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(ITEM ) From the Director of County Economic Development, Department of Administrative Services, requesting authorization to amend Chapters 6 and 32 of the Milwaukee County Code of General Ordinances relating to the management and disposition of tax deed foreclosure properties, by recommending adoption of the following:

**A RESOLUTION**

WHEREAS, the Economic Development Division, Department of Administrative Services, is charged with the acquisition, management, and disposition of real estate for Milwaukee County, including surplus County lands and properties acquired by the County through the tax deed foreclosure process; and

WHEREAS, there are two conflicting provisions in the Milwaukee County Code of General Ordinances regarding the duties of the Division with respect to County-owned real estate: Chapter 6, Sections 6.01 and 6.03 and Chapter 32, Section 32.96; and

WHEREAS, Section 6.01 lays out the Division’s duties with respect to tax foreclosure properties, while Section 6.03 seems to apply to all types of County-owned real estate although several subprovisions clearly relate to tax foreclosure properties; and

WHEREAS, Section 32.96 lays out the duties of the Real Estate Services Section of the Division; and

WHEREAS, Milwaukee County will be taking an unprecedented number of tax foreclosure properties in 2014, which are unique County assets in terms of both category and quantity; and

WHEREAS, tax deed foreclosures are distinctly different assets than other parcels of County-owned real estate in that:

- (a) They are greater in number compared to other surplus County property.
- (b) The bulk of foreclosures are residential homes, properties for which the County has little to no use.
- (c) Significant carrying costs to the County are associated with the holding of the foreclosure properties.
- (d) They can have a negative impact on the surrounding neighborhood by depressing home values and potentially increasing blight and crime.

; and

WHEREAS, it is in the best interests of the County and the surrounding neighborhoods to dispose of the properties as quickly and efficiently as possible; and

44 WHEREAS, the Division needs clear directives to effectively handle the  
45 management and disposition of the County's tax foreclosure properties, which requires a  
46 process wholly separate from that related to other County properties; and  
47

48 WHEREAS, based on the conflicting messages sent by the current Ordinance  
49 provisions, it would be advisable to amend the Ordinances to clarify the directives to the  
50 Division with regards to general land sales and the disposition of tax foreclosure properties;  
51 now, therefore,  
52

53 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby amends  
54 Chapters 6 and 32 of the Milwaukee County Code of General Ordinances by adopting the  
55 following:  
56

### 57 AN ORDINANCE

58  
59 The County Board of Supervisors of the County of Milwaukee does ordain as  
60 follows:  
61

62 **SECTION 1.** Chapter 6 of the General Ordinances of Milwaukee County is renamed as  
63 follows:  
64

65 Chapter 6 COLLECTION OF DELINQUENT REAL ESTATE TAXES, AND ACQUISITION,  
66 MANAGEMENT AND DISPOSITION OF LAND TAX FORECLOSURE PROPERTIES  
67

68 **SECTION 2.** Section 6.01 of the General Ordinances of Milwaukee County is amended as  
69 follows:  
70

71 6.01. Foreclosure of tax lien by action *in rem*.  
72

73 From and after March 1, 1963, the county elects to adopt s. 75.521, Wis. Stats. for  
74 the purpose of enforcing tax liens in such county in the cases where the procedure  
75 provided by such section is applicable. Where applicable, this method shall be used in  
76 preference to obtaining real estate by a guardianship deed, old age assistance lien or  
77 where, in the opinion of the corporation counsel, it is more effective for obtaining  
78 merchantable title.

79 (1) The ~~department of public works and development, through its real estate branch of~~  
80 ~~the professional services division~~ department of administrative services – economic  
81 development division, shall make cursory inspections of all properties on the  
82 county treasurer's list of properties scheduled for foreclosure for nonpayment of real  
83 estate taxes. Within three (3) days after the final date of redemption, the treasurer  
84 shall furnish the ~~department~~ division a list of the remaining properties in the court  
85 action and the projected foreclosure date and the ~~department~~ division shall present

- 86 a written report to the treasurer on which of the remaining properties in the court  
87 action contains or are likely to contain hazardous materials.
- 88 (2) Properties that have been identified by the division ~~department of public works and~~  
89 ~~development~~ as containing or likely to contain hazardous materials shall be taken  
90 by foreclosure only if there is agreement of the treasurer and the division  
91 ~~department~~.
- 92 (3) ~~If it is determined by~~ the treasurer and the division ~~department~~ determine that a  
93 phase one environmental assessment is required and/or a plan should be developed  
94 for ~~submittal~~ submission to the state department of natural resources in order to  
95 protect the county's interests, an assessment can be undertaken and/or a plan  
96 developed and submitted if sufficient funds are available for these purposes.
- 97 (4) ~~If there is disagreement between~~ the treasurer and the ~~department of public works~~  
98 ~~and development~~ division disagree about whether a property might contain  
99 hazardous materials, the need for further environmental assessment or development  
100 of a plan for submittal to the state department of natural resources, or if sufficient  
101 funds are not available for these purposes, the county shall not take judgment of  
102 foreclosure on the property in question and the ~~matter shall be submitted by the~~  
103 treasurer shall submit the matter to the committee on finance for review and  
104 direction by the county board.
- 105 (5) Return of property to former homestead owner after property is foreclosed upon by  
106 tax lien action *in rem*:  
107 (a) Definition: "Homestead owner" is defined as owner who has lived in  
108 property within ~~two (2)~~ five (5) years of *in rem* tax lien foreclosure:  
109 (b) Any former homestead owner(s) or his or her heir(s) who has lost his or her  
110 title to land through delinquent tax collection enforcement procedure shall  
111 have the ~~right~~ ability to have this property returned from the county as  
112 authorized in s. 75.35(3), Wis. Stats., and this ordinance.  
113 (c) An exception to this policy shall allow the county to declare that it will keep  
114 the tax dedeed land for county use if another county department ~~the~~  
115 ~~Milwaukee County Parks Department, the county economic development~~  
116 ~~department, or the county real estate division,~~ which shall be notified of  
117 such foreclosures within ten (10) days of ~~such action~~ acquisition of the  
118 properties, ~~do declare~~ declares a county interest in holding title to said  
119 property within thirty (30) days of receipt to said notice. In case of such  
120 declaration, the disposition of said property will be referred to the county  
121 board, which shall ~~to~~ determine if whether the county shall retain title to said  
122 tax dedeed land(s).<sup>3</sup>

- 123 (d) In cases where a former homestead owner(s) or his or her heir(s) do exercise  
 124 their ~~right ability of return of said~~ to have foreclosed property returned to  
 125 them pursuant to this section, said persons shall pay:
- 126 (i) ~~all~~ All of the delinquent taxes which were the basis for the taking of  
 127 tax deed, plus interest, and any penalties established by law and all,  
 128 special charges and assessments, and other tax bill charges or fees as  
 129 defined in s. 75.36(1), Wis. Stats., a pro rata share of the costs of the  
 130 tax collection enforcement foreclosure process, any costs accrued by  
 131 the county real estate division and corporation counsel, plus an  
 132 additional sum of three (3) percent of all the aforementioned amounts  
 133 or two hundred dollars (\$200.00), whichever is greater.
- 134 (e)  
 135 (ii) ~~The former owner(s) or his or her heir(s) shall pay the~~ The taxes for  
 136 the full year in which the return of the property from the county took  
 137 place and the amount the taxes, penalties and interest would have  
 138 been owing in any years had the county not taken tax deed to the  
 139 property.
- 140 ~~(e)~~ (e) If the former owner(s) do not initiate their ~~option~~ ability to have the  
 141 foreclosed property returned ~~with~~ within sixty (60) days of foreclosure by  
 142 signing an agreed upon written contract with the office of the treasurer  
 143 ~~within sixty (60) days~~, the ~~rights~~ ability of the homestead owner to have the  
 144 foreclosed property returned pursuant to this section ~~specified in this~~  
 145 ~~ordinance to return the property~~ shall be forever lost.
- 146 ~~(g)~~ (f) The County shall not return title to ~~the owner of~~ the property ~~shall not be~~  
 147 ~~returned~~ to the former homestead owner until full payment is received as  
 148 stipulated under section ~~(b)~~ (d) above, and the corporation counsel has  
 149 received court approval to vacate the foreclosure order regarding the  
 150 property in question.
- 151 ~~(h)~~ (g) The preference granted to the former homestead owner(s) or his or her  
 152 heir(s) to return said property from the county is exempt from the provisions  
 153 of s. 75.69, Wis. Stats.

154  
 155 **SECTION 3.** Section 6.03 of the General Ordinances of Milwaukee County is repealed  
 156 and recreated as follows:  
 157

- 158 (1) *Declaration of surplus and assumption of jurisdiction.* Upon the County Treasurer  
 159 taking title of tax foreclosure properties, such properties shall automatically be deemed  
 160 surplus and placed under the jurisdiction of the department of administrative services,  
 161 economic development division.

- 162 (2) *Management of tax foreclosure properties.* While the tax foreclosure properties are  
163 under its jurisdiction, the division is responsible for managing the properties or hiring a  
164 contractor to manage the properties, which includes but is not limited to:
- 165 (a) Controlling access to and physically inspecting the properties.
  - 166 (b) Arranging for cleaning, general maintenance or other repairs, as necessary to  
167 prepare the properties for resale.
    - 168 (i) The division shall authorize emergency repairs not exceeding five  
169 thousand dollars (\$5,000.00).
    - 170 (ii) For nonemergency repairs, the procurement provisions of chapter 32,  
171 subchapter II shall apply.
  - 172 (c) Obtaining appraisals for the marketable tax deed foreclosure properties.
  - 173 (d) Negotiating temporary leases or licenses with occupants, if mutually  
174 agreeable.
    - 175 (i) Rental rates shall be determined on the basis of fair market value.
    - 176 (ii) Leases or licenses shall be in writing on a month-to-month basis.  
177 Leases or licenses longer than one (1) year require the approval of the  
178 county board.
    - 179 (iii) All rents shall be paid directly to the division.
  - 180 (e) Paying special charges levied against the properties. Notwithstanding the  
181 foregoing, the county is not required to pay any special assessment until the  
182 time of sale, pursuant to s. 73.36(2), Wis. Stats.
  - 183 (f) If feasible and determined to be in the best interests of the county,  
184 combining or dividing the tax foreclosure properties with other properties to  
185 improve salability, as contemplated by s. 75.35(4), Wis. Stats.
- 186 (3) *Retention of tax foreclosure properties for municipal purposes.*
- 187 (a) County Use. Upon receipt of jurisdiction of the tax foreclosure properties,  
188 the division shall notify all other county department heads of the availability  
189 of the real estate for public purposes. County department heads shall have  
190 30 days from the date of notification to respond in writing advising the  
191 division of their interest in the real estate. The property will be transferred  
192 via jurisdictional transfer agreement to the interested department, whereby  
193 the interested department assumes the carrying costs of the property.  
194 Whether additional consideration or cross charges are required shall be  
195 determined on a case-by-case basis by the division director.
  - 196 (b) Other Municipal Use. In the absence of county interest, the division shall  
197 contact the municipality in which the tax foreclosure property resides to  
198 determine whether the municipality has an interest in obtaining the property  
199 for a public purpose. The municipality shall have 30 days from the date of  
200 notification to respond in writing advising the division of its interest in the

201 real estate. The price of the real estate is presumed to be its appraised value.  
202 Notwithstanding the foregoing, if doing so would provide a community  
203 benefit or serve a public purpose, the division may enter into a  
204 Memorandum of Understanding or other similar agreement with the  
205 municipality evidencing the mutually beneficial agreement for the transfer of  
206 real estate between them for consideration other than fair market value.

207 (c) The 30 day review period set forth in this section may run concurrently for  
208 county departments and other municipalities.

209 (4) *Sale of tax foreclosure properties.* The division shall sell tax foreclosure properties  
210 via offer to purchase.

211 (a) The division shall list marketable tax foreclosure properties for sale on the  
212 MLS (Multiple Listing Service) at their appraised values.

213 (i) If the division receives an offer to purchase a tax foreclosure property  
214 within ninety percent (90%) of its appraised value during the first 120  
215 days of listing (“Initial Offer Period”), it may sell the property without  
216 further approval of the county board.

217 (ii) If the division receives an offer to purchase a tax foreclosure property  
218 within 75% of its appraised value during the next 120 days of listing  
219 (“Extended Offer Period”), it may sell the property without further  
220 approval of the county board.

221 (iii) If the Extended Offer Period lapses without a sale, the division  
222 director may authorize the sale of a tax foreclosure property without  
223 further approval of the county board, provided that the purchase price  
224 is not less than 25% of the appraised value.

225 (iv) As an alternative to subs. (i)-(iii) above, the division may at any time  
226 request separate board approval of an offer to purchase.

227 (iv) The division director, or his/her designee, shall have the authority to  
228 negotiate additional terms with any potential buyer if doing so would  
229 be in the best interests of the county, provided the additional terms do  
230 not disregard the price directives in subs. (i)-(iii) above.

231 (b) The division shall negotiate with adjacent property owners or the  
232 municipality in which the tax foreclosure resides for the disposition of  
233 unmarketable (remnant) tax foreclosure properties. For purposes of this  
234 section, unmarketable tax foreclosure properties are those properties which  
235 are unbuildable by nature of their size, location or subsurface composition.  
236 The division shall notify the County Board of any agreements for the  
237 disposition of unmarketable tax foreclosure properties. Board members will  
238 have five (5) days to object to the sale or disposition in writing, at which  
239 point the transaction will require the approval of the full Board. In absence

240 of a timely objection, the agreement shall be deemed approved by the Board  
241 per s. 59.17(2)(b)3, Wis. Stats.

242 (c) All annual proceeds from these sales - less costs incurred by the Economic  
243 Development Division, the Office of the Treasurer, and the Corporation  
244 Counsel, as well as any outstanding delinquent taxes, special assessment,  
245 special charges and delinquent utility charges, as well as accrued interest  
246 and penalties (already booked as receivables) - shall be credited to the  
247 economic development account, unless otherwise directed in the annual  
248 budget.

249 (d) The provisions of sections 32.96(7) and (8) of this Code are applicable to tax  
250 foreclosure sales. Any land sale to an individual covered by 32.96(7) shall  
251 require county board approval per s. 59.17(2)(b)3, Wis. Stats.

252 (5) *County Board Notification.* Upon signing an agreement for sale or disposition of a  
253 tax foreclosure in accordance with sections (3) and (4) above, the division shall notify the  
254 County Board of the transaction. Board members will have five (5) days to object to the  
255 sale or disposition in writing, at which point the transaction will require the approval of the  
256 full Board. In absence of a timely objection, the agreement shall be deemed approved by  
257 the Board per s. 59.17(2)(b)3, Wis. Stats.

258

259 **SECTION 4.** Sections 6.04 and 6.05 of the General Ordinances of Milwaukee County are  
260 superseded by newly created Sections 32.96(7) and 32.96(8).

261

262 ~~6.04. Sale of lands to county employes prohibited.~~

263

264 ~~No officer or employe, either part time or full time, of the county, whether elected or~~  
265 ~~appointed, in either the classified or unclassified service, shall purchase real estate~~  
266 ~~acquired by the county, pursuant to this chapter, through an agent. However, the~~  
267 ~~aforementioned individuals, if not involved directly in the sale, may purchase real estate~~  
268 ~~themselves or with their spouses, if their county employment is disclosed in the offer.~~

269

270 ~~6.05. Conveyances for sale of lands.~~

271

272 ~~The county executive and county clerk shall sign all conveyances on behalf of the county~~  
273 ~~for the sale of lands acquired by the county under the procedure authorized by this chapter~~  
274 ~~when approved as ready for execution by the corporation counsel.~~

275

276 **SECTION 5.** Section 32.96 of the General Ordinances of Milwaukee County is amended  
277 as follows:

278

279 32.96. Real Estate.

280

281 (1) Manage, sell and acquire real estate for the county. Specific responsibilities include  
282 managing and leasing improved and unimproved properties, including air space parking  
283 lots for the state department of transportation (WIDOT). County surplus real estate and tax  
284 deed foreclosure properties in the county suburbs are sold by the division.

285 (2) Land sales shall follow the policy and procedure for disposition of real estate as  
286 recommended by the committee on economic and community development (ECD  
287 committee), approved by the county board and implemented by the Department of  
288 Administration (DAS) – Economic Development Division.

289 (3) Sales of tax foreclosure properties shall be consistent with the provisions of s. 6.03.  
290 ~~(3)(4)~~ All land sales not covered by 6.03 including those declared surplus by the county  
291 shall be referred to the ECD committee for disposition and the ECD committee may  
292 consider any of the following policies for such disposition:

293 (a) A site-specific plan because of the unique character or location of the  
294 property.

295 (b) A request for proposal (RFP) process which is intended to be a formal  
296 process that is generally reviewed in closed hearings if such hearings are  
297 deemed appropriate by opinion of corporation counsel.

298 (c) A request for information (RFI) process which is intended to be a less formal  
299 process that is generally reviewed in an open hearing unless corporation  
300 counsel provides an opinion that proprietary information must be protected.  
301 Such RFI process may be followed by a more specific procedure as  
302 recommended by the ECD committee.

303 (d) Any other policy for disposition that the ECD committee establishes as  
304 appropriate which may be determined by the totality of the circumstances  
305 regarding the real estate involved.

306 (e) A development agreement negotiated by DAS – Economic Development  
307 Division that the ECD committee established with regard to a specific  
308 developer to develop an identified real estate parcel.

309 ~~(4)(5)~~ The ECD committee may, at their discretion, recommend to the county board any  
310 community benefit requirements for either the surplus disposition plan or development  
311 agreement.

312 ~~(5)(6)~~ All negotiations and review of RFP, RFI, or any other negotiated procedures shall be  
313 conducted by the DAS – Economic Development Division which shall make final  
314 recommendations to the ECD committee for review and recommendation to the county  
315 board.

316 (7) No officer or employee, either part-time or full-time, whether elected or appointed,  
317 in either the classified or unclassified service, shall purchase real estate acquired by the  
318 county, pursuant to this chapter, through an agent. However, the aforementioned  
319 individuals, if not involved directly in the sale, may purchase real estate themselves or with  
320 their spouses, if their county employment is disclosed in the offer.

321 (8) The county executive and county clerk shall sign all conveyances on behalf of the  
322 county for the sale of lands acquired by the county under the procedure authorized by his  
323 chapter when approved as ready for execution by the corporation counsel.  
324



325 **SECTION 6.** The provisions of this ordinance shall be effective upon passage and  
326 publication.