-LAW

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To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.

BE IT ENACTED by Stellenbosch Municipality as follows:-

CHAPTER 1

ESTABLISHMENT OF SPECIAL RATING AREAS

1. DEFINITIONS

In this By-law words or expressions shall bear the meaning assigned to them and, unless context otherwise indicates.

In addition to the definitions contained in the Property Rates Act, the following definitions apply for the purpose of the application of this By-law.

"additional rate" means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act and as described in section 12(2) of this 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 this By-Law, or if a management body is established in terms of section 10 of this By-Law any reference to **"the Applicant"** means the management body;

"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 this By-Law;

"**limited special rating area"** means a limited special rating area approved by the Council in terms of section 9 of this 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 this By-Law;

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

"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 named the Special Rating Area Policy of the Stellenbosch Municipality;

"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 this By-Law.

2. INTERPRETATION

In the event of any conflict with the Afrikaans or isiXhosa texts the English text prevails.

3. DETERMINATION OF SPECIAL RATING AREAS

Stellenbosch Municipality may by resolution of the Council determine special rating areas.

4. APPLICATION

(1) Any owner located within the area of jurisdiction of Stellenbosch Municipality and who owns property within the proposed special rating area, may lodge an application to the Stellenbosch Municipality for the determination of a special rating area.

(2) All costs incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the implementation plan the management body may reimburse the applicant for some or all of those costs.

(3) Any application contemplated in subsection (1) above must –

(a) be in writing and be in the form as the CFO may determine;

(b) be submitted not more than nine months after the date on which the public meeting referred to in section 5 of this By-Law is held, or if a second public meeting is held as provided for in section 6(2) of this By-Law, nine months after the date of the second public meeting;

(c) be accompanied by –

(i) a motivation report and an implementation plan;

(ii) the written consent submitted by the members of the local community in the proposed special rating area who will be liable for paying the additional rate. All

owners of each property in the proposed special rating area must sign the consent form. The majority shall be determined by the number of properties in the proposed special rating area for which duly preformed consent forms where received in relation to the number of properties in the proposed special rating area. Under specific conditions, aimed at a more inclusive approval process, the majority may be set at a higher percentage as determined in the Special Rating Area policy. The format of the consent may be determined by the CFO;

(iii) payment of such fee as the Council may determine.

5. PUBLIC MEETINGS

(1) An application for the determination of a special rating area must be preceded by the holding of a public meeting.

(2) The purpose of the public meeting is to enable the applicant to consult with those owners within the proposed special rating area regarding the proposed boundaries of the area and the proposed improvement or upgrading of the area.

(3) Prior to the holding of the public meeting, the applicant must –

(a) give notice in a manner approved by the CFO in terms of this By-law owners of rateable property, who will be liable for payment of the additional rate, of the applicant's intention to apply for the determination of a special rating area

(b) in the notice referred to in subsection (3)(a) above, give notice of a public meeting, which notice must –

(i) state the purpose of such meeting; and

(ii) contain details of the place, date and time when such meeting is to be held.

(4) The public meeting must be held not less than seven days and not more than 30 days after the date of the notice.

(5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.

(6) The public meeting must be chaired by a suitable qualified and experienced person appointed by the CFO.

(7) Any interested person must, at the public meeting, be –

(a) Furnished with all relevant information relating to the proposed special rating area, including the information to be set out in the motivation report and implementation plan; and

(b) given an opportunity to ask questions, express their views and make representations.

6. MOTIVATION REPORT AND IMPLEMENTATION PLAN

(1) Any application for the establishment of a special rating area must include a motivation report and an implementation plan covering a period commencing on 1 July of a year and ending on 30 June of the fifth year or covering such lesser period as may be determined by the CFO.

(2) If the motivation report or the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 5 of this By-Law, the applicant must call a second public meeting for approval of the special rating area as amended.

(3) The provision of section 5 of this By-Law applies with the necessary changes to the second public meeting.

7. ADVERTISING OF APPLICATION AND OBJECTIONS

(1) The applicant must within 14 days after the application is lodged in accordance with section 4 of this By-Law, or within such further period which the CFO may approve –

(a) Cause a notice of the application to be published in a manner approved by the CFO; and

(b) Either before or up to seven days after the date of publication of the notice, give written notice of the application to all owners within the proposed special rating area, who will be liable for payment of the additional rate. Such notice may be served by pre-paid registered post, or by electronic mail, or hand delivery, or in any other manner approved in writing by the CFO.

(2) Every notice contemplated in terms of subsection (1) above must state that written objections to the determination of a special rating area or the provisions of the motivation report and implementation plan may be lodged with the Stellenbosch Municipality by a date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1)(a) above, and must state where the documentation specified in subsection (5) below will be available for inspection.

(3) Any owner of rateable property who will be liable for paying the additional rate may submit written objections to the determination of the special rating area, which objections must be

received by the Stellenbosch Municipality not later than the date stipulated in the notice referred to in subsection (1) above.

(4) Any objector to the application who owns property within the proposed special rating area may make oral representation to the CFO.

(5) The application, including the motivation report and the implementation plan, and all objections must be available for inspection at the office of Stellenbosch Municipality and at a venue determined by the CFO within the proposed special rating area, for the period referred to in subsection (2) above.

8. DECISION

(1) After the provision of sections 4 and 7 of this By-Law have been complied with, the Council must, at a meeting of the Council held within 90 days after the last date for the submission of objections in accordance with section 7(2) of this By-Law, consider the application and –

(a) determine a special rating area which must be implemented in accordance with the motivation report and implementation plan;
(b) determine a special rating area with such amendments or conditions as the Council considers to be in public interest;
(c) determine a special rating area in respect of a limited area in terms of section 9 of this By-Law;
(d) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for not approving the determination of a special rating area; or
(e) refer the application back to the applicant for amendments in such manner as the Council may direct.

(2) If an application is refused by the Council in accordance with the provisions of subsection (1)(d) above or referred back to the applicant in accordance with the provisions of subsection (1)(e) above, the applicant may, within six months of the Council's decision, re-apply to the Council for the determination of the special rating area, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.

(3) If the motivation report or implementation plan is amended in any material respect at any time before the determination, the Council may require that the amended application be re-advertised in accordance with the provision of section 7 of this By-law including the necessary changes applied.

9. DETERMINATION OF A LIMITED SPECIAL RATING AREA

If an application in terms of section 4 of this By-Law is not accompanied by the majority of the members of the local community in the proposed special rating area required by section 4(3)(c) of this By-Law, but the applicant can demonstrate to the satisfaction of the Council, that –

(a) there are such confirmations from owners of rateable properties in a limited geographical area within the proposed special rating area that would meet the requirements of section 4(3)(c) of this By-Law if they were to be applied to that area; and
(b) the level of services to be provided will not be reduced and the budget may be reduced accordingly as a result of the provision of those services in the limited area alone, as compared to the provision of those services in the whole of the proposed special rating area,

then the Council may, subject to the other provisions of this By-Law, determine a limited special rating area.

CHAPTER 2

SPECIAL RATING AREAS – STRUCTURES AND FINANCES

10. COMMENCEMENT OF THE IMPLEMENTATION PLAN

Once the Council has approved the establishment of the special rating area, the implementation plan may only be implemented after the management body has been established in accordance with section 11 of this By-Law.

11. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY

(1) The applicant must establish a management body for the purposes of implementing the provisions of the implementation plan.

(2) The management body must be a company incorporated in accordance with the provisions of a Non-Profit company (company not for gain) as per the Companies Act, Act 71 of 2008 (as amended or replaced).

(3) Stellenbosch Municipality shall monitor compliance by the management body with the applicable provisions of this By-Law, any guidelines or policies adopted by Stellenbosch Municipality and any agreements entered into with the management body and Stellenbosch Municipality.

(4) The Council must nominate the relevant ward councillor and one other person, as representatives to attend and participate, but not vote, at the meetings of the management body.

(5) Within two months after receipt of the first payment of the additional rate, the management body must begin carrying out the objectives of the implementation plan.

(6) Within two months of the end of each financial year, the management body must provide the CFO with –

(a) Its audited financial statements for the immediately preceding year; and

(b) an annual report on its progress in carrying out the objectives of the implementation plan in the preceding year to improve and upgrade the special rating area.

(7) Within two months after the Annual General Meeting, the management body must provide the Finance Portfolio Committee with –

(a) Its audited financial statements for the immediately preceding year; and

(b) An annual report on its progress in carrying out the objectives of the implementation plan in the preceding year to improve and upgrade the special rating area.

12. FINANCES

(1) The financial year of the management body must coincide with the financial year of the Stellenbosch Municipality.

(2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charges on the owners of rateable property in the special rating area for the purposes of realizing the implementation plan. Provided that the Council may in terms of the Property Rates Act, Stellenbosch Rates Policy, Stellenbosch Indigent Policy, Stellenbosch Credit Control and Debt Collection By-Law and the Stellenbosch Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category of owners from the additional rates.

(3) When determining the additional rate referred to in subsection (2) above, the Council may consider imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act or any category as set out in the Stellenbosch Rates Policy.

(4) The additional rate due in terms of this By-Law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.

(5) The Council may, for the purpose of carrying out the provisions of the implementation plan of a special rating area and subject to section 67 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 200), make payment to the management body of a special rating area.

(6) The payment contemplated in subsection (5) above is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body, and such agreement must regulate, among other things –

(a) the mechanisms and manner of payment; and

(b) terms on which payment to the relevant management body is to be made.

(7) Subject to the provisions of its memorandum and articles of association, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.

(8) The Council, may determine and impose on the management body an administrative charge.

13. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-Law, the CFO must –

(a) Establish separate ring-fenced budget votes and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the special rating area;

(b) Monitor compliance with the applicable legislation, including this By-Law and the Policy, by –

(i) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the implementation plan;

(ii) nominating, if he or she elects to do so, representatives to attend and participate but not vote at meetings of the management body.

CHAPTER 3

AMENDMENT AND EXTENSION OF IMPLEMENTATION PLANS

14. AMENDMENT TO IMPLEMENTATION PLANS

(1) An implementation plan, including the geographical boundaries of the special rating area, may be amended by the Council on written application by the management body at any time after the formation of the special rating area.

(2) The council may approve an application for an amendment referred to in subsection (1) above where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendments to be published as approved by the CFO.

(3) The Council may only approve an amendment in terms of subsection (1) above, with the changes required by the context, in accordance with the provisions of Chapter 1 of this By-Law, which the Council considers is likely to –
   (a) materially affect the rights or interests of any person;
   (b) affect the approved budget for the special rating area; and
   (c) change the boundaries of the special rating area.

(4) The Council may, for good reason, on written application by the management body, exempt the management body from complying with the provisions, or condone any non-compliance with any provisions, of Chapter 1 of this By-Law.

15. EXTENSION OF IMPLEMENTATION PLANS

A management body must, if it elects to extend the term of the implementation plan for a further period, on or before January in the year in which the implementation plan is due to terminate, submit an application to Stellenbosch Municipality for approval of extension of the term of the implementation plan, provided that –

(a) the extension of the implementation plan may only be approved by the Council in accordance with the provisions of Chapter 1 of this By-Law, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any such provisions;

(b) the provisions of section 14 of this By-Law shall apply to any amendment of an implementation plan which has been extended in terms of this section.

CHAPTER 4

DISSOLUTION OF A SPECIAL RATING AREA

16. DISSOLUTION

(1) The Council may terminate the municipality's business relationship (connection and commitment) to a management body of a specific special rating area –

(a) Upon written application signed by owners of the majority of properties within the boundaries of the special rating area who are liable for paying the additional rate; or

(b) After prior consultation by the CFO with the management body or the community, whereupon for any good cause he or she may cause the necessary steps or processes to terminate the business relationship with the management body.

(c) Upon the decision by the CFO to terminate the business relationship to the specific special rating area, notices shall be forwarded to the management body and to all the property owners of the specific special rating area presenting the reasons for the proposed termination and any other pertinent details.

(2) Upon the approval by Council to terminate the business relationship with the management body the additional rates applicable to said special rating area will no longer be raised and the associated payments to the management body shall cease.

CHAPTER 5

MISCELLANEOUS PROVISIONS

17. REPEAL

The provisions of any By-laws relating to special rating areas by Stellenbosch Municipality are hereby repealed insofar as they relate to matters provided for in this By-law.

18. SHORT TITLE AND EFFECTIVE DATE

(1) This By-Law is called the Special Rating Area By-Law of Stellenbosch Municipality and shall take effect on 01 July 2025.

(2) No new special rating area determined in terms of this By-Law may implement its implementation plan prior to 01 July 2025.

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