

LOCAL LAW NO. 2 of 2022-Village of Monticello

Amending Chapter 226, Taxation -Article VI entitled, “Sale of Real Property for Delinquent Property Taxes”, to add sections 226-34 through section 226-38, which is a rewrite of the prior section to add the wording of “Village of Monticello, Village Board of Trustees and so on” in the place of “County/County of Sullivan” and wherever else necessary to allow the Village the ability for the Sale of Properties acquired by the Village and also the Conveyance of subject parcels.

§ 226-34. Purpose

The purpose of this local law is to establish the policy and procedures in the Village of Monticello governing the same of real property NOT redeemed for delinquent real property taxes in accordance with New York State Real Property Tax Law Article 11.

§ 226-35. Definitions

When used in this Local Law, the following definitions apply:

ASSESSED VALUE – The Amount of the Towns official assessed value of real property, not including exemptions, on the latest assessment roll.

VILLAGE - The Village of Monticello, a political subdivision of the State of New York

DELINQUENT TAX – An unpaid tax, special ad valorem levy, special assessment or any other charge imposed upon real property by, or on behalf of, the Village of Monticello or any special district associated therewith, plus each and every applicable charge relating to any parcel included in the return of unpaid delinquent taxes prepared pursuant to Real Property Tax Law or such other, general, special or local law.

ENFORCING OFFICER – The Village Clerk and Tax Collector and Village Treasurer of the Village of Monticello.

LEGISLATURE – The Board of Trustees of the Village of Monticello

PERSON – Any individual, group, association, partnership, corporation of legal entity so defined by law.

REAL PROPERTY ADVISORY BOARD – An advisory Board comprised of the Village Treasurer, the Village Manager, the Village’s Special Counsel and the Village Clerk. This Board shall hear and discuss real property and tax foreclosure matters for the purpose of advising the legislature and shall perform all other duties requested by the legislature pursuant to this local law. This Board shall be advisory in nature and its consideration shall not be condition precedent to any formal action of the legislature.

§ 226-36. Taking Title to Parcels

A. Whenever a court of competent jurisdiction executes a judgment pursuant to Article 11 of the Real Property Tax Law awarding title to one or more parcels of real property to the Village, the

Village shall take possession of such parcel unless [a] such parcel has been withdrawn from the proceeding or b] as a matter of law, the County is not permitted to take possession of such parcel of [c] the legislature determines that it will not be in the Village's interest to do so.

B. Upon execution by the enforcing officer of a deed to such parcel or parcels, pursuant to Article 11 of the Real Property Tax Law, the village, or other named grantee, shall be seized of an estate in fee simple absolute in absentees and nonresidents, except as specifically exempted by law, who may otherwise have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of any such right, title, interest, claim, lien or equity of redemption. Upon execution of the judgment of foreclosure by the court, the execution and/or recording of the deed by the enforcing officer shall be ministerial.

C. The Village may retain title to one or more properties for public use upon resolution of the legislature or it may sell or release its interest in any such parcel as is set forth herein.

D. The judgment of foreclosure may include a provision which grants title to all personal property deemed abandoned on or in the realty.

§ 226-37. Sale of property acquired by the Village

A. Public Auction

1. Within thirty days after the court renders judgment in favor of the Village authorizing the enforcing officer to convey title to the village, the legislature shall fix and set a date for a public auction. Such an auction shall be held at least once each year by the enforcing officer. The legislature may authorize the enforcing officer to schedule more than one public auction in any given year. The Village Manager may execute a contract with an auction company to assist in such an auction provided that said contract has first been reviewed and approved by a majority of the Legislature. The Village Manager shall determine which specific properties to sell. All parcels except those sold through a release of the Village's interest pursuant to subsection B herein, or through a private sale pursuant to subsection B herein, or retained for public or retained by the Village for future determination or conveyed to another municipality for public use shall be subject to a public auction. Public notice of said auction shall made at such times, places and manner in the discretion of the enforcing officer with the advice and consent of the Village Manager.

2. The terms for sale at the public auction shall be prepared and modified as necessary by the enforcing officer. Bids made at said auction shall be subject to final approval by resolution of the legislature which may reject any such bid at its sole discretion.

3. Should a parcel offered at the auction not sell therein, the legislature may attempt to sell such parcel at private sale or may schedule a subsequent auction or remain one or more such specific parcel for public use.

B. Release of Village's interest [repurchase opportunity]

1. Upon and after the expiration of the redemption period provided by law and prior to the public auction, the legislature may permit the previous owner of record to repurchase the parcel through a release of the village's interest. In such a circumstance, the purchase price of said parcel

shall be the total of all outstanding real property taxes, including those owed to the village, assessments, charges, interests, fees and penalties due and owing at the time of the sale, plus an additional 10% of this total, to be paid to the village auctioneer, if any; plus an additional sum in the amount of 5% of the full equalized assessed value of the property, plus any other costs and surcharges, if any.

2. The enforcing officer shall provide notice of the repurchase program to the former owner of any affected parcel by regular first-class mail at the address contained on the most recent rent roll. Notwithstanding this section, the repurchase program shall be deemed discretionary and the failure of the enforcing officer to mail the notice or the recipient to receive the same shall not give rise to a cause of action against the village.

3. The repurchase program shall take place following the execution of the judgment of foreclosure by the court, commencing on September 1 and ending at 5 pm on October 10 or the next weekday, provided that by adoption of a resolution at least thirty days in advance of the scheduled commencement of the repurchase program, the legislature may resolve not to conduct the repurchase program in a specific year or may change the terms of that program.

3. The repurchase program shall be available to each former owner of record as of the time the village commenced its foreclosure proceeding (by the filing of the *in rem* pleadings); however, each such owner must file a written application with the Village Clerk, along with payment in full, in an amount to be calculated by the enforcing officer and received by him/her no later than 5:00 p.m. on the last date of the period as set forth in subsection 2. above. Bank or certified checks must be provided to complete this transaction.

4. If the release of the village's interest is made upon and after the exemption of the redemption period, but before the judgment is executed, then the enforcing officer shall evidence the release by cancelling and discharging the delinquent liens.

5. If the release of the village's interest is made after the judgment, the Special Counsel shall effect the release of the Village's interest by preparing and submitting to the court which executed the judgment an Order discontinuing the *in rem* tax foreclosure proceeding as to said property, canceling the notice of pendency of such action as to said property and vacating the judgment of foreclosure and the deed, if any executed pursuant to such judgment of foreclosure as to said parcel. Entry of such order of discontinuance shall restore all parties, including owners, mortgagees, lienors, receivers, administrators and encumbrancers, to the same status each held prior to the time the village acquired judgment to said property as if the judgment had never been rendered and shall render said property liable for all taxes, deficiencies, liens, penalties, interest and other charges which are subsequent to those paid to obtain their release provided for in this section or which were, for whatever reason, omitted from the payment made to obtain such release. The deed and other documents of conveyance shall be recorded by the Sullivan County Clerk even if executed only by a representative of the village and not the grantee.

### C. Private sale

1. Notwithstanding anything above to the contrary, by and solely by its resolution, the legislature may authorize a private sale on a case-by-case basis after considering the recommendation of the Real Property Advisory Board.

2. The legislature may designate specific properties for private sale from time to time and thereafter may seek and review offers for said parcels, provided that no such sale shall be closed prior to a resolution approving the same by the legislature.

3. The following criteria are to be used by the legislature in determining whether to initiate a private sale: [a] whether said sale shall promote the economic development of the village because the specific purchaser intends to make a use in the best interests of the village; [b] sale to another unit of government for a public purpose and use; [c] sale to a contiguous owner to provide access to a landlocked parcel, to resolve an issue caused by an encroachment, shared well, or septic system or common driveway or where the parcel cannot otherwise be improved under existing zoning regulations.

4. To assist the village with private sales, the legislature may engage the services of a real estate broker.

5. Prior to closing of a private sale, the enforcing officer shall certify that the proposed purchaser has paid taxes owed all Sullivan County taxing authorities.

6. In addition to the sales price, the purchaser of a parcel shall be responsible for paying all lawful charges and fees.

#### § 226-38. – Conveyance of subject parcels

A. The village shall convey all parcels to be conveyed to a third party by the terms of this local law by and through a quitclaim deed. All such sales may include a concurrent sale of the personality acquired by the Village and authorized by the judgment. All sales shall include costs in the nature of a surcharge of \$20. plus a search fee and other expenses of foreclosures (\$150 or more) per parcel, in the discretion of the enforcing officer.

B. The village shall not be liable for the physical condition of any property sold under this local law notwithstanding its ownership of said parcel.

C. The legislature shall have final approval over all conveyances covered by this local law.

Approved: September 21<sup>st</sup>, 2022 by the Village Board of Trustees