

BOARD OF COUNTY COMMISSIONERS SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING THE SARPY COUNTY POLICY FOR PROCESSING REQUESTS FROM CITIES TO CEDE JURISDICTION

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

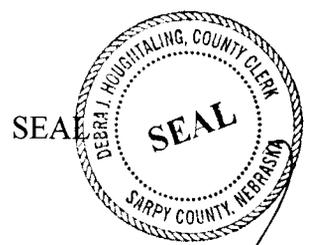
WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, under Neb. Rev. Stat. §13-327 (Reissue 2012), the Board may cede jurisdiction over land to a city within Sarpy County upon a formal request by said city. As such, Sarpy County desires to establish a process for coordinated, timely, and responsive communication with the cities related to requests that the County cede jurisdiction. To that end, Sarpy County developed the Sarpy County Policy for Processing Requests from Cities to Cede Jurisdiction, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that the Sarpy County Policy for Processing Requests from Cities to Cede Jurisdiction, is hereby adopted.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 28th day of January, 2014.

Attest



[Signature]
Sarpy County Board Chairman

[Signature]
County Clerk



Sarpy County Planning & Building Department

Bruce Fountain, AICP, EDFP – Director
Phone: (402) 593-1555 Email: planning@sarpy.com

SARPY COUNTY POLICY FOR PROCESSING REQUESTS FROM CITIES TO CEDE JURISDICTION

1. City Council takes action on Resolution requesting the County to cede jurisdiction – proper legal description of subject property required.
2. City sends approved Resolution to the County Clerk and County Planning Department with cover letter outlining the request. The County Clerk upon receipt of the resolution requesting to cede jurisdiction shall send a copy of the resolution to the County Commissioners for review.
3. Planning Department staff works with GIS Department to develop appropriate maps of subject property.
4. Planning Staff routes the request and maps to Administration, Public Works, County Attorney's Office, and all other applicable departments for comments.
5. Planning Department staff prepares Recommendation Report to the County Board taking into account, and attaching, all other department comments/issues and evaluating the long range planning and revenue implications of the request.
6. Planning Department staff sends recommendation report and request to County Attorney's Office to draft Resolution for County Board action.
7. Resolution and Recommendation Report sent to County Clerk's Office and scheduled for County Commission agenda.
8. County Board approves or denies request or sends to Planning Commission for additional review after reviewing information and Recommendation Report.
9. County Clerk's Office forwards final signed Resolution to City making the request.



Office of the County Attorney

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L. Kenneth Polikov
Sarpy County Attorney

MEMORANDUM

January 23, 2014

TO: Sarpy County Board of Commissioners; Bruce Fountain, Planning Director
FROM: Nicole O'Keefe, Deputy Sarpy County Attorney
RE: Submission of a city's request for ceding jurisdiction to County Planning Commission

Can the County Board ask the County Planning Commission to make a recommendation when a city requests that the County cede jurisdiction?

Short Answer:

Yes. The County Planning Commission has broad zoning authority which involves advising the County Board on land use and zoning matters. Thus a city's request that the County cede jurisdiction is an appropriate topic for the Planning Commission. The County Board is not required to submit such a topic to the Planning Commission, but the County Board may do so if it wishes. However, by statute a County may only cede jurisdiction to a city if certain objective conditions are met. The status of the statutory conditions is easily discernible by the County staff which makes review of the statutory conditions by the Planning Commission unnecessary. Thus, if the County Board asks the Planning Commission to make a recommendation on whether the County should cede jurisdiction to a city, the County Board needs to give clear direction as to what factors the Planning Commission should evaluate in making its recommendation; i.e. What information does the County Board want from the Planning Commission because the objective requirements of the statute are already known? Furthermore, the County Board should include those factors within the policy on the ceding jurisdiction process.

Long Answer:

From time to time a city within Sarpy County will request that the County cede jurisdiction over a portion of land. Oftentimes, the city's request will stem from a landowner who wishes to change something about their land wherein said change requires zoning approval and the land is located partially within the city's extraterritorial zoning jurisdiction (ETJ) and partially within the County's zoning jurisdiction.

The County Board has proposed to submit a city's request for ceding jurisdiction to the County Planning Commission for review and recommendation. Of course, the County Board may ask any expert it wishes for an opinion on a matter, but there is some question as to whether or not the topic of ceding jurisdiction is an appropriate matter for the County Planning Commission; i.e. is there statutory authority for County Planning Commission to review a city's

request that the County cede jurisdiction? Under Neb. Rev. Stat. §23-114.01 the County Planning Commission has broad zoning power as well as a duty to advise officials on land use matters. A city's request that the County cede jurisdiction involves land use and zoning matters, thus the Planning Commission may hear the topic should the County Board wish to ask them for a recommendation.

The County's authority to cede jurisdiction is outlined within Neb. Rev. Stat. §13-327 and set out below. The County may by a majority vote of its members, grant the request so long as:

1. The County has adopted a comprehensive development plan and zoning regulations not less than two years immediately preceding the date of the city's request;
2. The city, on the date of the request, is exercising extraterritorial jurisdiction over territory within the boundaries of the county;
3. The requested territory is within the projected growth pattern of the city and would be within the city's extraterritorial jurisdiction by reason of annexation within a reasonable period of years;
4. Not more than a total of twenty-five percent of the territory of the county located outside the corporate boundaries of any city within the county shall be ceded to the jurisdiction of one city within ten years after the date upon which the initial request for the cession of territory to the city was approved by the governing body of the city; and
5. No portion of the territory ceded to the city's jurisdiction by the county lies within an area extending one-half mile from the extraterritorial jurisdiction of any other city of the first or second class or village on the date the request is approved by the governing body of the city.

Thus, a County may only cede jurisdiction to a city if the above objective conditions are met. The status of the statutory conditions is easily discernible by the County staff which makes review of the statutory conditions by the Planning Commission unnecessary. If the County Board asks the Planning Commission to make a recommendation on whether the County should cede jurisdiction to a city, the County Board should outline the factors the Planning Commission should evaluate in making its recommendation; i.e. What information does the County Board want from the Planning Commission because the objective requirements of the statute are already known? Furthermore, if the County Board adopts a policy on the ceding jurisdiction process, the County Board should include those factors within the policy.