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(ITEM ) A resolution by Supervisors Staskunas and Cullen to amend Section 6.07 of the Milwaukee County Code of General Ordinances relating to delinquent property tax collection via personal liability, by recommending adoption of the following:

**A RESOLUTION/ORDINANCE**

WHEREAS, the increased number of foreclosures continues to be a problem for local governments including Milwaukee County (the County) and the suburban communities for which it has tax delinquency responsibility; and

WHEREAS, an in personam foreclosure action seeking judgment against the property owner personally rather than an in rem foreclosure action seeking sale of the property provides an additional tool for collection of delinquent taxes and fees in certain cases; and

WHEREAS, the County has had an in personam foreclosure ordinance in effect since February 19, 1998, but its provisions have imposed conditions beyond those required by statute that have tended to reduce its effectiveness as an efficient and effective alternate means of enforcement; and

WHEREAS, in personam foreclosure need not be limited to the categories contained in current Section 6.07(3), Milwaukee County Code of General Ordinances, which have proven unduly limiting and unnecessary; and

WHEREAS, the City of Milwaukee has made good use of an in personam foreclosure ordinance, Milwaukee Code 304-48, without the categories and lengthier time limits found in the County provisions; and

WHEREAS, amending the County’s in personam foreclosure ordinance will provide greater flexibility to use this procedure where warranted in the combined judgment of the Treasurer and Corporation Counsel, including instances where an owner may have multiple properties or other assets, where the costs of abating a nuisance could be recovered, where environmental liabilities should be addressed that exceed the value of the property, or where an owner has brought about protracted delays in paying what is owed; and

WHEREAS, definitions in the amended ordinance are self-explanatory and need not be set out separately; and

WHEREAS, shortening the time for delinquent owners to pay overdue taxes in order to avoid legal action, shortening the time for the County to bring legal action against those who do not pay, and to enforce judgments where obtained will create further efficiency and effectiveness; and

47 WHEREAS, appointment of a receiver is permitted by statute and may be a  
48 useful enforcement and collection mechanism for the County in some cases; and  
49

50 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its  
51 meeting of December 3, 2015, recommended adoption of this resolution/ordinance (vote  
52 6-0)  
53

54 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends  
55 Section 6.07 of the Milwaukee County Code of General Ordinances by adopting the  
56 following:  
57

## 58 AN ORDINANCE

59  
60 The Board of Supervisors of the County of Milwaukee does ordain as follows:  
61

62 **SECTION 1.** Section 6.07 of the General Ordinances of Milwaukee County is amended  
63 as follows:  
64

65 6.07. - Delinquent property tax and cost collection via personal liability.  
66

67 Pursuant to s. 74.53(5), Wis. Stats., the county board hereby abrogates its  
68 duty to approve and notice each civil action for personal liability to recover  
69 delinquent real estate taxes and costs and waives the duty to specifically  
70 approve each personal liability action that the county may bring under s. 74.53,  
71 Wis. Stats.  
72

73 1. *Purpose.* As authorized under s. 74.53, Wis. Stats., ~~for the categories~~  
74 ~~described in subparagraph 3,~~ this section allows Milwaukee County to  
75 bring an in personam action (action against the person, not the property)  
76 for delinquent real estate taxes; ~~special charges; special assessments;~~  
77 ~~special taxes;~~ costs relating to razing, removal, restoration or filling as  
78 allowed under s. 74.53(1)(b), Wis. Stats.; and costs relating to abating a  
79 public nuisance as allowed under s. 74.53(1)(c), Wis. Stats.  
80

81 2. ~~Definitions.~~ In this section:

82 (a) ~~"In personam action" means an action against the person, not the~~  
83 ~~property, for delinquent real estate taxes, special charges, special~~  
84 ~~assessments and special taxes.~~

85 (b) ~~"Post-list delinquencies" means delinquencies arising after the tax~~  
86 ~~year for which an in rem foreclosure action was brought and in~~  
87 ~~which action the owner failed to redeem.~~

88 (c) ~~"Repeat delinquent owner" means a person who had an ownership~~  
89 ~~interest in two (2) or more parcels foreclosed upon via in rem~~  
90 ~~foreclosure within the last five years predating the tax certificate list~~  
91 ~~containing the parcel against which the particular taxes, charges~~  
92 ~~and interest are delinquent.~~

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3. ~~Parcel categories.~~

- ~~(a) Suspected environmental contamination. The real estate section of the economic development division of the department of administration, together with the environmental services division of the department of public works, shall advise the county treasurer and corporation counsel regarding those parcels for which tax certificates have been issued under s. 74.57, Wis. Stats., and according to their records and reasonable belief are suspected of being environmentally contaminated or adversely affected by environmental contamination and which:
  - ~~(i) There is no desire to investigate or test for the purpose of determining existence or the extent of suspected or actual contamination; or~~
  - ~~(ii) There is no desire to acquire the parcel in rem with the knowledge of, and in spite of, suspected or actual environmental contamination.~~~~
- ~~(b) Fair market value. The county treasurer, together with corporation counsel and the real estate section of the economic development division of the department of administration, shall identify those parcels for which tax certificates have been issued, are suspected of having expenses associated with the parcel, including but not limited to taxes, assessments, charges, razing costs, interest and penalties, which exceed the parcel's most recent assessed value. Said expenses may include actual or reasonably estimated expenses associated with foreclosing against, managing, repairing, razing, maintaining or selling the parcel after acquisition as well as actual or reasonably estimated expenses to correct health, safety or building code violations outstanding at the time of categorization.~~
- ~~(c) Abandoned. The real estate section of the economic development division of the department of administration shall identify those parcels for which tax certificates have been issued and upon reason and belief are suspected of being abandoned.~~
- ~~(d) Repeat delinquent owner. The county treasurer shall review the tax certificate list to identify repeat delinquent owners and those parcels on the tax certificate list owned by the repeat delinquent owners.~~
- ~~(e) Post-list delinquency. The county treasurer and corporation counsel shall identify those parcels where, due to in rem foreclosure, post-list delinquencies exist.~~

2. 4. *Decision to bring action.* The county treasurer and corporation counsel shall review the suspected environmental contamination, fair market value, abandoned, repeat delinquent owner and post-list delinquency categorized delinquent parcels, and determine, in their discretion, whether to commence an in personam action against the a parcel owner.

- 139           35.    *Letter of notice.* The county treasurer and corporation counsel shall  
140           prepare a list of a report regarding those parcels in the categories listed in  
141           ~~this section~~ where in their discretion an in personam action is advisable.  
142           The county treasurer shall send written notice to the owner or owners of  
143           ~~such parcels selected as defendants~~ each listed parcel that a decision has  
144           been made to commence an in personam action against him, ~~or her,~~ or  
145           them as defendants. The notice shall indicate that if full payment of the  
146           amounts recoverable under s. 74.53, Wis. Stats., including interest and  
147           penalties, in cash or by cashier's check, is received within ~~eight~~ four  
148           weeks from the date of the notice, the action will not be commenced. The  
149           notice shall be personally delivered or mailed to the owner at his or her  
150           last known post-office address ~~via registered or certified mail, return~~  
151           ~~receipt requested~~ or otherwise delivered as allowed by law.
- 152           46.    *Commencement of action.* If the owner fails to make full and timely  
153           payment as requested in the notice, the corporation counsel may  
154           commence the in personam action, ~~but in no event until the expiration of~~  
155           ~~the appropriate time period for commencement of an in rem foreclosure.~~
- 156           5.       Receiver. Upon commencement of any in personam action, the  
157           corporation counsel in consultation with the treasurer may request that a  
158           receiver be appointed in accordance with s. 74.53(7), Wis. Stats.
- 159           67.    *Enforcement of judgment.* In the event a judgment is granted in an in  
160           personam action, the corporation counsel is further authorized to take all  
161           actions necessary to enforce and collect said judgment as are appropriate  
162           and otherwise authorized by law, ~~but in no event until after expiration of~~  
163           ~~the redemption date that would have applied if the parcel had been~~  
164           ~~foreclosed upon in rem.~~

165  
166    **SECTION 2.** The provisions of this amended ordinance shall be effective upon passage  
167    and publication.  
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170    srb  
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