



# Board of County Commissioners Agenda Request

4A  
Agenda Item #

Requested Meeting Date: 9-12-2017

Title of Item: Adopt Lot Split/Divide Resolution

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|--|--|---|
| <input checked="" type="checkbox"/> REGULAR AGENDA<br><input type="checkbox"/> CONSENT AGENDA<br><input type="checkbox"/> INFORMATION ONLY   | <b>Action Requested:</b><br><input type="checkbox"/> Approve/Deny Motion<br><input checked="" type="checkbox"/> Adopt Resolution (attach draft)<br><i>*provide copy of hearing notice that was published</i> | <input type="checkbox"/> Direction Requested<br><input type="checkbox"/> Discussion Item<br><input type="checkbox"/> Hold Public Hearing* |
| <b>Submitted by:</b><br>Terry Neff, Environmental Services Director  |  | <b>Department:</b><br>Environmental Services  |
| <b>Presenter (Name and Title):</b><br>Terry Neff, Environmental Services Director  |  | <b>Estimated Time Needed:</b><br>10 minutes   |
| <b>Summary of Issue:</b><br>See attached memorandum.   |  |   |
| <b>Alternatives, Options, Effects on Others/Comments:</b><br>Continue to transfer parcels that do not meet the requirements of our Ordinances.   |  |   |
| <b>Recommended Action/Motion:</b><br>Adopt the proposed resolution.  |  |   |
| <b>Financial Impact:</b><br>Is there a cost associated with this request? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br>What is the total cost, with tax and shipping? \$<br>Is this budgeted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      Please Explain: |  |   |

**Aitkin County Environmental Services Planning and Zoning**  
**209 Second Street NW**  
**Room 100**  
**Aitkin, MN 56431**  
Phone: 218-927-7342  
Fax: 218-927-4372



**MEMORANDUM**

**DATE:** August 16, 2017  
**TO:** Aitkin County Board of Commissioners  
**FROM:** Terry Neff, Environmental Services Director   
**RE:** Resolution to Review Lot Splits and Transfers

In the 2017 Legislative session a Bill was passed that amends MN Statutes 272.162 (see enclosed amended Statute) to allow Counties the same authority as Cities to review lot transfers and divides for conformity with land use regulations prior to recording. A Resolution must be passed to implement the provisions of the Statute (enclosed is a resolution created by AMC).

The Minnesota Association of County Planning and Zoning Administrators has supported this and other similar Bills for the past couple of years based on the disconnect between land use regulations and the Statutes the Recorder's Office is governed by. Our Ordinances require compliance with regulations prior to the recording of a property transfer or divide. However, the Recorder must record a deed if in recordable form regardless of compliance with existing ordinances. This can lead to costly after-the-fact expenses to new landowners that assume they purchased a conforming lot. By adopting the attached resolution this will protect landowners, both present and future, from potentially costly expenses and extensive hours associated with attempting to bring non-conforming transfers/divides into compliance.

Once the resolution is adopted, I will work with the Auditor and Recorder's Office in creating an inter-office process for new lot splits and transfers.

If you have any questions prior to the meeting, please contact me at 218-927-7342 or by e-mail at [tneff@co.aitkin.mn.us](mailto:tneff@co.aitkin.mn.us).

enclosures

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## **272.162 RESTRICTIONS ON TRANSFERS OF SPECIFIC PARTS.**

Subdivision 1. **Conditions restricting transfer.** When a deed or other instrument conveying a parcel of land is presented to the county auditor for transfer or division under sections 272.12, 272.16, and 272.161, the auditor shall not transfer or divide the land or its net tax capacity in the official records and shall not certify the instrument as provided in section 272.12, if:

(a) The land conveyed is less than a whole parcel of land as charged in the tax lists;

(b) The part conveyed appears within the area of application of municipal or county subdivision regulations adopted and filed under section 394.35 or section 462.36, subdivision 1; and

(c) The part conveyed is part of or constitutes a subdivision as defined in section 462.352, subdivision 12.

Subd. 2. **Conditions allowing transfer.** (a) Notwithstanding the provisions of subdivision 1, the county auditor may transfer or divide the land and its net tax capacity and may certify the instrument if the instrument contains a certification by the clerk of the municipality or designated county planning official:

(~~a~~) (1) that the municipality's or county's subdivision regulations do not apply;

(~~b~~) (2) that the subdivision has been approved by the governing body of the municipality or county; or

(~~c~~) (3) that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality or county in the particular case because compliance would create an unnecessary hardship and failure to comply would not interfere with the purpose of the regulations.

(b) If any of the conditions for certification by the municipality or county as provided in this subdivision exist and the municipality or county does not certify that they exist within 24 hours after the instrument of conveyance has been presented to the clerk of the municipality or designated county planning official, the provisions of subdivision 1 do not apply.

(c) If an unexecuted instrument is presented to the municipality or county and any of the conditions for certification by the municipality or county as provided in this subdivision exist, the unexecuted instrument must be certified by the clerk of the municipality or the designated county planning official.

Subd. 3. **Applicability of restrictions.** (a) This section does not apply to the exceptions set forth in section 272.12.

(b) This section applies only to land within municipalities or counties which choose to be governed by its provisions. A municipality or county may choose to have this section apply to the property within its boundaries by filing a certified copy of a resolution of its governing body making that choice with the auditor and recorder of the county in which it is located.

### **EFFECTIVE DATE.**

This section is effective the day following final enactment.

**CERTIFIED COPY OF RESOLUTION OF COUNTY BOARD OF AITKIN COUNTY, MINNESOTA**

ADOPTED September 12, 2017

By Commissioner: xx

20170912-0xx

**Land Transfers / Splits**

Requiring county review of a deed or other instrument conveying a parcel of land for transfer or division for conformity with the county's land use regulations before the county auditor transfers or divides the land or its net tax capacity in the official records.

**WHEREAS**, Minnesota Statute § 272.162 specifies the conditions when a local government may restrict parcel transfers or land divisions; and

**WHEREAS**, the 90th Legislature adopted Chapter 1 in the 2017 First Special Session, amending Minn. Stat. §272.162; and

**WHEREAS**, the amended Minn. Stat. § 272.162 authorizes a county to review a deed or other instrument conveying a parcel of land for transfer or division before its recorded, ensuring conformity with the county's land use regulations; and

**WHEREAS**, a county's review of a proposed land transfer or division will protect the land owners from problems arising from property splits not compliant with the zoning regulations or inaccurate parcel descriptions; and

**WHEREAS**, a county must choose to assume the authority to review deeds or other instruments conveying parcels of land for transfer or division; now, therefore,

**BE IT RESOLVED**, Aitkin County requires the review of a deed or other instrument conveying a parcel of land for transfer or division for conformity with the county's land use regulations before the county auditor transfers or divides the land or its net tax capacity in the official records.

Commissioner xx moved the adoption of the resolution and it was declared adopted upon the following vote

**FIVE MEMBERS PRESENT**

**All Members Voting**

STATE OF MINNESOTA}  
COUNTY OF AITKIN}

I, Jessica Seibert, County Administrator, Aitkin County, Minnesota do hereby certify that I have compared the foregoing with the original resolution filed in the Administration Office of Aitkin County in Aitkin, Minnesota as stated in the minutes of the proceedings of said Board on the 12th day of September 2017, and that the same is a true and correct copy of the whole thereof.

Witness my hand and seal this 12th day of September 2017

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Jessica Seibert  
County Administrator