



Board of County Commissioners Agenda Request

5B

Agenda Item #

Requested Meeting Date: April 11, 2023

Title of Item: Amendment to Zoning Ordinance-Membership to PC/BOA

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input checked="" type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing*
Submitted by: Andrew Carlstrom		Department: Environmental Services
Presenter (Name and Title): Andrew Carlstrom, Environmental Services Director		Estimated Time Needed: 5 Minutes
Summary of Issue: <p>In accordance with MN Statutes 394.25 and during the Public Hearing of March 20, 2023 before the Aitkin County Planning Commission, the commission voted unanimously to amend Section 9.02 and Section 10.01 of the Aitkin County General Zoning Ordinance. The proposed amendment requires members of the Aitkin County Planning Commission and the Board of Adjustment to reside annually on homesteaded property within the boundaries of Aitkin County. Two of six neighboring counties surveyed have codified language that require members of these appointed land use commissions to reside within their counties.</p> <p>The date of the public hearing was published in the Aitkin Age on March 1, 2023 and a first reading and discussion was held at the March 28, 2023 Board meeting. According to Rule 11: "Ordinances. Procedures" of the Board of Commissioners Meeting Procedures and Rules of Business it states, "Every proposed ordinance shall be considered at two separate regular sessions of the County Board.....approval of the second reading of the ordinance shall constitute final adoption of said ordinance."</p> <p>Please see attached proposed amendment and resolution.</p>		
Alternatives, Options, Effects on Others/Comments: Alternative is not to sign the resolution in support of requiring members of the Planning Commission and Board of Adjustment to reside annually on homesteaded property within the boundaries of Aitkin County.		
Recommended Action/Motion: Motion to adopt resolution and approve amendment to Zoning Ordinance requiring members of the Planning Commission and the Board of Adjustment to reside annually on homesteaded properties within the boundaries of Aitkin County.		
Financial Impact: <i>Is there a cost associated with this request?</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>What is the total cost, with tax and shipping? \$</i> <i>Is this budgeted?</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>Please Explain:</i>		

Legally binding agreements must have County Attorney approval prior to submission.

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

PROPOSED April 11, 2023

By Commissioner:

20230411-xxx

Aitkin County Zoning Ordinance Amendment of membership requirements to Planning Commission and Board of Adjustment

WHEREAS, Aitkin County Zoning Ordinance currently does not require all members of the Planning Commission and Board of Adjustment to reside annually on homesteaded property within the boundaries of Aitkin County; and

WHEREAS, in accordance with the Comprehensive Land Use Plan, and in order to protect the integrity, "sense of community", and strive for increased resident input on policy issues;

NOW, THEREFORE BE IT RESOLVED, that the Aitkin County Board of Commissioners does hereby authorize the amendments to Section 9.02 and Section 10.01 of Aitkin County Zoning Ordinance

FOUR 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 11th day of April 2023 and that the same is a true and correct copy of the whole thereof.

Witness my hand and seal this 11th day of April 2023

Jessica Seibert
County Administrator

Aitkin County Environmental Services Planning and Zoning
307 Second Street NW
Room 219
Aitkin, MN 56431
Phone: 218-927-7342
Fax: 218-927-4372



MEMORANDUM

DATE: March 20, 2023
TO: Aitkin County Planning Commission
FROM: Andrew Carlstrom, Director of Environmental Services/Planning & Zoning
RE: Amendment to Section 9 & 10 of General Zoning Ordinance

In accordance with Aitkin County General Zoning Ordinance Section 9.07 and MN Statute, Chapter 394, ordinance amendments are heard before the Aitkin County Planning Commission, and decided upon as to whether the proposed amendments should be considered by the Aitkin County Board of Commissioners. The date this public hearing was published in the Aitkin Age was on March 1, 2023 and according to Rule 11 of the Board of Commissioners Meeting Procedures and Rules of Business, this proposed amendment will be considered at two regular sessions of the County Board. Our county internal Ordinance Committee has reviewed and discussed this proposed amendment on January 24 and February 14, 2023, and recommended that it be brought before the Planning Commission.

In accordance with the Aitkin County Comprehensive Land Use Plan, and in order to protect the integrity, “sense of community”, and strive for increased resident input on policy issues, a proposed amendment has been submitted to change Section 9.02 and Section 10.01 of the General Zoning Ordinance. The proposed amendment would require members of the Planning Commission and Board of Adjustment to reside annually on homesteaded property within the boundaries of Aitkin County. Two of six neighboring counties surveyed (Itasca and Morrison) currently have requirements and codified language that members of these appointed land use commissions, shall reside within their respective counties.

[SECTION 9]

PLANNING COMMISSION

9.0 Name of organization:

The name of this organization shall be the Aitkin County Planning Commission.

9.01 Authorization:

The authorization for the establishment of this Planning Commission is set forth under MS 394.21 to 394.37, amendments and supplements thereto. Powers and duties are delegated to the Planning Commission by the Board of County Commissioners of Aitkin County, Minnesota, by Resolution dated March 1, 1966, in accordance with the above-mentioned enabling law.

9.02 Membership:

Membership shall consist of five (5) persons to be appointed by the Board of County Commissioners **and shall reside annually on homesteaded property within the boundaries of Aitkin County.** At least one (1) member shall be from the Board of County Commissioners. Members shall be appointed for a term of three (3) years, excluding the County Commissioner and Board of Adjustment appointee who will be appointed on an annual basis. An appointment to fill a vacancy shall be only for unexpired portion of term. Each member shall be entitled to one vote.

9.03 Officers:

SubSection 1. The officers of the Planning Commission shall consist of a chairperson, vice-chairperson, and secretary.

SubSection 2. The chairperson shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage on such officers.

SubSection 3. The vice-chairperson shall act for the chairperson in his absence.

SubSection 4. The secretary need not be a member of the commission. The secretary shall keep the minutes and records of the Commission; and with the assistance of such staff as is available, shall prepare the agenda of regular and special meetings under the direction of the chairperson, provide notice of all meetings to Commission members, arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a secretary.

9.04 Election of Officers:

- i. Adjourn meeting.

SubSection 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda.

SubSection 3. Filing of Decisions: Decisions on Conditional Uses, Interim Uses and Rezoning made by the Planning Commission shall be filed within twenty five (25) working days, as a certified copy of any order, with the County Recorder.

9.07 Powers: The Planning Commission shall have and exercise the following powers:

- a. To adopt rules of procedure governing the transaction of its business.
- b. To cooperate with the Planning and Zoning Administrator and other employees of the County in preparing and making recommendations to the County Board of Commissioners with such comments and recommendations for plan execution in the form of official controls and other measures and amendments thereto.
- c. To conduct such hearings as may be required by law and by the provisions of this ordinance, and in connection there with to make findings and conclusions which shall be transmitted to the Planning and Zoning Office which shall forthwith transmit same to the County Board of Commissioners with such comments and recommendations as it deems necessary.
- d. All other powers granted to it by law and by the provisions of this ordinance.

9.08 Removal: Members of the Planning commission may be removed for cause by a majority vote of the County Board of Commissioners upon the filing of written cause with the County Board of Commissioners. No member shall be removed prior to a public hearing, which shall be held within thirty (30) days of the date of filing of the written cause.

9.09 Vacancies: Vacancies occurring on the Planning Commission shall be promptly filled by the County Board of Commissioners and any members so appointed shall serve the balance of the preceding member's term and shall thereafter be subject to appointment in the manner herein above set forth.

9.10 Rules of Procedure: The board of County Commissioners shall establish the Rules of Procedure setting forth the terms of office, election of officers, conduct of meetings, and such other rules as the Board of Commissioners deem appropriate. The Board of Commissioners may make changes as it deems appropriate in the Rules of Procedure. Such rules and changes, however, shall be consistent with State Statutes and Aitkin County Ordinances.

9.11 Public Hearings: Public hearings shall be conducted and notices therefore, shall be given in compliance with Minnesota Statutes, Section 394.26.

dispense with such meeting by notice to all members not less than forty-eight (48) hours prior the regular meeting time.

SubSection 3. Conduct of the Meeting: All meetings shall be open to the public. The order of business at regular meetings shall be:

- a. Chair will call the meeting to order.
- b. Chair will read the meeting rules and direct citizens to the agenda for the order of business.
- c. Roll Call/Introduction of board members and staff.
- d. Approval of the agenda.
- e. Old business.
- f. New business.
- g. Approval of minutes from previous meeting(s).
- h. Staff updates.
- i. Adjournment

No board member shall sit in hearing nor vote in passing any case in which he is personally or financially interested. If, because of absences, an additional concurring vote shall be held over, the Chairperson shall direct the Secretary to cause a copy of the record in the case to be transmitted to the absent member. At the next regular meeting if it falls within thirty (30) days, or at a special meeting if necessary, the member absent at the preceding meeting shall affirm that the Board has examined the record. Such affirmation shall appear in the record. The Chairperson shall then call for a vote on the case that had been held over.

10.04 **Powers:** The Board of Adjustment shall have and exercise the following powers:

- a. To adopt rules of procedure governing the transaction of its business.
- b. To hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing the provisions of this ordinance.
- c. To order the issuance of permits for buildings in areas designated for future public use on an official map.
- d. To order the issuance of variances from the terms of any official control, including restrictions placed on any nonconformity. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. In considering a variance request, the Board of Adjustment must also consider several factors, including but not limited to: is the variance in harmony with the general purposes and intent of the official control and consistent with the comprehensive plan, is the owner proposing to use the property in a reasonable manner not permitted by the official control, is the practical difficulty due to circumstances unique to this property, is the need for the variance created by actions other than the landowner or prior landowners, will the issuance of the variance maintain the essential character of the locality, and does the practical difficulty involve more than economic considerations. No

SubSection 3. Rehearings: An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence, condition, or a minimum of twelve (12) months has not passed.

10.07 Decisions:

SubSection 1. Time of Decisions: Final decision of the Board shall be made according to Minn.Stat. Sec. 15.99. Every attempt shall be made to reduce this period to a minimum.

SubSection 2. Vote: The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, or determination of the Zoning Administrator. The same vote shall be necessary for the granting of a variance.

SubSection 3. Form of Decisions: The final decision of the Board shall be made by a formal written order signed by the Chairperson. Such decision shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed from. Such decisions shall also state in detail, in the case of variances, an exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

SubSection 4. Filing of Decisions: Decisions of the Board shall be filed within Twenty five (25) working days, as a certified copy of any order, with the County Recorder.

10.08 Appeals:

- a. Appeals may be taken by any person aggrieved, or by any officer, department, board, or bureau of a town, municipality, county, or state. Such appeal shall be taken within thirty (30) days by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof.
- b. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant, to the officer from whom the appeal is taken, and to the public and shall decide the same within thirty (30) days of the hearing or as per Minn. Stat. Sec. 15.99.
- c. An appeal stays all proceedings in furtherance of the action appealed from, unless the Board of Adjustment certifies that by reason of fact stated in the certificate, a stay would cause imminent peril to life or property.
- d. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of permit.

10.13 Public Hearings: Public hearings shall be conducted and notices thereof shall be given in compliance with the Minnesota Statutes, Section 394.26.

NOTICE OF HEARING

The Aitkin County Planning Commission will hold a public hearing on the adoption of amendments to the Aitkin County Zoning Ordinance. The hearing will be conducted on March 20, 2023, at 4:00pm in the Board Room of the Aitkin County Government Center, 307 2nd Street NW, Aitkin, MN 56431. The Planning Commission will make a recommendation on the proposed ordinance amendments to the County Board of Commissioners for the first reading at a regularly scheduled meeting on March 28, 2023 and second reading on April 11, 2023.

A summary of the sections of the Aitkin County Zoning Ordinance proposed for amendment are: Section 9.02 (Membership to Planning Commission) – shall reside annually on homesteaded property within the boundaries of Aitkin County; and Section 10.01 (Membership to Board of Adjustment) – shall reside annually on homesteaded property within the boundaries of Aitkin County.

The above is only a summary; a full text version of the proposed ordinance is available for public review on the Aitkin County website at www.co.aitkin.mn.us and at the Aitkin County Planning and Zoning Office and the Aitkin County Auditor's Office in the Government Center during regular business hours. Written comments on the proposed amendments will be accepted until 4:00pm on March 17, 2023. Comments may be submitted to the Aitkin County Planning and Zoning Office at aitkinpz@co.aitkin.mn.us or mailed to 307 2nd St NW, Room 219, Aitkin, MN 56431. Please include a full name and complete mailing address with all comments.