

16 ZONING COMMITTEE

The zoning committee will oversee the administration of the County Zoning Ordinances, conducting necessary hearings on proposed amendments and/or changes to such ordinances and reporting such recommendations to the Board for their consideration. The committee shall also examine plats of proposed subdivisions, hold hearings on such proposals and submit their recommendations concerning them to the County Board.

1) Membership

The Zoning Committee shall be comprised of five (5) County Board Supervisors.

2) Duties and Responsibilities

- A) At the organizational meeting, the members shall elect a Chair, who shall be a County Board Supervisor, and a Vice Chair.
- B) Review Department annual budget and refer to the Finance Committee for further action and review financial reports.
- C) The Committee shall oversee the following ordinances:
 - i) Wisconsin Statutes 59.69 Zoning Ordinance.
 - ii) Wisconsin Statutes NR 115 Shoreland Zoning Ordinance.
 - iii) Wisconsin Statutes NR 116 Floodplain Zoning Ordinance.
 - iv) Wisconsin Statutes DSPS 383 Private Sewage Septic Ordinance.
 - v) Wisconsin Statutes 236.45 Land Subdivision Regulations.
 - vi) Washburn County Chapter 38- Land Development.
 - vii) Washburn County Chapter 62 – Subdivisions.
 - ix) Washburn County Chapter 74 – Utilities.
- D) Adopt policies used in the implementation of the Ordinances identified above, and recommend approval to the County Board.
- E) The Committee shall confer and have policy making responsibilities for the Department.

3) Rules and Bylaws of the Washburn County Zoning Committee

A) Definitions

- i) “Aggrieved person” means any person whose substantial interests are adversely affected by a determination.
- ii) “Applicant” means any person, company, business entity or governmental body requesting permission from the County, which such action falls within the County Zoning Committee’s jurisdiction and requires the zoning Committee’s approval to do or take such action that requires County approval.
- iii) “Application” means any application, petition, or other written request made to the County by an individual, company, business entity or governmental body for permission to do or take such action that requires County approval and falls within the Zoning Committee’s jurisdiction.
- iv) “Bylaws” mean these Rules and Bylaws of the Washburn County Zoning Committee.
- v) “Chairperson” means the Washburn County Zoning Committee Chairperson.
- vi) “County” means Washburn County.
- vii) “County Board” means the Washburn County Board of Supervisors.
- viii) “Findings of Fact” means a statement of the Zoning Committee’s rationale behind the decision and facts that support the decision.
- ix) “Moot Question” means a hypothetical question or a question relating to a controversy that does not exist.
- x) “Substantial Evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an Applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
- xi) “Zoning Administrator” means the Washburn County Zoning Administrator.
- xii) “Zoning Committee” means the Washburn County Zoning Committee, which is also the designated zoning agency pursuant to Wis. Stat. § 59.69(2)(a).

B) Bylaws

i) Adoption of Bylaws and Amendment of Bylaws.

- (1) These Bylaws may be changed or amended from time to time by a majority vote of the Zoning Committee at any regular or special meeting.
- (2) These Bylaws are hereby adopted pursuant to the statutory authority set forth in Wis. Stat. § 59.69(2)(c).

ii) Interpretation of Bylaws.

- (1) These Bylaws are supplementary to the provisions of the County Zoning Ordinance as they relate to the procedures of the Zoning Committee. In the event of a conflict between these Bylaws and the County Zoning Ordinance, the terms of the County Zoning Ordinance shall control.
- (2) These Bylaws are subject to and preempted by the Wisconsin Statutes, and any other applicable law or regulation. In the event of any conflict between these Bylaws and the Wisconsin Statutes or other applicable law or regulation, the Wisconsin Statutes, applicable law or regulation shall apply.

C) Jurisdiction, Power and Authority of the Zoning Committee

i) Committee of Jurisdiction.

- (1) In addition to the obligations set forth in Wis. Stat. § 59.69(2), the Zoning Committee shall be the Committee of Jurisdiction for the following:
 - (a) The County Zoning Department.
 - (b) Hear and make recommendations to the County Board for Applications for zone district changes.
 - (c) Hear and make recommendations to the County Board for amendments to the County Zoning Ordinance.
 - (d) Review and act on Applications for conditional use permits and special use permits.

- (e) Conduct public hearings when necessary as required by the Statutes, the County Zoning Ordinance, or other applicable law.
- (2) The powers of the Zoning Committee include the following:
- (a) Draft Zoning Ordinances, Subdivision Ordinances and Sanitation Ordinances, and prepare any proposed amendments to Zoning Ordinances, Subdivision Ordinances and Sanitation Ordinances.
 - (b) Make recommendations to the County Board for its action on proposed Zoning Ordinances, Subdivision Ordinances or Sanitation Ordinances, and any amendments thereto.
 - (c) Hear and review proposed individual Zoning District amendments and make recommendations to the County Board on such proposed amendments.
 - (d) Conduct public hearings that are required pursuant to the Wisconsin Statutes or the County Zoning Ordinance for matters within the powers of the Zoning Committee's jurisdiction.
 - (e) Hear, review and decide land divisions pursuant to Wis. Stat. Ch. 236, Wis. Admin. Code Ch. NR 115, and the Subdivision Control Ordinance.
 - (f) Hear, review and decide Applications for conditional uses that are authorized and listed within the County Zoning Ordinance.
 - (g) Oversee the administering of the County Zoning Ordinances.
 - (h) Waive specific provisions of the Bylaws in a specific matter and upon request, set forth in herein upon due consideration of a matter's specific facts and circumstances.
- (3) At all times, the Zoning Committee shall act pursuant to the Wisconsin Statutes, the County Zoning Ordinances and any other applicable law or regulation that takes legal precedence over these Bylaws and applies to the work of the Zoning Committee.

- ii) Limitations. Nothing herein shall be construed to give or grant to the Zoning Committee any of the following:
 - (1) The power or authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official.
 - (2) The power to grant or otherwise authorize any such variance from the terms and conditions of the County Zoning Ordinance.
 - (3) Any other power that is within the jurisdiction of the County Board of Appeals pursuant to Wis. Stat. § 59.694.

D) Officers and Duties

i) Zoning Committee Chairperson

- (1) Appointment; Election. The Zoning Committee shall elect the Zoning Committee Chairperson at the first Zoning Committee meeting following the organizational meeting of the County Board.
- (2) Duties. The Chairperson shall:
 - (a) Preside over and direct the conduct of all Zoning Committee meetings and hearings of the Zoning Committee. In the event of a hearing conducted before the Zoning Committee, the Chairperson may administer oaths and compel the attendance of witnesses.
 - (b) Report on all official transactions that have not otherwise come to the attention of the Zoning Committee.
 - (c) Subject to these Bylaws and further instructions from the Zoning Committee:
 - (i) Direct the official business of the Zoning Committee.
 - (ii) Supervise the work of the Zoning Committee.
 - (iii) Request necessary help when required, coordinate the Zoning Committee's needs to the appropriate Staff, and assist the Zoning Administrator with preparation of Zoning Committee meeting agendas.

- (iv) Decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved.
- ii) Zoning Committee Vice-Chairperson
 - (1) Appointment; Election. The Zoning Committee shall elect the Zoning Committee Vice-Chairperson at the first Zoning Committee meeting following the organizational meeting of the County Board.
 - (2) Duties: The Vice-chairperson shall perform all the duties of the Chairperson in the event the Chairperson is not able to perform those duties.
- iii) Zoning Committee Secretary
 - (1) Election: The Zoning Administrator shall appoint a Secretary.
 - (2) Duties: The Secretary, or the Secretary's designee, shall perform the following duties:
 - (a) Record and maintain permanent minutes of the Zoning Committee's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating the absence and reason for failure to vote.
 - (b) Keep records of its official actions.
 - (c) Summarize accurately the testimony of those appearing before the Zoning Committee and keep an audio recording of all hearings.
 - (d) Record the names and addresses (if provided) of all persons appearing before the Zoning Committee in person, or by attorney.
 - (e) Subject to the Zoning Committee and Chairperson's discretion, conduct the correspondence of the Zoning Committee and have published in a local newspaper public notices of meetings or hearings as required by law.
 - (f) File the Zoning Committee minutes and records in the office of the Zoning Department.
 - (g) Act as the record custodian of all minutes, records and other materials deemed public records pursuant to a record

retention policy adopted by the County or applicable state laws.

- (h) County staff, including, but not limited to, the Zoning Department staff and the County Clerk, shall assist the Secretary of the Zoning Committee in performing these duties.

E) Zoning Committee Meetings

- i) Time and Place of Meetings.
 - (a) Zoning Committee meetings and hearings shall be held on the fourth Tuesday of each month, unless otherwise determined by the Zoning Committee Chairperson.
 - (b) Zoning Committee meetings and hearings may otherwise be held, or may be cancelled, upon the determination of the Zoning Committee Chairperson, provided that all Zoning Committee members are notified by the Secretary at least 48 hours prior to such meeting or hearing, or within at least 48 hours prior to the cancelled meeting or hearing.
- ii) Open Meetings. All Zoning Committee meetings and hearings shall be open to the public and conducted in accordance with applicable Wisconsin law.
- iii) Closed Session Meeting. The Zoning Committee may call a closed session in accordance with Wis. Stat. § 19.85 upon the request of the Zoning Committee Chairperson and after a motion to go into closed session that is approved by majority vote.
- iv) Meeting Notices and Publication. The Zoning Committee Secretary, or the Zoning Committee Secretary's designee, shall comply with all applicable laws and regulations regarding publication and notices for Zoning Committee meetings and any hearing held before the Zoning Committee.
- v) Quorum. A quorum must be present to conduct the business of the Zoning Committee. A quorum shall consist of a majority of all members of the Zoning Committee. No action may be taken except by a majority vote of such quorum.
- vi) Order of Business

- (1) The Zoning Administrator, with the input of the Chairperson, shall prepare an agenda for each Zoning Committee meeting, listing the matters of business at all meetings in the following order:
 - (a) Call Business Meeting to order and roll call.
 - (b) Approval of minutes of previous Zoning Committee Meeting.
 - (c) Public Comments for Business Meeting
 - (d) Review of Zoning Department Vouchers
 - (d) Zoning Administrator’s Report
 - (e) Business Meeting Agenda Topics as Noticed
 - (f) Items for Future Business Meeting Agenda
 - (d) Call Public Hearing to Order
 - (e) Statement, or summary of statement, by the Chairperson concerning public hearing procedures.
 - (f) Application requests and any accompanying public hearings required for each Application request in the following order:
 - (i) Rezoning Applications.
 - (ii) Conditional use permit Applications and special use Applications.
 - (iii) Ordinance amendments.
 - (g) Unfinished business.
 - (h) Adjournment.
- (2) The order of business at any Zoning Committee meeting may be amended by consent of a majority of Zoning Committee members present at the given Zoning Committee meeting.
- vii) Robert’s Rules of Order. Unless provided elsewhere in these Bylaws, Robert’s Rules of Order shall govern the actions of the Zoning Committee and conduct of the meetings if not covered by these Rules.

F) Proceedings of Public Hearings and Meetings

- i) **Appearances, Adjournments.** At the time of the public hearing and meeting, the Applicant may appear on the Applicant's own behalf or be represented by a representative or agent. A motion passed to postpone, recess or adjourn until a date certain that is made at a noticed meeting date, to a future time and place certain, is adequate notice to the Zoning Committee members, the Applicant and the public of a new meeting date.
- ii) **Witnesses.** The Chairperson may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the Zoning Committee. Testimony may be taken under oath administered by the Chairperson.
- iii) **Order of Public Hearings.**
 - (1) A public hearing conducted at the same Zoning Committee meeting at the discussion or decision on that Application shall occur immediately prior to that decision or discussion on the agenda.
 - (2) Public hearings shall proceed as follows:
 - (a) Reading of the Application or a summary of the Application by the Zoning Administrator or Chairperson, as the Chairperson may determine.
 - (b) Determination of jurisdiction, if requested.
 - (c) Submission of the file to the Zoning Committee, which may include, but is not limited to information such as:
 - (i) The Town Board decision, Findings of Facts or other information from the Town.
 - (ii) Any City Council decision, Findings of Facts or other information from the City.
 - (iii) Any Village Board decision; Findings of Facts or other information from the Village.
 - (iv) Maps or surveys.
 - (v) Inspection reports or other expert reports such as engineering reports, traffic studies, environmental

report, soil test or other test results, and surveyor information.

- (vi) Opinion letters, emails, and other letters of correspondence. Such letters and emails must be submitted to the Zoning Department by 4:30 p.m. on the Thursday prior Zoning Committee Meeting to be considered by the Zoning Committee. Letters and emails submitted after 4:30 p.m. on the Thursday prior Zoning Committee Meeting will not be considered. The Zoning Committee Chairperson shall conduct a roll call of the Zoning Committee Members to verify each letter or email has been read by each Zoning Committee Member. If a letter or email has not been read by all Zoning Committee members than the letter or email shall be read orally at the meeting.
 - (vii) Plots, plans or sketches.
 - (viii) Photographs.
 - (ix) Any other information that the Zoning Administrator deems relevant for the Zoning Committee to consider.
- (d) Applicant's statements and presentation of evidence, including but not limited to, further comments or presentation of additional evidence presented to the Zoning Committee.
- (i) An Applicant has the burden of proof to present evidence to support the Applicant's request. Such proof may include, but is not limited to, the following:
 - a. Letters from real estate professionals attesting to a positive impact of the proposal set forth in the Application on surrounding property values.
 - b. Data supporting positive economic impact on the surrounding community and the County.

- c. Data supporting the Applicant's statements regarding impact of such things as noise, increased light pollution, potential impacts on ground water or other environmental impacts.
 - d. Professional test results or reports such as traffic studies, environmental reports or soil testing.
 - e. Information regarding future development or plans should the Application be approved.
- (e) Members of the public in support of Application may make statements and present evidence.
- (f) Members of the public in objection to the Application may make statements and presentation of evidence.
- (g) Members of the public who speak must state their full name and address before giving testimony. Speakers should also state whether they represent a client, group, or other association, whether the Speaker is in favor or opposes the proposal on which the testimony is being given, and other pertinent information. Speakers should confine their testimony to the facts and matters presented. Speakers should avoid repetitive testimony, and Speakers are encouraged to state that they agree or disagree with other comments to avoid repetitive testimony. A Speaker's testimony will be limited to three (3) minutes, unless additional time is provided for by the Zoning Committee Chair. Orderly procedures require that each Speaker proceeds without interruption by others. All testimony will be addressed to the Zoning Committee and there will be no questions or arguments between individuals. The Zoning Committee is under no obligation to answer questions posed by the Speaker during the public hearing.
- (g) Staff recommendations.
- (f) Questions by Zoning Committee members.
- (g) Rebuttals as permitted by the Zoning Committee Chairperson.

- iv) Preliminary Matters. Following the reading of the application or petition, the Zoning Committee may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The Zoning Committee may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The Zoning Committee may make an immediate determination and close the hearing upon finding that it lacks jurisdiction. If the Zoning Committee determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request.
- v) Interruption; Decorum.
 - (1) Orderly procedure requires that all individuals proceed without interruption and all discussion be directed to the Zoning Committee.
 - (2) Members of the public, an Applicant's or an Applicant's representatives shall not engage in questioning or arguments during a public hearing or otherwise when the Zoning Committee is in session.
 - (3) The Chairperson may order any individual to leave the Zoning Committee meeting if the person does not engage in respectful and proper decorum, as determined within the Chairperson's reasonable discretion.
- vi) Questions and Debate. During the public hearing, the Chairperson, Zoning Committee members, and members of the staff may ask questions and make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the Applicant. The Chairperson and Zoning Committee members may direct any question to the Applicant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the staff.
- vii) Presentation of Evidence. All supporting evidence for and against each case shall be presented to the assembled Zoning Committee. The Applicant shall be responsible for the presentation of all information supporting his/her case.
- viii) Additional Evidence. The Zoning Committee may take a case under advisement for later consideration and determination, or may postpone additional action whenever it concludes that additional evidence is needed or future study is required.

- ix) Rules of Evidence.
 - (1) The Zoning Committee shall not be bound by rules of evidence set forth in Wis. Stats. Chs. 901, 904 and 910.
 - (2) The Zoning Committee shall be bound by applicable state laws, including but not limited to the presentation of Substantial Evidence in the request for a conditional use permit and rendering its determination based on Substantial Evidence, as set forth in Wis. Stat. § 59.69(5e).
 - (3) The Zoning Committee may exclude irrelevant, immaterial, incompetent, unduly argumentative or repetitious testimony, or evidence. For Applications requesting a conditional use permit, the Zoning Committee may exclude testimony or evidence that it does not deem to be substantial evidence.
- x) Chairperson to Rule on Admissibility. The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Zoning Committee present.
- xi) Record of Hearing and Meeting. All proceedings at a hearing and meeting shall be recorded by audio recording. The Secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari. The proceedings shall become part of the written record filed in the office of the Zoning Committee and open to the public.
- xii) Adjournments. When all Applications cannot be disposed of on the day set, the Zoning Committee may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Zoning Committee.
- xiii) Withdrawal of Applications. An Applicant may withdraw an Application at any time prior to the Zoning Committee's decision, but a pending motion to grant or deny the application shall have precedence over withdrawal. Withdrawal of the Application shall not entitle the Applicant to reimbursement of any Application fees paid by the Applicant to the County.

G) Decisions of the Zoning Committee

- i) Majority Vote Required. The concurring vote of a majority of the quorum of the Zoning Committee members present shall be necessary to approve, deny, or postpone any Application or other matter upon which it is required to under any Zoning Ordinance.
- ii) Decisions to be Written. All decisions shall be in writing and contain the facts upon which the decision is based.
- iii) Decisions to be Mailed.
 - (1) Within 30 days of the close of the hearing or meeting to which the Zoning Committee's decision relates, written copies of such decision shall be mailed to the Applicant, the local municipality, and when applicable, any other governmental body or state agency.
 - (2) The approval or granting by the Zoning Committee is deemed to constitute an order to the zoning official to issue a permit. A denial of the application or petition by the Zoning Committee is deemed to be an order to deny the permit.
 - (3) On matters in which the Zoning Committee is a recommending body for final decision by the County Board, the decision shall be mailed within 30 days after the County Board's decision on the application to the Applicant, the local municipality, and when applicable, any other governmental body or state agency.
- iv) Findings. In acting on any matters before it, the Zoning Committee shall make Findings of Fact supporting its action. The Zoning Committee may rely upon recommended Findings of Fact set forth by the Zoning Administrator or legal counsel in rendering its findings.
- v) Conflict of Interest; Disqualification; Abstention. The Zoning Committee shall adhere to the Washburn County Board of Supervisors Policy and Procedures Manual's provisions regarding conflicts of interest, disqualification and abstention.
- vi) Decision to Relate to Specific Property.
 - (1) The decision of the Zoning Committee shall be deemed as applying to the property that is the subject of the Application, rather than to the Applicant or owner of the property.
 - (2) Notwithstanding the foregoing, the Zoning Committee may determine and require that a conditional use permit be issued only to an individual Applicant or property owner for operation on a specific property that is included in the Application.

- (3) The Zoning Committee may determine and require that any conditional use permit issued may not be transferrable or otherwise conveyed to any successor or assign.
- vii) Informal Advice or Statements Not Binding. Any advice, opinion or information given by any Zoning Committee member, the Zoning Administrator, or any other official or employee of the County, shall not be binding on the Zoning Committee.
- viii) Cases to be Determined Individually. No action of the Zoning Committee shall set a binding precedent. Each Application shall be decided upon its merits, upon the attendant circumstances, based on the evidence or information presented. The Zoning Committee shall not act arbitrarily or capriciously.
- ix) Order for Permit Valid for One Year. An order or approval by the Zoning Committee requiring a zoning official to issue a permit shall become void after one (1) year unless the Applicant shall have obtained such permit from the zoning official within such time, provided that the time may be extended when so specified by the Zoning Committee.
- x) Decisions to be Filed with State. Copies of decisions on conditional uses and map or text amendments within the shorelands or affecting the Wetland/Shoreland District shall be sent to the appropriate district office of the Department of Natural Resources or as otherwise required by law. When required by applicable law, copies of decisions shall be provided to or filed with other governmental bodies or state agencies.
- xi) Appeals of Zoning Committee Decision. Any Applicant or other Aggrieved Person aggrieved by a conditional use, special use or any other decision in which the Zoning Committee is the decision-making authority may commence an action with the Washburn County Board of Adjustment to review the Zoning Committee's decision, in whole or in part, within 30 days of the date following the date of the signing of the Zoning Committee's decision letter. The date following the date of the signing of the Zoning Committee's decision letter is the first day of the 30-day appeal filing period.

H) Refiling and Rehearings

- i) One-Year Refiling Rule. No matter which has been acted upon by the Zoning Committee concerning the same or part of the same property shall be considered again within one (1) year from the date of the action, except as hereinafter provided.

- ii) Reopenings and Rehearings Limited. The Zoning Committee may not reopen any case upon which a previous hearing has been held, except to correct a manifest error.
- iii) Closure of Case. A case will be considered as heard and closed at such time as the Zoning Committee approves or rejects an Application or when it is considered closed by operation of these Bylaws.
- iv) Reconsideration on Zoning Committee Decision. A decision of the Zoning Committee may be reconsidered: (1) by motion to reconsider made at the same Zoning Committee meeting, which may be immediately disposed of without further notice, or (2) upon direction of the County Board of Supervisors, in which event the matter shall be placed on the Zoning Committee calendar for a subsequent public hearing and a new notice given without additional fee.
- v) Reconsideration Tolls Appeal Period. The filing of a motion for reconsideration shall stop the running of the 30-day period in which a petition to the County Board of Adjustment must be made. The 30-day period will run in such event from the date a decision not to reconsider is made by the Zoning Committee, or if the matter is reconsidered, from the date the decision on the reconsidered matter is filed in the Zoning Committee's office.
- vi) Procedures for Reconsideration. A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused to an Applicant or Aggrieved Party who has requested reconsideration, the Zoning Committee shall enter on the minutes the basis of the request, the reason why it was refused, and the vote of the Zoning Committee members thereon.
- vii) Waiver of Requirements. The above provisions of H) Refilings and Rehearings may be waived by the Zoning Committee upon a majority vote of the Zoning Committee members present.