

ENROLLED ORDINANCE 161-49

REPEAL AND RECREATE SECTIONS OF CHAPTER 14, ARTICLE XIII, DIVISION 5 OF THE CODE OF ORDINANCES TO UPDATE SITE ASSESSMENT REQUIREMENTS FOR PROPERTY ACQUISITIONS OR SALE BY WAUKESHA COUNTY

WHEREAS Since 1993, Waukesha County as the Department of Environmental Resources has made inquiry regarding the environmental condition of real property prior to acquisition to minimize the potential exposure to liability and claims for damages under applicable laws governing the environment and hazardous substances or hazardous conditions, and

WHEREAS a federal standard has been promulgated which now defines the level of inquiry required to minimize this potential exposure to liability and claims,

WHEREAS the Department of Environmental Resources, which was responsible for conducting these inquiries, is now a part of the Department of Parks and Land Use.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that:

SECTION 1. Section 14-616 is repealed and recreated to read as follows:

(a) *Acquisitions of property* shall include but not be limited to the following transactions by which the county becomes the owner of real property: purchase with money or by trade, dedication for future rights of way or other public purposes, donations, gifts or inheritance, bankruptcy or the *in rem* process, condemnation, transfer by another governmental agency, or by operation of law.

(b) *Phase I Environmental Site Assessment* means conducting an investigation in accordance with the All Appropriate Inquiries Standard, 40 CFR 312, to discover conditions indicative of releases or threatened releases of a hazardous substance(s) on, at, in, or to a premises or in any structure present on a premises, or in any structure located on a premises. Hazardous substance has the meaning set forth in Chapter 292.01(5), Wis. Stats. "Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illnesses or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department."

(c) *Phase II Environmental Site Assessment*. A Phase II Environmental Site Assessment shall include sampling and analysis of appropriate site substances to determine the nature and extent of the suspected contamination.

(e) *Phase III Environmental Site Assessment*. A Phase III Environmental Site Assessment shall include the actions necessary to restore the environment at the site to the extent practicable and minimize the harmful effects of the discharge to the air, lands or waters of the State of Wisconsin and be performed in accordance with the Wisconsin Administrative Code NR 700 Series as amended from time to time.

SECTION 2. That Section 14-617 is repealed and recreated to read as follows:

Prior to the county's acquisition or sale of any property, the Department of Parks and Land Use or its contractor shall conduct a Phase I Environmental Site Assessment, except as otherwise allowed in this article.

SECTION 3. That Section 14-618 is repealed and recreated to read as follows:

The county may acquire, sell or gift property without conducting a Phase I Environmental Site Assessment as required in this ARTICLE provided approval of the county board, in the form of a majority vote of all its members, has been obtained.

SECTION 4. That Section 14-619 is repealed and recreated to read:

The county executive shall administer, with the assistance of the Department of Parks and Land Use, all environmental site assessments required by this ARTICLE. Reports regarding the environmental site assessment of each property sold or acquired by Waukesha County shall be retained by and made available for public review at the Department of Parks and Land Use.

SECTION 5. That Section 14-620 is repealed and recreated to read:

A Phase I Environmental Site Assessment shall not be required under the following circumstances:

If the property in question is of such small size or has other characteristics which cause the Department of Parks and Land Use to determine that an assessment is not necessary; or

When a property has been subject to a Phase I Environmental Site Assessment approved by the Department of Parks and Land Use.

SECTION 6. That Section 14-621 is repealed and recreated to read:

If the results of the Phase I Environmental Site Assessment indicate a need for further investigation of the property, and, if after communication of the need the Department of Parks and Land Use is informed that the property will still be considered for acquisition or sale, the Department of Parks and Land Use shall cause a Phase II Environmental Site Assessment to occur, and, if necessary, may cause a Phase III Environmental Site Assessment on behalf of the county to occur, before any county representative obligates the county to acquire the property in question.

SECTION 7. That Section 14-622 is repealed and recreated to read:

Funding for Phase I, II and III Environmental Site Assessments conducted by a non-county entity or individual on a contract basis shall be obtained in the following manner unless the county board ordains otherwise:

For land to be acquired for capital projects, from the appropriations for that capital project.

For land to be acquired for a purpose other than a capital project and for the sale, gift or trade of property, from the appropriations for that purpose in the budget for the Department of Parks and Land Use or any other source designated by the county board in appropriate legislation.

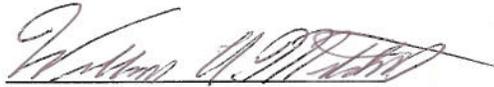
SECTION 8. This ordinance shall be effective upon approval and publication.

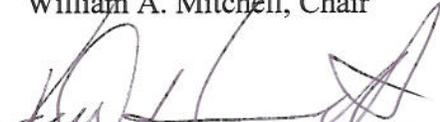
SECTION 9. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered to conform to the numbering system contained therein.

SECTION 10. Any code section or part of a section in conflict with this ordinance is hereby repealed and declared null and void and of no effect.

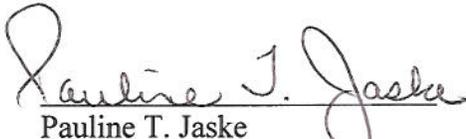
REPEAL AND RECREATE SECTIONS OF CHAPTER 14, ARTICLE XIII, DIVISION 5 OF THE CODE OF ORDINANCES TO UPDATE SITE ASSESSMENT REQUIREMENTS FOR PROPERTY ACQUISITIONS OR SALE BY WAUKESHA COUNTY

Presented by:
Land Use, Parks, and Environment Committee


William A. Mitchell, Chair


Keith Hammitt


Keith Harenda

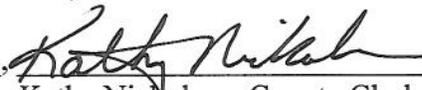

Pauline T. Jaske


Walter L. Kolb


Vera Stroud

Absent
Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 10-27-06, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 10-30-06, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/24/06

(ORD) NUMBER-1610056

- 1 K. HERRO.....AYE
- 3 T. ROLFS.....AYE
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 J. TORTOMASI.....AYE
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....AYE
- 29 T. BULLERMANN.....AYE
- 31 V. STROUD.....AYE
- 33 K. HAMMITT.....AYE
- 35 P. MEYER.....AYE

- 2 R. THELEN.....AYE
- 4 R. HUTTON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 T. SCHELLINGER....AYE
- 14 S. WIMMER.....AYE
- 16 R. STEVENS.....AYE
- 18 B. MORRIS.....AYE
- 20 P. WOLFF.....AYE
- 22 G. BRUCE.....AYE
- 24 B. KRAMER.....AYE
- 26 F. RUF.....AYE
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-35

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-35