

**TOWN OF MAMAKATING
INTRODUCTORY LOCAL LAW
ASSESSMENTS OTHER THAN FOR
SPECIAL, DISTRICT OR LOCAL IMPROVEMENTS**

BE IT ENACTED by the Town Board of the Town of Mamakating, County of Sullivan,
State of New York, as follows:

Section 1. Chapter 172, titled "Taxation," of the Code of the Town of Mamakating, New York, is amended by changing the title of said Chapter to "Taxation and Assessments," and by adding a new Article V, titled "Assessments Other Than For Special, District or Local Improvements," to read as follows:

§172-11. Legislative findings.

The Town Board finds that certain costs incurred by the Town, and fees and penalties owed to the Town, related to individual properties remain unpaid, unreimbursed or uncollected due to the difficulty and delay of collection, the legal costs of collection and the unavailability of the property owner to local or state court jurisdiction. The difficulty and inability to collect fees, costs, expenses and penalties adversely affects the public fisc and unnecessarily burdens the taxpayers of the Town with costs and expenses incurred for the benefit of or because of individual properties. Village Law §4-414 and §5-518 provide a mechanism for assessment of such costs by villages, but the Town Law does not contain the analogous authority and procedure. The Town Board finds that Municipal Home Rule Law §10(ii)(a)(9-a) provides that the Town may adopt a local law related to the fixing, levy, collection and administration of local government rentals, charges, rates or fees, penalties and rates of interest thereon, liens on local property in connection therewith and charges thereon. The Board finds that the Town may, pursuant to MHRL §10(ii)(d)(3), adopt a local law amending or superceding the Town Law, notwithstanding it is a general law, unless the Legislature expressly shall have prohibited the adoption of such a local law. The Town Board finds no express or implied prohibition of adopting a local law similar to Village Law §4-414 and §5-518.

§172-12. Assessments.

Whenever an owner of real property is required by general, special or local law, or by any agreement or stipulation with the Town, or by any court of competent jurisdiction, in the interest of public safety, health or general welfare, to make an improvement to the property or perform any work or act on the property, or to pay any fee, cost, expense or penalty related to the property, and such owner shall fail to make the improvement or perform the work or act required, or to pay the fee, cost, expense or penalty, the Town Board may cause such improvement, work or act to be done on such property, by contract or otherwise, and the Town Board may determine that such fee, cost, expense or penalty is due and remains unpaid. In such event, the cost of such

improvement, work or act, and/or the amount of such fee, cost, expense or penalty may be assessed, levied, and collected as provided herein. The amounts which may be assessed, levied, and collected shall include all professional fees incurred by the Town, not limited to legal fees, in relation to causing such improvement, work or act to be performed, in relation to violations of law existing on such property, and in relation to applications for approvals or permits concerning such property.

§172-13. Procedure.

A. Any amount which may be assessed against the property of an owner pursuant to this Chapter shall, in the first instance, be billed to the property owner by mail addressed to the owner as identified by the assessment records of the Town. The records of the Town shall be deemed sufficient to verify such mailing address. The amount so billed shall be deemed presumptively valid, but may be challenged by the property owner. Any such challenge shall be made by request for audit and review submitted to the Town Board within sixty-five (65) days of the date of mailing of the bill. Such request shall specify in detail the basis of the challenge. Upon review of such challenge, the decision of the Town Board shall be final, but subject to review in an Article 78 proceeding filed within thirty (30) days of the filing of the Town Board's decision in the Town Clerk's office.

B. The Town Supervisor shall include, with the Supervisor's proposed budget, the total amount of such monies which may be assessed against individual properties in accordance with this Chapter. The Town Clerk shall prepare a roll of such amounts specifying the individual properties against which the amount shall be assessed, together with the name and address of the property owner as shown on the most current Town assessment roll. The total amount shall be included in the final budget of the Town. The Town Board shall approve the roll of individual assessments and the same shall be assessed against the properties at the same time and in the same manner as Town taxes.

C. As an alternative to the procedure set forth in subsection A above, if an assessment against a particular property is not yet final in accordance with the procedure set forth in subsection A above, the Town may mail notice of the preparation of the individual assessment roll to such particular property owner. Such notice shall be mailed not less than twenty (20) days prior to a hearing on the roll to be held at the time of the preliminary budget hearing, or such other date as the Town Board shall specify. The Town Board, following such hearing, shall approve, modify, or reject any assessment which was challenged at such hearing. The decision of the Town Board shall be final, but subject to review as set forth in subsection A above.

§172-14. Administrative fees and interest.

All amounts which are assessed in accordance with the procedure herein shall have added thereto, as an administrative fee, 10% of the original amount billed or noticed. Unpaid assessments shall accrue interest and penalties at the same rate and in the same manner as unpaid real property taxes.

Section 2. Separability. If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this local law or the remainder thereof had such invalid application or invalid provision be apparent.

Section 3. Supersession. The Town Board hereby declares its legislative intent to supercede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superceded include all the Town Law and any other provision of law that the Town may supercede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are requested to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superceded such inconsistent provision had it been apparent.

Section 4. This local law shall take effect immediately upon filing with the Secretary of State.