

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

SECTION 35 ZONING TEXT AND MAP AMENDMENTS

(a) **Authority**

Pursuant to the provisions of the Wisconsin Statutes, the Town Board may, after the submittal of a proposal to the Plan Commission for review after notice and public hearing as hereinafter provided, amend, supplement, or change the boundaries of the zoning districts or the regulations as established in this ordinance, or which may subsequently be established. Such proposal may be initiated by the Town Board on its own motion, by recommendation of the Plan Commission, by the County Zoning Agency in the case of shoreland and floodland amendments, or by petition of one or more property owners or their agents.

(b) **Procedure**

1. Comprehensive Map Amendments and Text Amendments: In the case of a comprehensive map amendment to a large area of lands affected by this ordinance (more than 6 properties) and which does not set forth a specific amendment to a particular property owner's land and where such petition is initiated by the town board, the requirements for individual notice, as set forth in Section 36 (b) 1 B to individual property owners, shall not be required. All other requirements of posting and publication and hearing notice shall be provided in accordance with this Ordinance. With respect to any change in the text of this ordinance, no specific notice to property owners is required. All other notice requirements shall be followed.
2. Filing of petition and referral: One (1) original and a minimum of fourteen (14) copies, or the number required by the Deputy Town Clerk, of the amendment packet shall be submitted directly to the zoning administrator in order that notice of public hearings and other processing may be initiated without unnecessary delay. One (1) copy of the packet and the notice of public hearing shall be forwarded to the Town Plan Commission, the Waukesha County Department of Parks and Land Use, and to the SE District Office of the Wisconsin Department of Natural Resources (if shoreland) not less than ten (10) days prior to the hearing. When the amendment involves a change in zoning of a floodland area, said notice and petition shall also be sent to the Federal Emergency Management Agency. When the petition involves a change in shoreland wetlands, the additional requirements set forth in Section 35 (e) shall be followed.
3. Fee: A petition submitted by other than a governmental body or agency shall be accompanied by the proper fee as established under Section 37 (b) 5 of this Ordinance, payable to the Town of Lisbon to help defray administrative and professional costs of such petition.
4. Data required: In addition to all information required on the petition form, the petitioner shall supply the following:
 - A. A minimum of fourteen (14) copies, or the number required by the Deputy Town Clerk, of a map accurately drawn to scale of not less than one hundred (100) feet to the inch showing all lands within 500 feet of the subject property, the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land, and the principal use of all properties within three hundred (300) feet of such land.
 - B. The names and complete mailing addresses, including zip codes, of the owners of all properties within three hundred (300) feet of any part of the land included in the proposed change.

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- C. Any further information that may be required by the zoning administrator or Plan Commission to facilitate the making of a comprehensive report to the town board including a detailed description of the intended new use.
5. Hearing: As soon as practical after receipt of each petition, the Plan Commission shall conduct a public hearing and report its recommendation to the Town Board within 60 days of the receipt of the petition. A joint public hearing could also be held with the Town Plan Commission and Town Board. Notice of the time and place of such hearing shall be given in the manner prescribed under Section 36 of this Ordinance. Upon receipt of the Plan Commission recommendation, the Town Board shall hold a public hearing thereon unless a joint hearing was held previously with the Town Plan Commission.
6. Action and report: As soon as possible after such public hearing, the town board shall act on such petition either approving, modifying and approving, or disapproving of the same. If its action is favorable to granting the requested amendment, or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit such proposed ordinance with the minutes of the public hearings directly to the County Department of Parks and Land Use for consideration by the County. If the town, after its public hearing, recommends denial of the petition, the town shall report its recommendation directly to the County with its reasons for such action. Proof of publication of the notice of the public hearing held by the town shall be attached to either such report.
7. County action: Upon receipt of the town board's report by the county zoning agency, the county zoning agency shall report its recommendation to the Park and Planning Commission, Land Use, Parks and Environment Committee, and the County Board. The county board may adopt the ordinance as drafted by such zoning agency (either for approval or denial of the proposed amendment), or with amendments, or it may refuse to deny the petition for amendment as recommended by the county zoning agency, in which case it shall refer the petition back to the town, with direction to draft an ordinance to effectuate the petition, and report the same back to the county board which may then adopt or reject such ordinance, or it may refer the petition back to the town for reconsideration including possible further public hearing.
8. Protest: Protests shall be filed in the manner prescribed in Section 62.23 (7) of the Wisconsin State Statutes and any subsequent amendments made thereto.
9. Effectuation: Any such amended ordinance when so adopted by the county board, shall become effective after passage by the county board and publication pursuant to Section 59.69, Wisconsin Statutes except as may be modified in Section 35 (e) herein. In the case of floodplain amendments and adjustments, the amendment shall not become effective until the Wisconsin Department of Natural Resources approves the amendment after certification that the area has been removed from the floodplain and until a letter of map amendment is issued by the Federal Insurance Administration of the Federal Emergency Management Administration. Upon receipt of the above cited approvals, the county clerk shall record in the clerk's office the date on which such ordinance is passed by the county board and approved by the other agencies required to approve and shall notify the town clerk of such date that the ordinance will take effect and also make such report to the county zoning administrator and the county board which report shall be printed in the proceedings of the county board.

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(c) **Zoning of county owned lands**

1. The county board may by ordinance zone and rezone any lands owned by the county without necessity of securing the approval of the town boards of the towns wherein such lands are situated, and without following the procedure outlined in Section 59.69 of the Wisconsin Statutes, provided that the county board shall give written notice to the town board of the town wherein such lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning Ordinance and give notice of such hearing by posting in five (5) public places in the town.
2. This subsection does not apply to land subject to a town zoning ordinance which is purchased by the County for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under Chapter 282 of the Wisconsin Statutes.

(d) **Zoning in annexed areas**

1. Removal from map: When any lands previously under the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning Ordinance have ceased to be effective as provided in Section 59.69 of the Wisconsin Statutes, the county board may, on the recommendation of its zoning agency, adopt such amendatory Ordinances and shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided in Section 59.69 Wisconsin Statutes, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the county clerk to the clerk in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede the provisions of Section 80.64 of the Wisconsin Statutes.
2. Continued effect of ordinance: Whenever any area which has been subject to a county zoning ordinance petitions to become part of a village or city, the regulations imposed by such county zoning ordinance shall continue in effect, without change, and shall be enforced by such village or city, until such regulations have been changed to be at least as restrictive as the county zoning ordinance, by official action of the governing body of such village or city, except that in the event an ordinance or annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(e) **Shoreland/wetland rezoning procedure**

1. For all proposed text and map amendments to the shoreland/wetland provisions of this ordinance, the appropriate district office of the DNR shall be provided with the following:
 - A. A copy of every petition for a text or map amendment to the shoreland/wetland provisions of this ordinance, within five (5) days of the filing of such petition with the zoning administrator. Such petition shall include a copy of the Final Wisconsin Wetland Inventory Map adopted as part of this ordinance describing any proposed rezoning of a shoreland/wetland.
 - B. Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.

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- C. A copy of the county zoning agency's findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the county board; and
 - D. Written notice of the county board's decision on the proposed amendment within ten (10) days after it is issued.
2. A wetland, or a portion thereof, in the shoreland/wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
- A. Storm and flood water storage capacity,
 - B. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland,
 - C. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters,
 - D. Shoreline protection against soil erosion,
 - E. Fish spawning, breeding, nursery, or feeding grounds,
 - F. Wildlife habitat, or
 - G. Areas of special recreational, scenic, or scientific interest, including scarce wetland types.
3. If the Department of Natural Resources notifies the county zoning agency that a proposed text or map amendment to the shoreland/wetlands governed by this ordinance may have a significant adverse impact upon any of the criteria listed in subsection 2 above, that amendment, if approved by the County Board, shall contain the following provision: "This amendment shall not take effect until more than thirty (30) days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that thirty-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland and floodland ordinance for the county under Section 59.692 (6) Wisconsin Statutes. If the DNR does so notify the county board, the effect of this amendment shall be stayed until the Section 59.692 (6) adoption procedure is completed or otherwise terminated".
4. Joint hearing: When the hearing involves a property in the town that is in the County shoreland/floodland zoning jurisdiction, the hearing shall be held jointly by the County Zoning Agency, or its designee, and the Town Plan Commission. Within thirty (30) days after the hearing, the town plan commission shall transmit its recommendation on the proposed request to the county zoning administrator. Approval by the town board is generally only required for zoning amendments.
- (f) **Floodplain rezoning procedure**
In accordance with the procedures contained in the Waukesha County Shoreland and Floodland Protection Ordinance.