

LEGAL NOTICE

Restoration of Involuntarily Merged Lots (also see Involuntary Merger)

In 2011, the legislature created a process by which an owner could petition the municipality to restore merged lots to their separate and distinct condition. [Chapter 206 (HB 316), Effective July 24, 2011.]

RSA 674:39-aa - Restoration of Involuntarily Merged Lots.

Lots involuntarily merged by a municipality (for zoning, assessing, or taxation purposes) prior to Sept. 18, 2010, shall be restored to their pre-merger status at the request of the owner, provided:

Request is made prior to Dec. 31, 2016; and

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

Requests for "un-merger" to be made to the local governing body, whose decisions may be appealed pursuant to RSA 676

Municipalities may adopt more liberal ordinances

No later than January 1, 2012, municipalities must post notice in a public place that lots may be restored and publish notice in the annual reports for 2011-2015.

(From "Land Use Law Update", Attorney Christopher L. Boldt, Donahue, Tucker & Ciandella, PLLC and Attorney Benjamin D. Frost, New Hampshire Housing Finance Authority, NHMA law lecture #3, Fall 2011)

**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, 2016.

(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.

Constance M. Brawders
Town Planner

Posted December 7, 2011
This Notice Shall Not Be Removed Until December 31, 2016