

FIRST READING June 21, 2022

SECOND READING July 19, 2022

PASSED July 19, 2022

AN ORDINANCE NO. BR2022-22

AN ORDINANCE TO AMEND CHAPTER 2 (“ADMINISTRATION”), ARTICLE VII (“TAXATION AND FINANCE”), DIVISION 3 (“ADMINISTRATION, COLLECTION AND ENFORCEMENT OF TAXES AND SPECIAL ASSESSMENTS”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO REASSIGN CERTAIN DUTIES TO THE CITY ADMINISTRATOR OR HIS/HER DESIGNEE; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 2 (“Administration”), Article VII (“Taxation and Finance”), Division 3 (“Administration, Collection and Enforcement of Taxes and Special Assessments”) of the Code of the City of Blue Ridge, Georgia (“Code”) provides generally for the imposition, collection and enforcement of all taxes and special assessments levied or imposed by the City; and

WHEREAS, City staff has recommended certain changes to Chapter 2 (“Administration”), Article VII (“Taxation and Finance”), Division 3 (“Administration, Collection and Enforcement of Taxes and Special Assessments”) of the Code to reassign certain duties to the City Administrator or his/her designee; and

WHEREAS, the City Council finds it in the public interest to adopt the changes recommended by City staff.

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, that Chapter 2 (“Administration”), Article VII (“Taxation and Finance”), Division 3 (“Administration, Collection and Enforcement of Taxes and Special Assessments”) of the Code of the City of Blue Ridge, Georgia, is hereby amended to read as follows:

Division 3. Administration, Collection and Enforcement of Taxes and Special Assessments

Sec. 2-650. Administration.

- (a) Except as otherwise provided in this division, the City Administrator or his/her designee shall be charged with the duty to administer the imposition, collection and enforcement of all taxes and special assessments levied or imposed by the city in accordance with the administrative procedures hereinafter set forth. To the extent this division fails to provide a

designated procedure, the officer shall act in the manner established, if any, for county tax collectors under applicable state law.

- (b) In determining the fair market value of property within its taxing jurisdiction, the city shall use the fair market value as finally determined for the property for county ad valorem tax purposes.
- (c) Following adoption of its current fiscal year budget, the mayor and council shall, by resolution, adopt a millage rate upon which property subject to ad valorem tax will be billed. Prior to adoption of the millage rate, the governing body shall publish the notice of proposed ad valorem tax rate as required by O.C.G.A. § 48-5-32. Millage rates shall be calculated using 40 percent of the assessed fair market value of the property upon which the tax is levied.
- (d) The City Administrator or his/her designee shall cause a bill to be sent to all taxpayers at the address last shown on the county tax digest by regular U.S. mail, with adequate postage thereon; provided, however, failure by the taxpayer to receive a bill shall not substitute grounds for nonpayment or late payment of the tax. The bill shall state the location or description of the property taxed, the fair market value of the property (100 percent) and its taxable value (40 percent of fair market value) and the amount of tax due thereon. The bill shall also state the due date after which taxes shall be in default. The bill may also contain such additional information as allowed by law or authorized by the mayor and council.

(Code 2003, § 35.20; Ord. of 11-14-2000)

Sec. 2-651. Due date; payment; interests on past due taxes.

- (a) *Due date.* All ad valorem taxes shall be due and payable in full within 60 days after notice, unless the due date falls on a Saturday, Sunday or legal holiday, in which case it shall be postponed until the first day after such 60th day which is not a Saturday, Sunday or legal holiday. Supplemental ad valorem taxes and special assessments shall be due and payable on the date set forth in the provisions imposing such supplemental tax or assessment.
- (b) *Payment.* All taxes and assessments imposed by the city shall be paid in full in legal tender of the United States. Except where specially authorized by law or ordinance of the mayor and council, no partial payments shall be accepted.
- (c) *Interest on past due taxes.* Taxes and special assessments shall bear interest at the rate of 1.5 percent per month from the date of tax or assessment is due until the date the tax or assessment is paid. For purposes of this subsection, any period of less than one month shall be considered to be one full month. The City Administrator or his/her designee may waive the collection of any interest, in whole or in part, due the city on unpaid taxes or assessments whenever or to the extent that he/she reasonably determines that the delay in payment was attributable to the action or inaction of his/her department.

(Code 2003, § 35.21; Ord. of 11-14-2000)

Sec. 2-652. Penalties.

- (a) All penalties imposed by this division are part of the tax or assessment and are to be collected as such. The proceedings to collect the original tax, the tax constituted from penalties imposed and the interest shall all be conducted in the same manner. Any provision of law for criminal prosecution shall not operate to relieve any taxpayer of any tax, penalty or interest imposed by this division.
- (b) In any instance in which any taxpayer fails to pay a tax or assessment within 90 days of the due date, he/she shall pay a penalty of ten percent of the amount of the tax due, together with interest as specified in section 2-651(c).
- (c) The mayor and council may waive, in whole or in part, the collection of any amount due as a penalty under this division to the extent the body finds and determines the default giving rise to the penalty was due to reasonable cause and not due to willful neglect or disregard of this division.

(Code 2003, § 35.22; Ord. of 11-14-2000)

Sec. 2-653. Executions on delinquent taxes and assessments.

- (a) When the last day for the payment of taxes and assessments has arrived, the City Administrator or his/her designee shall notify in writing the taxpayer of the fact that the taxes have not been paid and that, unless paid within 30 days, an execution shall be issued.
- (b) The City Administrator or his/her designee shall issue executions for the nonpayment of taxes and assessments at the any time after 30 days have elapsed since giving notice as provided in subsection (a) of this section. The execution shall identify the defendant in fi.fa. (taxpayer), the years for which delinquent taxes are being executed and the amount thereof. Executions shall be directed to "all and singular sheriffs and constables of the state."
- (c) The City Administrator or his/her designee shall cause all executions issued to be recorded on the general execution docket of the county where the property is located, in the case of real property, and, in the case of personal property, in the county of the taxpayer's residence if a resident of the state, otherwise in the county where any real or personal property of the taxpayer may be found. If the taxpayer is not a resident of the state and has no known real or personal property within the state, the execution shall be recorded in the county in which the act or activity giving rise to tax liability took place.
- (d) All executions issued shall continue to bear interest and penalties at the rates established in this division for past-due taxes and assessments.
- (e) The City Administrator or his/her designee shall cause all executions issued to be placed in the hands of the levy officer for collection or levy and sale of property. The levy officer shall exercise his/her best efforts to collect the full amount of the taxes and assessments due, together with all interest, penalties and any costs due thereon, from the defendant in fi.fa. In the event he/she is unable to do so, the levy officer shall levy the execution on a sufficient amount of the defendant in fi.fa.'s property, whether real or personal, to satisfy the obligations due at a sale to be held and conducted in accordance with this division.

(Code 2003, § 35.23; Ord. of 11-14-2000)

Sec. 2-654. Levy of executions; sale of property.

- (a) The levy officer is delegated the duties set forth in this division. The levy officer shall be subject to being ruled for money in his/her hands arising from the public sale of any property pursuant to process issued by the city. After first paying the City Administrator or his/her designee the amount due on the process under which the sale was made, the levy officer shall pay any surplus to any lawful claimant holding an interest subordinate to the lien for taxes, else to the defendant in fi.fa.
- (b) In all cases of levying on real property, within five days written notice of the levy must be given personally, or delivered by certified mail, to the defendant in fi.fa. and to any tenants in possession. If the land is unoccupied, a copy of the notice of levy shall also be conspicuously posted on the land. In the case of personal property, the levy officer shall enter the same on the execution and plainly describe the property levied on and the amount of the interest of the defendant in fi.fa. therein.
- (c) Whenever any real property is levied upon for taxes or assessments, it shall be the levy officer's duty, before proceeding to advertise the property for sale, to give 20 days written notice of the levy to the record owner of the property and the holder of each security deed of record. The 20-day period shall begin to run from the time the notice is personally delivered or, when delivered by registered or certified mail with return receipt requested, from the date of mailing. The notice shall contain a description of the land levied upon, the name of the owner of the land, the years for which the taxes were assessed and a statement of the amount of the taxes due, together with accrued costs. The levy officer shall keep a copy of the notice on which he/she shall enter the date the notice was delivered or mailed and how, where and to whom the notice was delivered. The levy officer shall file the copy with the city clerk.
- (d) When a levy is made upon real or personal property, the property shall be advertised and sold by the levy officer in the same manner as provided for executions and judicial sales; provided, however, in addition to such other notice as may be required by law, the defendant in fi.fa. shall be given at least ten days written notice of the sale by registered or certified mail. The notice shall be addressed to the taxpayer at the last known address listed in the records of the county tax commissioner. In addition, if the United States has a claim of lien on the property subject to being sold and such lien was filed or recorded more than 30 days before the proposed sale, the levy officer shall cause written notice of the sale to be given to the Secretary of the Treasury or his delegate not less than 25 days before the sale. Notice may be given either by personal service or by registered or certified mail, return receipt requested.
- (e) The levy officer shall publish weekly for four weeks in the official legal organ of the county in which the sale will be conducted an advertisement of the date, place and hours during which the sale will be conducted, together with a full and complete description of the property to be sold, making known the names of the owners of record and any person who may be in possession of the property. The notice shall state the property is being sold for collection of taxes due to the city and the years for which taxes have been executed.
- (f) Sales of property under execution shall be made by the levy officer before the city hall on the first Tuesday of each month between the hours of 10:00 a.m. and 4:00 p.m. Eastern

Standard Time or Eastern Daylight Savings Time, whichever is applicable, and at public outcry to the highest bidder for cash; provided, however, should the first Tuesday of the month fall on New Year's Day or Independence Day, such sales shall take place on the immediately following Wednesday. The purchaser shall look for himself as to the title and soundness of all property sold under tax executions, and neither the levy officer conducting the sale, nor the city, shall make any representations or warranty of title, condition or fitness for a particular purpose, expressed or implied.

- (g) The levy officer shall sell the property to the highest bidder for cash and, upon collection of the sale price, make a deed or bill of sale to the purchaser. Any person who becomes the purchaser of any property sold at the sale, who fails or refuses to comply with the terms of sale when requested by the levy officer to do so, shall be liable for the amount of the purchase money. It shall be the option of the levy officer either to proceed against the purchaser for the full amount of the purchase money or to resell the property and then proceed against the first purchaser for any deficiency. A tax deed for real property, or bill of sale for personal property, made and delivered as evidence of a sale for taxes conducted pursuant to this division shall convey the title as effectually as if the sale were made by the person against whom the process was issued. Sales of personal property shall be final; real property sold by virtue of an execution issued for the collection of taxes or for any special assessments is subject to redemption rights of the defendant in fi.fa. or any person having any right, title or interest in or lien upon such property at the time of levy and sale. Recitals in a deed or bill of sale under the power of sale for taxes shall be prima facie evidence of the facts recited in the instrument. The levy officer shall put the purchaser in possession of the property so sold; provided, however, the purchaser of real property is not entitled to be placed in possession until after the time for redemption has expired.
- (h) Whenever no bids are forthcoming on property sold for taxes after the property has been offered a reasonable time, the levy officer may either re-advertise and sell the property at a later date or abandon the property. The levy officer shall make a proper notation on the execution whenever property levied upon and exposed for sale has been abandoned due to lack of bids.

(Code 2003, § 35.24; Ord. of 11-14-2000)

Sec. 2-655. Bidding by city at tax sales; disposition of property acquired.

- (a) If, during any sale of property for taxes and after the property has been offered a reasonable time, no one present at the sale bids an amount for the property being sold which is as much as the total of the taxes due (including any priority liens for taxes due the state, county and school and other special tax districts of the state) plus the levy officer's cost due on the sale, then the City Administrator or his/her designee, may purchase the property for the city. If the city purchases property at a sale, the levy officer shall make to the city a deed to the property sold and shall deliver the deed to the City Administrator or his/her designee. The levy officer shall put the city in possession of the property so sold.
- (b) Property acquired by the city pursuant to a sale for taxes or assessments may be divested or alienated by the city only by public sale of the property to the highest bidder; however, when the city has not parted with title to the property, the city may quitclaim the property to

the owner at the time of the tax sale, or to the owner's administrators, executors, heirs or assigns, upon full payment of the redemption price provided in section 2-658.

- (c) The right of redemption in real property purchased by the city at a tax sale shall be foreclosed in the manner set forth in section 2-658.

(Code 2003, § 35.25; Ord. of 11-14-2000)

Sec. 2-656. Accounting by levy officer; final return or settlement.

- (a) The levy officer shall make a prompt accounting to the City Administrator or his/her designee for all executions placed in his/her hands for collection or levy and sale. He/she shall pay over to the City Administrator or his/her designee all amounts due the city for taxes and assessments, interest, penalties and costs and shall file a final written return or settlement showing the amounts so paid, together with disposition of any excess proceeds derived from the sale. If there is any excess after paying taxes, costs and all expenses of a sale, it shall be immediately paid to the person authorized to receive the excess.
- (b) In any event, if, within 90 days from the date executions are placed in his/her hands, the levy officer finds an execution to be either uncollectible or not collectable in full, he/she shall so notify the City Administrator or his/her designee. It shall be the duty of the levy officer to cause cancellation of executions of the general execution docket of the county upon their final payment or collection.

(Code 2003, § 35.26; Ord. of 11-14-2000)

Sec. 2-657. Garnishments by city; reduction of executions to judgments.

- (a) Whenever the levy officer can find no property belonging to a defendant in fi.fa. on which to levy and tax execution in his/her hands, he/she shall make an entry to that effect on the execution. The city attorney, in the name of the city, may then petition any court of competent jurisdiction to issue a summons of garnishment against any person whom he believes to be indebted to the defendant in fi.fa. or who has property, money or effects in his hands belonging to the defendant in fi.fa. The city attorney shall enter upon the execution the names of the action where the garnishment is filed. All subsequent proceedings shall be the same as provided by law in other cases where judgments have been obtained or execution issued.
- (b) When an execution for taxes remains unsatisfied and an entry of nulla bona has been duly entered by the levy officer on the execution within the immediately preceding 30-day period and the city attorney has reason to believe the defendant in fi.fa. may have or may come into ownership of assets outside the state, the city attorney, in the name of the city, may petition the superior court of the county in this state in which the defendant in fi.fa. maintains a known residence, place of business or agent to receive service to reduce the execution to judgment. If the defendant in fi.fa. does not maintain a known residence in this state, the action may be brought in the county where the tax obligation arose. This and all subsequent proceedings shall be brought in accordance with O.C.G.A. § 48-3-1 et seq.

(Code 2003, § 35.27; Ord. of 11-14-2000)

Sec. 2-658. Redemption rights of defendant in fi.fa.; vesting of title in grantee.

- (a) Whenever real property is sold for taxes or any special assessment, the defendant in fi.fa. or any person having any right, title or interest in or lien upon such property may redeem the property from the sale by the payment of the redemption price or the amount required for redemption as fixed by O.C.G.A. § 48-4-42, at any time within 12 months from the date of sale and at any time after the sale until the right to redeem is foreclosed by the giving of the notice provided for in O.C.G.A. § 48-4-45, which code sections by reference are incorporated herein as a part of this division.
- (b) Where notice of foreclosure of the right to redeem real property sold at a tax sale has not been given as required in subsection (a) of this section, title shall ripen by prescription after a period of four years from the date of recording of the deed in the county where the property is situated, provided the defendant in fi.fa. was not laboring under any legal disability at the time of sale. Unless the tax deed indicates a lesser interest was levied upon and sold, a fee simple title to the property shall vest absolutely in the grantee in the deed or in the grantee's heirs or assigns. In the event the defendant in fi.fa. is laboring under any legal disability, the prescription term shall begin from the time the disabilities are removed or abated.

(Code 2003, § 35.28; Ord. of 11-14-2000)

Sec. 2-659. Costs.

- (a) For issuing executions, the city shall receive only an amount equal to any filing fees charged by the clerk of superior court for recording and cancellation of the tax fi.fa.
- (b) Once a levy is made or posted on the property of a defendant in fi.fa., in addition to all taxes, interest, penalties and costs heretofore accrued, the levy officer shall collect a levy administration fee of five percent of the taxes due or \$250.00, whichever is the lesser; however, no levy administration fee shall be less than \$50.00.
- (c) In addition to the levy administration fee, after levy but prior to the sale, the levy officer shall collect his/her fees actually incurred, and any attorney's fees incurred in examination of title to property, plus a commission for conducting the sale, not to exceed eight percent on sums of \$50.00 or less, six percent on sums above \$50.00 up to \$550.00 and three percent on all sums exceeding \$550.00.
- (d) The costs provided in this section shall be cumulative and in addition to any statutory premiums allowed as a part of the redemption price.

(Code 2003, § 35.29; Ord. of 11-14-2000)

Sec. 2-660. Additional remedy.

As an additional remedy as to the noncompliance or violation of any provision of any ordinance or regulation of the city, including, but not limited to, the nonpayment of any taxes, penalties, interest, assessments, or other charges, as designated and referenced within this chapter, assessed to a taxpayer, customer, user, consumer or citizen, the noncompliance with any

requirement of any ordinance or regulation of the city, including, but not limited to, the installation of grease traps, discharge violations into the sewer system of the city, or as to any other provision of the ordinances and regulations of the city, and when the person or entity is in violation of the ordinances and regulations of the city, or owes taxes, assessments, penalties, interest, and other funds to the city, is a water customer or sewer customer, or both, the City Administrator or his/her designee, the city attorney or other properly designated agent for the city may, in addition to all other remedies provided by the ordinances of the city, or by state law, or both, may notify the public utilities of the city, of such noncompliance or nonpayment, and request that service be withheld until such time as the water customer or sewer customer, or both, comes into compliance with the ordinances and regulations of the city and also is no longer delinquent in the payment of any taxes, interest, penalties, assessments and other charges owed to the city. The city council specifically finds that such a person or entity being out of compliance with the ordinances and regulations of the city or being in violation of the ordinances and regulations of the city or owing delinquent taxes, interest, penalties, assessments and other charges to the city, and being a utility customer of the city, that any properly designated agent for the city may disconnect and terminate water service, or sewer service, or both, until such time as said customer is no longer in violation of the ordinances, rules and regulations of the city, and has paid all delinquent taxes, interest, penalties, assessments, and other charges. All usual and standard fees, expenses, and charges, such as the disconnection charge and the reconnection fee, must also be paid by said customer, in order to again receive service from the city, as well as the customer complying with the ordinances, rules and regulations of the city by being in compliance with the ordinances, rules, and regulations of the city, including, but not limited to, paying any amounts owed to the city.

(Ord. No. 2009-02-10, § 2, 2-10-2009)

Secs. 2-661—2-678. Reserved.

SECTION 2.

SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 3.

REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.

All parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the

intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

SECTION 4. EFFECTIVE DATE.

The effective date of this ordinance shall be upon its passage by the City Council.

SO ORDAINED this 19 day of July, 2022.

MAYOR AND CITY COUNCIL OF BLUE RIDGE



Mayor, City of Blue Ridge



Clerk, City of Blue Ridge

