

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

SECTION 36 GENERAL PUBLIC HEARING PROCEDURES

(a) **Notice**

In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this ordinance stating the time and place of such hearing and the purpose for which the hearing is being held.

(b) **Procedure**

1. Posting and publishing

- A. Except as may be otherwise herein specifically provided, or required by the enabling statutes of the State of Wisconsin, notice of public hearing shall be given by publication of a Class 2 notice under Chapter 985, Wisconsin Statutes, and by posting such notice in at least three (3) public places in the Town of Lisbon.
- B. When the hearing involves a proposed change in the zoning district classification of any property, or the granting of a conditional use, or the granting of a variance, notice of the public hearing shall be posted in the vicinity of such proposed change, use, or variance where practical, and the Town shall mail notices by regular mail to the owners of all lands within five hundred (500) feet of any part of the land included in such conditional use, or three (300) hundred feet of any part of the land included in such proposed change or variance, at least ten (10) days before such public hearing. The failure of such notice to reach any property owner, provided such failure be not intentional, shall not invalidate any ordinance amendment, conditional use, or variance decision.
- C. For all zoning changes, and any other hearing involving shoreland property, a copy of the public hearing notice, along with pertinent information relative to the specific nature of the matter to be considered, shall also be transmitted without delay to the Waukesha County Department of Parks and Land Use, by regular mail, and in no case less than seven (7) days prior to the date of such hearing.
- D. The town clerk shall notify the plan commission without delay of all public hearings. A notice of public hearing shall also be sent to each town board member and posted at the town hall, as well as the appropriate district office of the state department of natural resources, the federal insurance administration (FEMA), and the U. S. Army Corps of Engineers, where appropriate (shoreland/wetland areas).

- 2. Joint hearing: When the hearing involves a proposed zoning district classification change in a shoreland/floodland area of a property in the town, 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 change to the county zoning administrator. Approval by the town board in such zoning amendments is not required and disapproval by such town board is advisory only.

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SECTION 37 GENERAL ADMINISTRATION AND ENFORCEMENT OF THE ZONING ORDINANCE, VIOLATION/CITATION PROCEDURES AND PENALTIES

(a) **Enforcement officer**

1. Town Plan Commission designated: The Town Plan Commission, or its designee (e.g., the Town Building Inspector, etc.), is hereby designated as the enforcement officer for the provisions of this Ordinance under the direction of the Town Board of Supervisors.
2. Responsibilities: The Town Plan Commission, or its designee (e.g., the Town Building Inspector, Town Clerk, town engineer, town planner, etc.), shall oversee the administration of this ordinance, hold the necessary public hearings, and make recommendations to the town plan commission and/or the town board relative to zoning matters, where required in this ordinance.
3. Approvals required: Where, in the interest of preserving the maximum degree of local administration, the determination of the town plan commission or town board is required by the provisions of this ordinance for conditional uses and other special approvals, such determination shall be subject to, in the cases involving shoreland and floodland areas, final approval by the county zoning agency before it shall be effective. It shall be the responsibility of the local determining body to notify the county zoning agency of any petitions or requests in such cases, and of any hearings to be held, and to transmit the final determination to the county zoning agency within ten (10) days in order that they may act promptly upon its ratification.
4. Appeal: Any person or persons jointly or severally aggrieved by any decision of the zoning agency, or any taxpayer, or any officer, department, board, or bureau of the town, may appeal from a decision of the zoning agency within thirty (30) days after the filing of the decision in the office of the zoning agency by seeking the remedy available by certiorari. No appeal shall be taken from a decision of the zoning agency to the town board of appeals.

(b) **Zoning administrator**

1. Designation: The Town Plan Commission is designated as "zoning administrator" for the administration and enforcement of the provisions of this Ordinance and the zoning administrator has the authority to designate staff under its direction to perform delegated tasks and duties (for example, the Town clerk, deputy clerk, building inspector, engineer, planner, etc.).
2. Duties: In the administration and enforcement of this ordinance the zoning administrator shall perform the following duties:
 - A. Issue the necessary building and occupancy and use permits provided in the provisions of the ordinance, and ensure any applicable building codes have been complied with, and make, or cause to be made, the necessary inspections.
 - B. Keep an accurate record of all building and occupancy and use permits issued.
 - C. Keep accurate records and maps of the zoning ordinance and any amendments or changes thereto. Unless the Town determines otherwise at a future date, the zoning maps will be updated and master files kept in the office of the County Planning and Zoning Division.

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- D. Inspect and process any reported violation of this Ordinance and keep accurate records of the same.
3. Authority: In the enforcement of this ordinance, the zoning administrator shall have the power and authority for the following:
- A. At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
- B. Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy and use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use which is in violation of the provisions of this ordinance, such revocation to be in effect until reinstated by the zoning administrator or the zoning board of appeals.
- C. In the name of the town and with authorization of the Town Board, refer to the Town Attorney for commencement of any legal proceedings necessary to enforce the provisions of this ordinance or the building codes. The collection of forfeitures provided for herein shall occur through the established procedures of the Town of Lisbon and/or the Waukesha County Clerk of Courts and Waukesha County Department of Administration, Collection Division. The issuance of citations provided for under this ordinance shall not require such authorization or referral as noted above, and may be issued by the Zoning Administrator directly.
4. Deputies: To expedite local administration of this ordinance, the zoning administrator may designate one or more deputies for the purpose of field inspection and verification of the conditions shown on the application for building and occupancy and use permits. The deputies shall be authorized to accept application for building and occupancy and use permits and shall promptly make any necessary inspection to verify the correctness of the application and file the application with the Town Clerk. The deputies shall also make the necessary inspection as provided in Section 3.03 (3) (B) of this ordinance before an occupancy and use permit shall be issued.
5. Fee schedule: The fees referred to in other sections of this Ordinance shall be established by the annual Town Budget adopted by the Town Board and as may from time to time be modified. The processing fees are related to costs involved in handling and processing building permit applications and other approval processes including but not limited to site plan and plan of operation reviews, conditional use petitions, appeals to the board of appeals, zoning amendments, public notices, and agendas, even if the project or use is not approved. The owner of the subject property shall also submit payment, upon receipt of a statement from the Town, for any professional services, fees, charges, expenses, and costs associated with permit and approval reviews, inspections, preparation of required documents, attendance at meetings, enforcement in the event of violation, etc. at the rate charged to the Town for such fees and costs by the professional staff, even if the project is not approved. Nonpayment of the professional fees, charges, expenses, and costs within 30 (thirty) days may cause the expenses to be placed on the tax roll for the subject property, and may also be cause for termination of the project or use.

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(c) **Violations**

1. Penalties: Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall be subject to a fine as listed in the Fee Schedule Appendix included herein for each offense, together with the costs of the (legal) action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period of not to exceed six (6) months, or until such fine and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. Abatement and remediation of the violation, and restoration of environmental damage shall also be required in addition to any forfeitures levied. Failure to abate a violation may result in the Town Attorney filing a summons and complaint against the property owner in circuit court, and/or other legal action may be taken to bring the property into compliance, including the issuance of citations.
2. Enforcement by injunction: Compliance with the provisions of this ordinance may also be enforced by injunctive order at the suit of the town or one (1) or more owners of real estate situated within an area affected by regulations of this ordinance. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunctive proceedings.
3. Declared nuisances: Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this ordinance is hereby declared to be a nuisance per se, and the town may apply to any court of competent jurisdiction to restrain or abate such nuisance.
4. Enforcement by Citation: When the town elects to use the citation method of enforcement of the Wisconsin Statutes for violations of this Zoning Ordinance, including those for which a statutory counterpart exists, the following applies:
 - A. In addition to all law enforcement officers, the issuance of citations is expressly limited to the zoning administrator or his/her designee. The authority delegated to such official or employees to issue citations may only be granted or revoked by the Town Board.
 - B. The citation shall contain the following information:
 - i. The name and address of the alleged violator.
 - ii. The factual allegations describing the alleged violation.
 - iii. The time and place of the offense.
 - iv. The section of the ordinance violated.
 - v. A designation of the offense in such a manner as can be reasonably understood by a person making a reasonable effort to do so.
 - vi. The time at which the alleged violator may appear in court.
 - vii. A statement that, in essence, informs the alleged violator:
 - a. That a cash deposit based on the schedule established by the Town Board, from time to time, be made to, deposited with, and filed in the office of the Town Clerk, prior to the time of the scheduled (circuit) court appearance.
 - b. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned or the citation requests a court appearance.

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- c. That if a cash deposit is made and the alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment crime lab assessment and drug/law enforcement assessment, and any applicable domestic abuse or consumer information assessments of, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.
 - d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment, and any applicable domestic abuse or consumer information assessments.
 - e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.
- viii. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subparagraph vii above has been read. Such statement shall be sent or brought with the cash deposit.
- ix. Such other information as the Town deems necessary.
- C. The schedule of cash deposits including penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment, and any applicable domestic abuse or consumer information assessments for use with citations issued under this section shall be as adopted by the Town Board from time to time and such schedule shall be on file in the office of the Zoning Administrator and Town Clerk. Receipts shall be given for cash deposits.
 - D. Procedures relating to the options of an alleged violator and default are contained in the Wisconsin Statutes.
 - E. This section does not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.