

## TOWN OF AUBURN

### POLICY FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

---

In accordance with NH RSA 674:39-aa, any owner of lots merged by municipal action for zoning, assessing or taxation purposes prior to September 18, 2010 and without the consent of the owner, may request that the lots be restored to their pre-merger status.

This policy sets out the conditions and process the Town of Auburn will use to handle requests to restore these lots to their prior status.

In order to restore lots to their premerger status and all zoning and tax maps being updated to identify the premerger boundaries of said lots or parcels as recorded at the Rockingham County Registry of Deeds, provided:

- a. The request is submitted to the Auburn Board of Selectmen prior to December 31, 2021.
- b. No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.
- c. All decisions of the Board of Selectmen may be appealed in accordance with the provisions of RSA 676.
- d. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

#### **Application Process for the Restoration of Involuntarily Merged Lots:**

Owners interested in restoring involuntarily merged lots to their premerger status shall follow the following application process:

- 1) Complete the "Application for Restoration of Involuntarily Merged Lots" and submit it to the Board of Selectmen's Office.
  - a. Document the "pre-merger" configuration of any lots by providing the following with the application:
    - i. Most current deed(s) for the lots
    - ii. If the property was obtained from an estate (inherited), attach a copy of the statutory "Notice to Cities and Towns" if applicable
    - iii. Book and Page Numbers of Recorded Deeds
    - iv. Recorded Plan Numbers
    - v. Recorded Surveys (if available) which may depict the "pre-merger" configuration of the lots.

## TOWN OF AUBURN

### POLICY FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

---

- vi. Unless such information already exists in the town records, if any part of the existing property is improved by structures, the Applicant must provide proof of location of all structures (including buildings, pools, fences, etc.), driveways, walkways and associated features; water supply wells; approximate location of septic tanks, leach beds or cesspools; and the superimposed lines of the pre-merger lot lines as requested by the Applicant.
  - vii. Abutters List (per RSA 672:3 an "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by local land use board, and/or
  - viii. Any other information documenting your request.
- 2) The Assessing Department and the Code Enforcement Officer shall review all documents and forward any comments and/or recommendation to the Town Administrator on behalf of the Board of Selectmen within fifteen (15) business days of the receipt of the "Application for Restoration of Involuntarily Merged Lots".
  - 3) If the Town Administrator deems it necessary, the application and supporting documents may be sent to Town Counsel for review
  - 4) The Town Administrator shall schedule consideration of the Application and supporting material during a regularly scheduled meeting of the Board of Selectmen within forty-five (45) days of submittal.
  - 5) If, upon review by the Board of Selectmen, the Board determines that additional information is required; up to an additional ten (10) days will be provided to produce the additional information.
  - 6) Within ninety (90) days from the date of submission, the Board of Selectmen shall render a determination on the Application at a meeting of the Board, and shall issue a written Notice of Decision to the Applicant(s) and the Assessing Department.
  - 7) Within five (5) business days of the date of the Board of Selectmen's final decision, a copy of the written Notice of Decision shall be sent via regular mail to the Applicant(s) and shall be posted with the Assessor's / Selectmen's Office.
  - 8) If the Application has been granted (in whole or in part), the appropriate changes will be noted on the Town Tax Maps, Zoning Map, Assessor records, and shall be recorded at the Registry of Deeds.
  - 9) The restoration of the lots to their pre-merger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

TOWN OF AUBURN  
POLICY FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

---

**Right to Appeal:**


Any aggrieved party has a right to appeal the decision of the Board of Selectmen pursuant to the provisions of RSA 676.

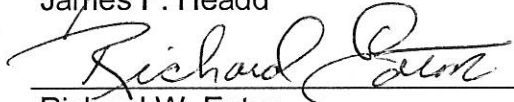
The written Notice of Decision shall state the right to appeal.


**Effective Date:**

This policy shall take effect upon adoption.

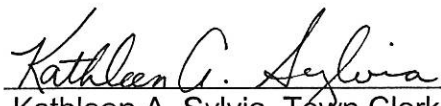
Adopted by the Board of Selectmen the 28th day of August, 2017.

  
James F. Headd

  
Richard W. Eaton

  
Dale W. Phillips  
AUBURN BOARD OF SELECTMEN

Received and recorded this 13<sup>th</sup> day of September, 2017

  
Kathleen A. Sylvia, Town Clerk

Town of Auburn, NH  
**Application for Restoration of  
Involuntarily Merged Lots Pursuant to RSA 674:39-aa**

Instructions & General Information for Restoration of Involuntarily Merged Lots

In accordance with RSA 674:39-aa, any owner of a lot or parcel of land merged by municipal action for zoning, assessing, or taxation purpose prior to September 18, 2010 and without the consent of the owner may request that the lots be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the Rockingham County Registry of Deeds, provided:

- a. The request is submitted to the Town of Auburn Board of Selectmen prior to December 31, 2021.\*
- b. No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title by any overt act or conduct voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.
- c. All decisions of the Town of Auburn Board of Selectmen may be appealed in accordance with the provisions of RSA 676. Prior to any action on the application by the Board of Selectmen, the property may be inspected by the Code Enforcement Officer with a report of that inspection and recommendation for action to be provided to the Board of Selectmen. By submission of this application, the property owner does hereby consent to the inspection of the property by the Town.
- d. The restoration of the lots to their premerger status shall not be deemed to cure any nonconformity with existing local land use ordinances.
- e. In the event the request is granted, the property owner will be required to pay the filing fee to register a Notice of Lot Restoration at the Rockingham County Registry of Deeds.

The procedure for requesting the Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39-aa is as follows:

1. Complete the Application for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39- aa. The form must be typed or legible and completed in ink.
2. Attach copies of the following documents:
  - a. Deed(s) for each lot or parcel
  - b. Written Consent of each Mortgage Holder (if any)
  - c. Survey (if available)
  - d. Site plan (if available)
  - e. Approved subdivision plan (if available)
  - f. Pre-merger tax bills (if available)
  - g. If the property was obtained from an estate (inherited), attach copy of the statutory "Notice to Cities and Towns"
  - h. Any other documentation that you think is pertinent

Please be advised that the restoration of involuntarily merged lots may have assessment implications and may only be developed in accordance with the Ordinances of the Town of Auburn. If the request is granted, the assessment of the restored lots will be effective the following April 1st.

\* RSA 674:39-aa, II (a) Amended effective August 23, 2016 (approved June 24, 2016)

Town of Auburn, NH  
**Application for Restoration of  
Involuntarily Merged Lots Pursuant to RSA 674:39-aa**

*Applicant Information*

Owner(s) Name _____  Address/Street Number _____  City & State _____ Telephone ( ) _____
--

*Current Parcel Information (use additional sheet if more than three parcels involved)\**

	Parcel 1	Parcel 2	Parcel 3
<b>Assessor's Map/Lot/Sub</b>			
<b>Street Address</b>			
<b>Deed Reference Book/Page</b>			

*\*Please attach a copy of the deed for each parcel. Please also attach any written consent of mortgage holders, relevant surveys, site plans, approved subdivision plans, pre-merger tax bills or other documentation that you think is pertinent. This application must be submitted to the Town of Gilmanton Board of Selectmen prior to December 31, 2021. Please see the Instructions & General Information for additional details. By submission of this application, the property owner does hereby consent to the inspection of the property by the Town.*

Owner's Signature \_\_\_\_\_

Date \_\_\_\_\_

Owner's Signature \_\_\_\_\_

Date \_\_\_\_\_

# **TITLE LXIV PLANNING AND ZONING**

## **CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS**

### **Regulation of Subdivision of Land**

#### **Section 674:39-aa**

##### **674:39-aa Restoration of Involuntarily Merged Lots. –**

##### **I. In this section:**

(a) "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.

(b) "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.

(c) "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:

(a) The request is submitted to the governing body prior to December 31, 2021.

(b) No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.

III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.

IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.

V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

VI. Municipalities shall post a notice informing residents that any involuntarily merged lots may be restored to premerger status upon the owner's request. Such notice shall be posted in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. Each municipality shall also publish the same or similar notice in its 2011 through 2015 annual reports.

**Source.** 2011, 206:4, eff. July 24, 2011. 2016, 327:2, eff. Aug. 23, 2016.