



ORDINANCE # 124.2

Subdivision Ordinance

This ordinance shall take effect after its passage and posting as provided by law.

Adopted November 10, 2016 by the Town Board of the Town of Tainter, Dunn County, Wisconsin. Page II contains a complete adoption history.

__signature on file_____
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Table of Contents

SECTION 1 - INTRODUCTION.....	1
1.1 AUTHORITY	1
1.2 TITLE.....	1
1.3 PURPOSE AND INTENT	1
1.4 POLICY	2
1.5 ABROGATION AND GREATER RESTRICTIONS	2
1.6 INTERPRETATION.....	2
1.7 SEVERABILITY	2
1.8 REPEAL	2
1.9 EFFECTIVE DATE.....	3
SECTION 2 - GENERAL PROVISIONS	4
2.1 JURISDICTION/APPLICABILITY	4
2.2 EXEMPTIONS	4
2.3 COMPLIANCE	5
2.4 DISCLAIMER	5
2.5 LAND SUITABILITY.....	5
2.6 DEVELOPMENT AGREEMENTS	6
2.7 COOPERATIVE EXERCISE	6
2.8 DESIGN STANDARDS AND IMPROVEMENTS.....	6
2.9 VARIANCES.....	7
2.10 OTHER PERMITS	7
2.11 AMENDMENTS	8
2.12 VIOLATIONS.....	8
2.13 PENALTIES	8
2.14 APPEALS	8
SECTION 3 - DEFINITIONS.....	9
3.1 WORD USAGE.....	9
3.2 DEFINITIONS	9
SECTION 4 - SUBDIVISION REVIEW AND ACTION	13
4.1 PRE-APPLICATION CONSULTATION.....	13
4.2 MINOR SUBDIVISION	13
4.3 MAJOR SUBDIVISION.....	19
4.4 FEES	23
SECTION 5 - MINIMUM SUBDIVISION STANDARDS.....	24
5.1 INTRODUCTION AND INTENT	24
5.2 STANDARDS.....	24
5.3 VIOLATIONS AND RIGHTS OF PARTIES	25
SECTION 6 - CONSERVATION SUBDIVISION	26
6.1 PURPOSE AND ANALYSIS	26
6.2 LAND SUITABILITY	26
6.3 CONSERVATION DEVELOPMENT BONUSES.....	27
6.4 PREFORMANCE STANDARDS.....	28
6.5 RESIDENTIAL CLUSTER SITING STANDARDS	29
6.6 OPEN SPACE DESIGN	29
6.7 SEWAGE AND WATER FACITITIES	30
6.8 OWNERSHIP/MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES.....	31

**Town of Tainter
Dunn County, Wisconsin
Land Division Ordinance**

Section 1 - Introduction

1.1 Authority

These regulations are adopted under the authority granted by Secs. 60.22(3), 61.34(1) and 236.45 of the Wisconsin Statutes.

1.2 Title

This Ordinance shall be known, referred to, or cited as the "Subdivision Ordinance, Town of Tainter."

1.3 Purpose and Intent

The purpose and intent of this Ordinance is to regulate and control the division of land within the limits of the Town of Tainter, Dunn County, Wisconsin in order to:

- A. Promote the public health, safety and general welfare of the community.
- B. Supplement county and state subdivision controls to implement the Town Comprehensive Plan.
- C. Strengthen local control of land use decisions and maintain the ability and right to control Town destiny.
- D. Promote a planned, orderly layout and appropriate use of land consistent with the Town Comprehensive Plan.
- E. Obtain the wise use, conservation, and protection of the Town's soil, water, wetland, woodland, farmland, and wildlife resources.
- F. Conserve the value of prime agricultural soils.
- G. Provide for the conservation of the Town's agriculturally important lands by minimizing conflicting land uses.
- H. Promote the rural and agricultural character, scenic vistas, and natural beauty of the Town.
- I. Evaluate the further division of larger tracts into smaller parcels of land based on the agricultural economy and natural resources of the Town.
- J. Facilitate the adequate provision of transportation, water, sewerage, health, education, recreation, and other public requirements.
- K. Promote a street system that will not have a negative long-term effect on neighborhood quality, traffic flow and safety.
- L. Require adequate legal descriptions and proper survey monumentation of subdivided land.
- M. Realize goals, objectives, policies and development standards set forth in plans, codes and ordinances adopted by the Town.
- N. Secure safety from fire, flooding, and other dangers.

- O. Ensure that future development is consistent with the Town Comprehensive Plan and other plans adopted by the Town.
- P. Avoid the inefficient and uneconomical extension, and/or duplication of governmental services.

1.4 Policy

The uncontrolled development and division of land in the Town of Tainter affects the public health, safety and general welfare. Uncontrolled division of land results in negative effects, including but not limited to: pollution of ground and surface waters; destruction of natural beauty, scenic vistas and wildlife habitat; impairment of the local tax base; increased costs and inefficiencies in governmental services; loss of agriculturally important lands; threatens a vibrant farm economy, and conflicting land uses. Therefore, it is in the best interest of the public to provide for the wise and proper division of land in the Town of Tainter, to assure that land to be divided shall be of such character that it can be used safely without danger to public health, safety and general welfare and in a manner consistent with adopted Town plans.

1.5 Abrogation and Greater Restrictions

This Ordinance shall not repeal, abrogate, annul, impair or interfere with existing easements, covenants, agreements, rules, regulations, or permits previously adopted or issued pursuant to laws. However, where this Ordinance imposes greater restrictions, this Ordinance shall govern.

1.6 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

1.7 Severability

If a court of competent jurisdiction adjudges any section, provision or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby. To the extent that this Ordinance contains time limits, deadlines, notice requirements, or other provisions that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Chapter 236 of the Wisconsin Statutes, the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Chapter 236 shall apply.

1.8 Repeal

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.9 Effective Date

This Ordinance shall take effect upon passage and adoption by the Town Board and posting as provided by law.

Section 2 - General Provisions

2.1 Jurisdiction/Applicability

- A. The jurisdiction of this Ordinance shall include all land and water within the Town of Tainter, Dunn County, Wisconsin.
- B. This Ordinance shall apply to all subdivisions and to all other developments not involving a subdivision in the Town where the installation of public improvements and/or dedication of any public lands is required, including those areas where lots of record existed prior to the adoption of this Ordinance.
- C. This Ordinance shall also apply to the development of all residential land uses in the Town where the installation of private improvements and/or dedication of any public lands is required including those areas where lots of record existed prior to the adoption of this Ordinance.
- D. This Ordinance is expressly applicable to condominium developments within the Town's jurisdiction. For purposes of this Ordinance, a condominium unit and any associated limited common elements shall be deemed equivalent to a lot or parcel created by the act of subdivision.

2.2 Exemptions

In addition to exemptions under Wisconsin Statutes 236.45, the provisions of this Ordinance shall not apply to:

- A. Creation or realignment of a public right-of-way by a public agency.
- B. Divisions of land into lots, parcels, or tracts each of which is forty acres or equivalent in size or greater.
- C. Creation or realignment of an easement.
- D. Adjustment of the boundary line or the transfer of land between owners of adjoining property, provided all of the following conditions are met:
 - 1. Additional lots are not thereby created.
 - 2. The zoning district for each lot is identical, including any special exceptions.
 - 3. The resulting lots are not less than the minimum lot area standards contained in Section 5.2 A through C that pertains to the current or future use of the lots.
- E. Purchase, transfer, or development of space within an apartment building or an industrial or commercial building.
- F. Creation of a lien, mortgage, deed of trust, or any other security instrument.
- G. Creation of a security or unit of interest in any investment trust regulated under the laws of Wisconsin or any other interest in an investment entity.
- H. Conveying an interest in oil, gas, minerals, or building materials, that is severed from the surface ownership of real property.

2.3 Compliance

Any division of land subject to the requirements of this Ordinance shall not be entitled to recording and/or improvements to the land unless such division is in full compliance with all of the requirements of this Ordinance and the provisions of Chapter 236, Wisconsin Statutes. All approved certified survey maps and final plats shall be filed for recording with the Register of Deeds of Dunn County prior to transferring ownership of any parcels created by a subdivision.

2.4 Disclaimer

- A. **Multiple Jurisdictions.** All persons reviewing the provisions of this Ordinance should be aware that the Town is only one of a number of governmental bodies that may have jurisdiction over proposed subdivisions or development. The Town cannot make any representations on behalf of any other government body. No subdivision may be made unless all required approvals have been given.
- B. **Binding Acts.** No statement or actions by any official, employee, agent or committee of the Town should be construed or taken as a binding act of the Town except a resolution, motion, or Ordinance that has been adopted by the Town Board at a lawfully conducted Town Board meeting, or by the Town electorate at a duly constituted Annual or Special Town Meeting. This includes, but is not limited to, interpretation of this Ordinance.
- C. **Compliance Assurance.** The Town expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations, or rules. The Town also assumes no responsibility for the suitability of any property whose subdivision has been approved by the Town Board.

2.5 Land Suitability

- A. Unless otherwise herein exempted, all lots that fall within the jurisdiction of the Town of Tainter Subdivision Ordinance shall provide a minimum twenty-percent [20%] green space.
- B. No land shall be divided if the Town Board determines that it will materially interfere with existing agricultural uses or will conflict with other goals, objectives, policies, land protection criteria, or potential transition areas as set forth in the Town Comprehensive Plan.
- C. No land shall be subdivided which is held unsuitable for its proposed use by the Town Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, impairment of wildlife habitat and scenic vistas, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of governmental services, conflicting with the goal of preserving important agricultural lands for their highest and best use, i.e. farming, or any other feature likely to be harmful to the health, safety or welfare of present and future residents of the proposed subdivision or of the Town. The Town Plan Commission may require the subdivider to furnish maps, data and other information as may be necessary to determine land suitability.
- D. The Town Plan Commission in applying the provisions of this Section shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability. Thereafter, the Commission may affirm, modify, or withdraw its determination

of unsuitability. The Town Board may affirm, modify, or override the Commission's recommendation. The Town Board shall recite findings for any decision to modify or override the Commission's recommendation.

2.6 Development Agreements

When considering any subdivision application, the Town Board shall be authorized to require and to enter into a Development Agreement. The Development Agreement will be drafted by the developer and should include:

- A. Provisions clarifying duties to construct specific improvements
- B. The phasing of construction
- C. Timing, location and financing of infrastructure
- D. Reimbursement for Town directed infrastructure that exceeds the needs of the development area in order to accommodate future growth beyond the development area
- E. Any vesting of property rights for periods of not more than 10 years
- F. Assurances that adequate public facilities (including roads, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development
- G. Means to mitigate anticipated impacts of the development on the general public or the environment
- H. Performance bonds (or other means of financial assurance approved by the Board) to protect the Town's interests
- I. Provisions for the developer to pay any professional costs (CSM/Plat review costs, supervision and inspection costs, attorney costs, etc.) incurred by the Town, both prior to and during development, to complete the development in accordance with Town, County, State, and Federal requirements.
- J. A means for the Town Board to document that the developer met condition(s) set forth in the development agreement.

In reviewing a Development Agreement proposal, the Town Board may require changes to meet Town requirements. The Development Agreement must meet all conditions set forth by the Town Board before the Board will approve and sign the agreement.

2.7 Cooperative Exercise

Any city, village, town, county, or regional planning commission or committee may, pursuant to Wis. Stat. Section 66.30, agree with any other city, village, town, county or regional planning commission or committee for the cooperative exercise of the authority to approve or review plats.

2.8 Design Standards and Improvements

All subdivisions shall be designed and any required or proposed improvements shall comply with provisions of Town ordinances and plans, Wisconsin Statutes, Dunn County Regulations, and any other applicable Federal laws or regulations, as now exists or hereafter amended, which are hereby adopted and incorporated as part of this Ordinance by reference. The Town Board may direct the developer to install public improvements, at the developer's expense,

when the Board determines such improvements are necessary to comply with Town, County, State, or Federal laws or regulations. Such directed public improvements may lie outside the immediate development Plat area if the Board determines that granting the development will cause such public improvements to become necessary.

2.9 Variances

- A. **Variances Authorized.** When the Town Board finds that exceptional or undue hardship will result from strict compliance with this Ordinance, it may allow variance from the terms hereof to the extent deemed necessary and proper to grant relief.
- B. **Criteria for Approval.** Before a variance shall be granted, it shall be shown that:
 - 1. The necessity for modification is because of special circumstances applicable to the property, including size, shape, drainage, topography, location and surroundings;
 - 2. The variance is the minimum deviation from the terms of this ordinance necessary to mitigate the hardship;
 - 3. Granting of the variance is not detrimental to the public health, safety, welfare, use or interest, or injurious to property or improvements in the vicinity; and
 - 4. Where in the judgment of the Town Plan Commission, it would be inappropriate to apply literally the provisions of this ordinance because exceptional or undue hardship would result, the Commission may waive or modify any requirements to the extent deemed just and proper. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of this ordinance or the desirable general development of the Town. A majority vote of an established quorum of the Town Plan Commission and a majority vote of an established quorum of the Town Board shall be required to grant any waiver or modification of this ordinance, and the reason shall be entered in the minutes of the meeting thereof. In granting variances and modifications, the Commission and the Board may require conditions to secure the objectives of this ordinance.
- C. **Application.** Application for any variance shall be made in writing by the Subdivider at the time the subdivision is filed for consideration, stating specifically the circumstances upon which the Subdivider is relying, the variance requested and how the request meets the criteria set forth above. The request shall be supplemented with maps, plans and other additional data that may aid the Town Board in the analysis of the request.
- D. **Review and Approval.** The Town Plan Commission shall make a recommendation and findings on a variance request to the Town Board, and the Town Board shall make a final decision as part of the subdivision application. The Town Board shall provide written findings to support their decision. In granting variances, the Commission and Town Board may require conditions to secure the objectives of this Ordinance.

2.10 Other Permits

No driveway or other Town permit shall be issued on a parcel created by a subdivision which does not comply with the provisions of this Ordinance.

2.11 Amendments

The Town Board may upon recommendation of the Town Plan Commission amend, supplement or repeal any of these regulations after public notice and hearing and as may be required by Chapter 236 of the Wisconsin Statutes.

2.12 Violations

It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Ordinance or the Wisconsin Statutes; and no person, firm or corporation shall be issued a building permit, authorizing the building on, or improvement of, any major subdivision, minor subdivision or replat within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the provisions and requirements of this Ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes.

2.13 Penalties

- A. The Town of Tainter Citation Ordinance lists violation costs, fees, assessments, and surcharges necessary to enforce this ordinance. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, forfeit the amount listed in the Town of Tainter Citation Ordinance. Each time a violation occurs constitutes a separate occurrence, or each day that a condition exists in violation of this ordinance constitutes an occurrence. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.
- B. Recordation improperly made shall be subject to the provisions of Wisconsin Statutes, Section 236.30.
- C. Conveyance of lots in unrecorded plats shall be subject to the provisions of Wisconsin Statutes, Section 236.31.
- D. Monuments disturbed or not placed shall be subject to the provisions of Wisconsin Statutes, Section 236.32.
- E. The Town at the expense of the Subdivider may order assessor's plat when a subdivision is created by successive divisions as provided in Wisconsin Statutes, Section 236.31(2).

2.14 Appeals

Any person aggrieved by an objection to a plat or failure to approve a plat may appeal therefrom as provided in Wisconsin Statutes, Section 236.13(5).

Section 3 - Definitions

3.1 Word Usage

For the purposes of this Ordinance, words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

3.2 Definitions

- A. Definitions for certain words or phrases used in this ordinance can found in the Wisconsin Statutes, Section 236.02 and the Dunn County Subdivision Regulations. For the purposes of this ordinance, the following definitions either revise, supplement, or are in addition to definitions contained in the above referenced documents.
1. ***Agricultural Management Area (AMA)***. Town land and water areas designated within the Town Comprehensive Plan as preferred Agricultural Management Area.
 2. ***Agricultural Structure***. A structure whose sole purpose is dedicated to agricultural production, such as a barn, machine shed, grain bin, etc. A farm house, garage, or other structures such as a garden storage shed are not considered agricultural structures.
 3. ***Board***. The Town of Tainter Board of Supervisors.
 4. ***Certified Survey Map (CSM)***. A map of a minor subdivision, prepared in accordance with Section 236.34, Wisconsin Statutes, and in full compliance with the applicable provisions of this Ordinance.
 5. ***Commission***. The Town of Tainter Plan Commission.
 6. ***Concept Map***. Map showing a proposed subdivision/improvement that is prepared by the subdivider and submitted to the Town Plan Commission prior the subdivider's pre-application consultation with the Commission.
 7. ***Development Area***. The area of a subdivision within which new lots intended for future development and related accessory uses (e.g., structures, roads, driveways, lawns, wells, sewage disposal, swimming pools, etc.) shall be contained.
 8. ***Final Plat***. The map or plat which is prepared for recordation by the County Register of Deeds.
 9. ***Floodplain***. Land that has been or may be covered by flood water during a 'regional flood' as is defined in NR 116, Wis. Adm. Code. The floodplain includes the floodway and floodfringe, and is commonly referred to as the 100-year floodplain.
 - a. **Floodfringe**: that portion outside the floodway covered by water during a regional flood. This term is generally associated with standing water during a regional flood. This term is generally associated with standing water, but may under local floodplain zoning ordinances, be developed for specific purposes if development is protected from flooding.

- b. Floodway: the channel of a river or stream and those portions of the floodplain adjoining the channel required to discharge a regional flood. This term is generally associated with flowing water and is required by floodplain zoning ordinances to remain undeveloped and free of obstructions.
10. **Forty Acres or Equivalent.** Either 40 acres, a quarter-quarter section containing not less than 35 acres, or a government lot containing not less than 35 acres.
 11. **Green Space.** Open space maintained in a natural, undisturbed, or revegetated condition. Mowed lawns do not qualify as green space.
 12. **Land Protection Criteria.** Factors specifically identified by the Town as criteria to assist in protecting specific land and water resources. The land and water areas designated as protection areas to avoid development are generally mapped under the Town Comprehensive Plan. These areas include: wetlands, floodplains, 100-foot buffer around navigable streams, woodlands greater than 20 acres, lands within 1,000 feet of active and potential farm, land beyond 500 feet of public roadways, and Land Evaluation and Site Assessment (LESA)¹. See also map and designation criteria for land protection criteria within the Town Comprehensive Plan.
 13. **Limits of Disturbance (LOD) Lines.** The area specifically designated on a lot created through a subdivision within which future development activity (e.g., logging, excavation, structures, roads, driveways, lawns, wells, sewage disposal, swimming pools, private gardens, etc.) shall be contained.
 14. **Lot.** Designated parcel, tract, or area of land established by plat, subdivision or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit.
 15. **Lot Area.** The area contained within the exterior boundaries of a lot.
 16. **Major Subdivision.** The creation of five or more lots or buildings sites which are less than forty (40) acres in size by successive divisions from the same [mother tract](#) within a period of five (5) years.
 17. **Manufactured Home.** A structure, containing within it plumbing, heating, air conditioning, and electrical system, that is transportable in one or more sections of certain sizes and is built on a permanent chassis, and when connected to the required utilities, is designed to be used as a dwelling with or without a permanent foundation. Such housing must comply with the standards established under the National Manufactured Housing Construction and Safety Standards Act. See 42 USC 5401 to 5425 and ch. 409, *Wis. Stats.*
 18. **Minor Subdivision.** The creation of less than five lots or buildings sites which are less than forty (40) acres by successive divisions from the same [mother tract](#) within a period of five (5) years.
 19. **Mother Tract.** A contiguous parcel of land that is, or at any time since the original adoption date of this Ordinance was, in the same ownership. Contiguous parcels in

¹ As of May 1, 2002, LESA is still under development by Dunn County and will become effective upon completion.

the same ownership are considered to be one (1) parcel for purposes of this definition, even though the separate parcels may have separate tax identification numbers or were acquired at different times or from different persons.

20. ***Navigable Waters.*** Means any body of water which is navigable under the laws of this state.
21. ***Open Space.*** A portion of a development site that is permanently set aside for public or private uses and will not be developed. Open space may be used as community open space or preserved as green space.
22. ***Open Space Preservation Area.*** The portion of a subdivision designated for permanent agricultural, conservation, or open space uses.
23. ***Ordinary High Water Mark.*** The average annual high-water level of a pond, stream, river, lake, flowage, or wetland referred to an established datum plane or where such elevation is not available, the elevation of the line up to which the presence and action of surface water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geological or vegetative characteristic.
24. ***Parcel.*** For purposes of this Ordinance, a parcel is a single lot, tract, or parcel of land and is synonymous with lot (see lot definition).
25. ***Plat.*** A map of a subdivision.
26. ***Potential Transition Areas.*** Town land and water areas generally identified by the Town Comprehensive Plan which do not conflict with the Town's selected land protection criteria based on best available information then at hand. See also map and description of potential transition areas within the Town Comprehensive Plan.
27. ***Preliminary Plat.*** A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
28. ***Replat.*** The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
29. ***Sketch Map.*** A map submitted with a minor subdivision application that sufficiently details the proposed subdivision so as to allow the Town Plan Commission to check for compliance with applicable state, county, and town statutes, regulations, and ordinances.
30. ***Subdivider.*** Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a major subdivision, minor subdivision or replat.
31. ***Subdivision or Division of Land.*** The act or process of dividing land into two or more lots or building sites. See also definition for Major Subdivision and Minor Subdivision.
32. ***Town Comprehensive Plan.*** The most recent adopted Town of Tainter Comprehensive Plan, including any subsequent amendments.
33. ***Wetlands.*** Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophilic vegetation and which have soils

indicative of wet conditions, including lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high-water table.

34. **Woodland.** Generally, a land area of twenty (20) acres or more characterized by dense and extensive tree cover. More particularly, a plant community predominately of healthy trees and other woody vegetation, well stocked and growing more or less closely together.

Section 4 - Subdivision Review and Action

4.1 Pre-application Consultation

Prior to filing an application for subdivision approval, the subdivider shall schedule and attend a pre-application consultation meeting with the Town Plan Commission. Information on meeting dates, agenda deadlines, and filing requirements may be obtained from the Town Clerk. The pre-application consultation is intended to inform the subdivider of the purpose and objectives of this Ordinance, the Town Comprehensive Plan, and other duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning their development. In so doing, both the subdivider and the Commission may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The consultation will also provide the subdivider with a better understanding of subsequent required procedures and help determine what additional information may be required from the subdivider pursuant to either Section 4.2B3 or 4.3B5 of this ordinance.

- A. **Concept Map.** In order to facilitate the pre-application consultation, the subdivider is asked to submit a concept map, drawn to a reasonable scale, showing the proposed subdivision. If the proposed subdivision effects only a portion of contiguously owned land, a map showing all contiguously owned land with the boundaries of the proposed subdivision clearly annotated shall accompany the concept map. The concept map shall be submitted at least ten (10) days prior to the scheduled meeting to give the Commission time to prepare for the meeting. The concept map should fully and clearly represent the proposed subdivision and as a minimum contain the following:
1. Proposed general lot layout.
 2. Exterior boundaries.
 3. Existing and planned roadways.
 4. Any current and proposed easements.
 5. Approximate location of existing or proposed structures, including types of construction.
 6. Approximate location of existing land use, watershed areas, and ground cover.
 7. Location of any proposed land improvements (excavation, ditching, fencing, common septic systems, etc.).

4.2 Minor Subdivision

- A. **General.** Subdivisions which create less than five (5) lots or building sites of less than forty (40) acres by successive divisions from the same [mother tract](#) within a period of five (5) years, shall follow the procedures contained in this Section.
- B. **Minor Subdivision Application and Submittal.**
1. **Letter of Intent.** The Subdivider shall submit a letter of intent to the Town Clerk on a form provided that shall specify:

- a. The name and address of the owner of the property and the subdivider.
- b. The name and address of the surveyor who will be doing the work.
- c. The names and addresses of all adjacent land owners.
- d. The location and size of the property.
- e. The present use of the land.
- f. The intended future use of the land.
- g. Existing zoning on and adjacent to the proposed subdivision.
- h. The estimated time table of development.

2. **Sketch Map.** Accompanying the letter of intent, the subdivider shall submit a sketch map at a scale of 1"=200' or other appropriate scale. The sketch map shall show the following information:

- a. North arrow, date, scale and reference to a section corner.
- b. Approximate dimensions and areas of the parcels and easements.
- c. Location and type of existing and proposed buildings structures.
- d. Location of drainage ditches, water wells, sewerage systems and other features pertinent to the division.
- e. Location of existing and proposed roads and driveways and distances to the nearest adjoining driveways on both sides of the proposed site.
- f. Location of general land cover types such as woodlands, wetlands, agricultural, etc.
- g. Location of any steep slopes (i.e., 12% or steeper).
- h. Setback or building lines required by any approving agency.
- i. The uses of the land adjacent to the property and existing roads, easements of record, public access to navigable waters, dedicated areas and utilities.
- j. Approximate location of proposed limit of disturbance (LOD) lines, development area, and/or open space preservation area.
- k. Approximate location of the 20 percent green space as required under Section 2.5A of this ordinance. The total acreage of the original undivided lot will be used to calculate the required green space for a subdivision. The required green space for a subdivision may be contained in a single lot or divided among any number of lots.

3. **Additional Information.**

- a. The Town Plan Commission may require a proposed subdivision layout of all or part of contiguously-owned land even though division is not planned at the time.
- b. The Town Plan Commission may require contour maps prepared by a registered surveyor or engineer depicting vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten (10%) percent, and of not more than five (5) feet where the slope of the ground surface is ten (10%) percent or more to assist in review of the proposed subdivision and related improvements.
- c. Where land is being proposed for residential or business development that will not be served by an existing sanitary sewer certified capable of serving the entire proposed development, the applicant shall prepare and submit random soil and site evaluations at a rate of one per 3 acres.

- d. In an effort to preserve the Town of Tainter's rural quality the subdivider may be required to create a natural buffer separating the proposed subdivision from all State, County and Town Roads bordering the proposed subdivision. This buffer may be counted toward the 20% green space requirement.
- e. The Town may require a Development Agreement per paragraph 2.6.

C. Processing of Minor Subdivision Application.

1. The Town Clerk shall receive minor subdivision applications and collect payment of applicable fees listed under Section 4.4 of this Ordinance. The Town Clerk shall notify the subdivider by first class mail of any items deemed missing by the Town Plan Commission and shall prepare an affidavit of the mailing. To meet Town obligations under this ordinance, a complete application must be received no later than 14 days prior to a scheduled Plan Commission Meeting at which action is desired.
2. The Town Clerk shall, within two (2) normal work days after filing, transmit the copies of the letter of intent and sketch map to the Town Plan Commission. The Town Plan Commission will review the subdivision application for completeness and notify the Town Clerk of any missing items. The Town Plan Commission will also create/coordinate an application processing timeline with the Town Clerk to ensure the Town meets approval time limits established by Wisconsin Statutes, Section 236.34.
3. The Town Clerk shall send the subdivider, adjoining property owners, and any other applicable parties, a notice and agenda of the scheduled date of both the Town Plan Commission Meeting and the Town Board Meeting to consider the application no later than ten (10) days prior to the date of the meetings by first class mail and shall prepare an affidavit of mailing.
4. The subdivider or designee shall attend both the Town Plan Commission Meeting and Town Board Meeting where the proposed subdivision is on the agenda and present the letter of intent and sketch map for consideration. Failure of the subdivider or designee to attend the meeting may be used as grounds to recommend denial of the minor subdivision application.
5. Subdividers can try to shorten the minor subdivision process by submitting a final certified survey map (CSM) in lieu of a sketch map when submitting a minor subdivision application. The Town Plan Commission may consider approving of the final CSM provided all requirements of this Ordinance have been satisfied. If the final CSM does not comply with this ordinance or issues arise which require further investigation, the submitted CSM will be considered a sketch map and the complete minor subdivision process must be followed. Landowners should carefully consider the possibility of increased costs due to resurveying, changes to the final CSM, etc. when trying to shorten the minor subdivision process.

D. Preliminary Approval, Conditional Approval, Rejection.

1. The Town Plan Commission shall review the letter of intent, sketch map, and other relevant information for conformance with this Ordinance, the Town Comprehensive Plan, and all other applicable Town laws, ordinances, rules, regulations and plans. The Plan Commission may also review applicable County,

State and federal laws, ordinances, rules, regulations, and plans which may affect the minor subdivision.

2. The Town Plan Commission shall within their established processing timeline, recommend preliminary approval, conditional approval or rejection of the application and shall transmit their recommendation along with the letter of intent, sketch map and additional information to the Town Board.
 3. The Town Board, within ninety (90) days of submittal of the minor subdivision application shall grant preliminary approval, conditional approval or rejection of the minor subdivision application pending submission of the certified survey map (CSM), unless the time is extended by agreement with the subdivider. One (1) copy of the minor subdivision application shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, the conditions or reasons for rejection shall be stated in the minutes of the meeting and a letter setting forth the conditions of approval or the reasons for rejection shall be sent to the subdivider. One (1) copy of the minor subdivision application shall be filed in the Town records. Failure of the Board to act within the 90 days, or any approved extension thereof, shall constitute approval.
- E. **Certified Survey Map.** The subdivider may seek final approval of the minor subdivision by certified survey map (CSM) following preliminary approval or conditional approval of the letter of intent and sketch map by the Town Board. The completed CSM must be received no later than 14 days prior to a scheduled Plan Commission Meeting at which action is desired. The CSM shall show correctly, in addition to information required by Section 236.34 of the Wisconsin Statutes and Dunn County comprehensive ordinances, the following information:
1. Date of CSM and graphic scale.
 2. Name and Address of the owner, subdivider and surveyor.
 3. Location of existing buildings and driveways, watercourses, drainage ditches and other features pertinent to proper division.
 4. Names, locations and widths of adjoining streets, highways, parks, cemeteries, subdivisions, surface water and wetlands.
 5. Location of existing wells, septic tanks, drainfield and designated replacement area.
 6. Acreage included in each parcel excluding right-of-way.
 7. Setbacks or building lines required by any approving or reviewing agency.
 8. All lands being dedicated or reserved for future public acquisition.
 9. The location of "Limits of Disturbance" (LOD) lines, development area and/or open space preservation area (if applicable).
 10. The CSM shall clearly show the location of the 20 percent green space as required under Section 2.5A of this ordinance. Where individual lots of a subdivision contain all or part of the development green space, the green space shall be annotated for each lot.
 11. Drainage and utility easements.
 12. Where the CSM is located within a quarter section the corners of which have been relocated, monumented and coordinated, the CSM shall be tied directly to two of

the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material of the monument marking the relocated section or quarter corner to which the CSM is tied shall be indicated on the CSM. All distances and bearings shall be referenced to the Dunn County Coordinate System.

13. The surveyor shall certify on the face of the CSM that he/she has fully complied with all the provisions of this Ordinance.
14. The CSM shall bear a statement indicating whether any portion of the property is designated as a land protection area pursuant to the Town Comprehensive Plan and that limitations on actions in or affecting such areas may exist.
15. All subdivisions within the Town of Tainter shall contain a notice on the CSM or Plat that contains the following language:

You are hereby notified that this subdivision is located within or near property designated by the Town of Tainter Comprehensive Plan as an Agricultural Management Area. You may be subject to inconveniences or discomforts arising from agricultural-related operations, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, INSECTS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY OF ANY KIND DURING ANY 24 HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. The Town Board has determined that the use of real property for agricultural operations, particularly in these designated areas, is a high priority and favored use to the Town. Those inconveniences or discomforts arising from agricultural operations, if such operations are consistent with normal farming practices for the region and comply with local, state and federal laws, shall not be considered a nuisance. Where there are conflicts between residential and agricultural-related uses, agricultural uses will be favored.

16. All subdivisions within the Town of Tainter shall contain a notice on the CSM or Plat that contains the following language:

You are hereby notified that all land parcels shown on this [CSM or Plat] [that lie within the Town of Tainter] are subject to construction, green space, and other restrictions found in the Town of Tainter Subdivision Ordinance.

17. CSMs or Plats depicting town highways that have not been accepted by the Town of Tainter for maintenance shall have the highways clearly annotated and shall contain the following statement:

This [CSM or Plat] has a private road that may subject property owners to a private road special assessment fee. Refer to the attached Private Road Maintenance Agreement for information on potential owner financial obligations to maintain this road.

18. Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation, and designated floodplains, wetlands, and navigable waters where located within or adjoining the limits of disturbance lines or allowed development area established for the subdivision.
19. The Town Plan Commission may require contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten (10%) percent, and of not more than five (5) feet where the slope of the ground surface is ten (10%) percent or more to assist in review of the proposed subdivision and related improvements.
20. Where the Town Board finds that it requires additional information to review the CSM relative to a particular problem presented by a proposed development, it shall have the authority to request in writing, such information from the subdivider as it feels is required.

F. Review and Action on Certified Survey Map.

1. If the CSM, together with all required information, as required in Section 4.2 (E) above, is submitted within six (6) months of the last required preliminary approval and it substantially conforms to the letter of intent and sketch map as preliminarily approved, including any conditions of approval, and to adopted local plans and ordinances, and all requirements for division are met, then the CSM is entitled to final approval. If the CSM is not submitted within six (6) months of the last preliminary approval or the CSM is substantially different, the CSM may be rejected and the preliminary approval process must be repeated.
2. The Town Plan Commission shall review a copy of the CSM for conformance with the approval or conditional approval of the letter of intent and sketch map, this Ordinance, the Town Comprehensive Plan, and all other applicable Town laws, ordinances, rules, regulations and plans. The Commission may also review applicable County, State and Federal laws, ordinances, rules, regulations, and plans which may affect the minor subdivision. The Commission will recommend approval, conditional approval, or rejection of the CSM to the Town Board.
3. The Town Board shall approve, approve conditionally (and thereby require resubmission of a corrected CSM), or reject such certified survey map within sixty (60) days of submittal unless the time is extended by agreement with the applicant. If the CSM is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the applicant. If the CSM is approved or conditionally approved, the Town Board shall cause the Town Clerk to so certify on the face of the original CSM². If the board fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the CSM shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the original CSM by the town clerk.

² The surveyor normally holds the original CSM and brings it to the Town Board Meeting for signatures.

- G. **Recordation.** After the CSM has been approved by the Town Board and required improvements have either been installed and inspected and approved by the Town, or a contract and sureties insuring their timely installation has been approved by the Town and filed, the Town Clerk shall cause the certificate inscribed upon the CSM attesting to such approval to be duly executed and the CSM returned to the subdivider for recording with the County Register of Deeds.

4.3 Major Subdivision

- A. **General.** Subdivisions which create five (5) or more parcels or building sites which are less than forty (40) acres in size by successive divisions from the same mother tract within a period of five (5) years, shall follow the procedures contained in this Section.
- B. **Major Subdivision Application and Submittal.**
1. **Letter of Intent.** The subdivider shall submit a letter of intent to the Town Clerk on a form provided. The minimum contents of the letter of intent are found under 4.2B of this Ordinance.
 2. **Preliminary Plat.** Accompanying the letter of intent, the subdivider shall submit thirteen (13) copies of a preliminary plat prepared by a registered land surveyor at a scale of not more than one hundred (100) feet to the inch and shall comply with the requirements of Chapter 236 of the Wisconsin Statutes. The preliminary plat shall show correctly on its face, in addition to the information required by Chapter 236 of the Wisconsin Statutes, the contents under Section 4.2E of this Ordinance and any additional information required pursuant to the Dunn County Subdivision Regulations.
 3. **Referral to Other Agencies.** If the major subdivision results in a state or county subdivision as defined either in Wisconsin Statutes Section 236.02(12) or the Dunn County Subdivision Regulations, respectively, the subdivider shall also submit the original drawing of the preliminary plat to the appropriate state plat review agency and Dunn County, in accordance with s. 236.12(6), Wis. Stats. Such plats shall comply fully with the requirements of Chapter 236, Wis. Stats, and the Dunn County Subdivision Regulations, as well as the requirements of this Ordinance. The subdivider shall provide the Town with verification of submission to required state and county agencies no later than the scheduled meeting before the Town Plan Commission is to consider the Preliminary Plat.
 4. **List of adjacent Property Owners.** In order to facilitate public comment, the subdivider shall provide a list of names and mailing addresses of all property owners within one thousand (1,000) feet of the subject site to the Town Clerk.
 5. **Additional Information.** The subdivider may be required to submit other information similar to that required pursuant to Section 4.2B.3 above.
- C. **Processing of Preliminary Plat Application.**
1. The Town Clerk shall receive major subdivision applications and collect payment of applicable fees listed under Section 4.4 of this Ordinance. The Town Clerk shall notify the subdivider by first class mail of any items deemed missing by the Town Plan Commission and shall prepare an affidavit of the mailing. To meet Town

obligations under this ordinance, a complete application must be received no later than 14 days prior to a scheduled Plan Commission Meeting at which action is desired.

2. Within 2 days after a preliminary plat is submitted for approval, legible copies, together with a list of the authorities to which the plat must be submitted for approval under Wis Stat, s . 236.10 or objection under Wis Stat, s . 236.12, furnished by the subdivider at the subdivider's expense, shall be sent, by the Town Clerk of the approving authority to which the plat is submitted, to the agencies identified under Wis Stat, s . 236.12(2).
3. The Town Plan Commission will review the subdivision application for completeness and notify the Town Clerk of any missing items. The Town Plan Commission will also create/coordinate an application processing timeline with the Town Clerk to ensure the Town meets approval time limits established by Wisconsin Statutes, Section 236.11(1).
4. The Town Clerk shall send the subdivider, property owners within 1,000 feet of the subject site, and other applicable parties, a notice and agenda of the scheduled date of both the Town Plan Commission Meeting and the Town Board Meeting no later than ten (10) days prior to the date of the meetings by first class mail and shall prepare an affidavit of mailing.
5. The subdivider or designee shall attend both the Town Plan Commission Meeting and Town Board Meeting where the proposed subdivision is on the agenda and present the letter of intent and preliminary plat for consideration. Failure of the subdivider or designee to attend the meeting may be used as grounds to recommend denial of the major subdivision application.

D. Preliminary Plat Approval, Conditional Approval, Rejection.

1. The Town Plan Commission shall review the letter of intent, Preliminary Plat and other relevant information for conformance with this ordinance, the Comprehensive Plan, and all other Town laws, ordinances, rules, regulations, and plans which may affect the plat. The Town Plan Commission may also review applicable County, State and Federal laws, ordinances, rules, regulations, and plans which may affect the plat.
2. The Town Plan Commission shall, within their established processing timeline, recommend approval, conditional approval or rejection of the Plat, and shall transmit the Plat along with its recommendations to the Town Board, unless the time is extended by agreement with the subdivider.
3. The Board, within ninety (90) days, shall approve, approve conditionally, or reject such Plat. One (1) copy of the Plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, the conditions or reasons for rejection shall be stated in the minutes of the meeting, and a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat. One (1) copy of the Plat and letter shall be filed in the Town records. Failure of the Board to act within 90 days, or any approved extension thereof, shall constitute approval.

E. Review and Action on Final Plat.

1. **Submittal.** The subdivider shall submit the following:
 - a. Eight (8) copies of the Final Plat with the Town Clerk at least fourteen (14) days prior to the meeting of the Plan Commission at which action is desired.
 - b. Five (5) copies of the Final Plat with the Town Clerk at least fourteen (14) days prior to the meeting of the Town Board at which action is desired.
 - c. Within 2 days after a final plat is submitted for approval, legible copies, together with a list of the authorities to which the plat must be submitted for approval under Wis Stat, s . 236.10 or objection under Wis Stat, s . 236.12, furnished by the subdivider at the subdivider's expense, shall be sent, by the Town Clerk of the approving authority to which the plat is submitted, to the agencies identified under Wis Stat, s . 236.12(2).
 - d. If the major subdivision results in a subdivision as defined either in Wis. Stats s. 236.02(12), or the Dunn County Subdivision Regulations, respectively, the subdivider shall also submit the original drawing of the final plat to the appropriate state plat review agency and Dunn County, in accordance with s. 236.12(6), Wis. Stats. Such plats shall comply fully with the requirements of Chapter 236, Wis. Stats, and the Dunn County Subdivision Regulations, as well as the requirements of this Ordinance. The Subdivider shall submit verification of submission to required state and county agencies no later than the scheduled meeting before the Board to consider the Final Plat.
2. **Requirements.** The final plat shall be prepared by a registered land surveyor and shall comply with the requirements of Chapter 236 of the Wisconsin Statutes. The Plat shall show correctly on its face, in addition to the information required by Chapter 236 of the Wisconsin Statutes, the required contents under Section 4.2E of this Ordinance and any additional information required pursuant to the Dunn County Subdivision Regulations.
3. **Final Plat Review and Approval.**
 - a. The Final Plat may, with Board permission, constitute only that portion of the approved Preliminary Plat which the subdivider proposes to record at the time.
 - b. If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval.
 - c. The Final Plat may be rejected if it is not submitted within 36 months after the last required approval of the preliminary plat. Approval cannot be granted until all formal objections of the objecting agencies are satisfied.
 - d. The Town Plan Commission shall examine a copy of the final plat as to its conformance with the approved preliminary plat, any condition of approval of the preliminary plat, this Ordinance, the Town Comprehensive Plan, and all other Town laws, ordinances, rules, regulations and plans which may affect the plat. The Commission may also review applicable County, State and federal laws, ordinances, rules, regulations, and plans which may affect the plat. The Commission will recommend approval, conditional approval, or rejection of the Final Plat to the Town Board.

- e. In accordance with Wis Stat 236.11(1)(c), a professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the approving authority with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.
 - f. The Town Board shall, within sixty (60) days of Final Plat submittal, shall approve, conditionally approve, or reject the Final Plat, unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. If the Plat is approved, the Board shall not inscribe its approval on the face of the original Final Plat³ until the Town Clerk certifies on the face of the Plat that the copies were forwarded by the subdivider (if applicable) to objecting agencies as required pursuant to 4.3B.3 herein, the date thereof, and that no objections were filed within twenty (20) days or, if filed, have been met. If the board fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the original plat by the town clerk.
- F. **Recordation.** After the Final Plat has been approved by the Town Board and required improvements have either been installed and inspected and approved by the Town, or a contract and sureties insuring their timely installation has been approved by the Town and filed, the Town Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds.
- G. **Replats.**
- 1. Any replat of a recorded plat or part thereof shall be done in accordance with s. 236.36. Wis Stats. The subdivider or person wishing to replat, shall then proceed as specified in Section 4.3 of this Ordinance.
 - 2. The Town Clerk shall schedule a public hearing before the Town Plan Commission when a Preliminary Plat of a replat of land is filed, and shall mail notices of the proposed replat and public hearing to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed replat.

³ The surveyor normally holds the original Final Plat and brings it to the Town Board Meeting for signatures.

4.4 Fees

- A. Application Review Fee. All minor and major subdivision applications shall be accompanied by an application review fee established by the Board as set forth in the Town of Tainter Fee Schedule.
- B. Additional Costs. The subdivider shall be responsible for reimbursing the Town for engineering, inspection, legal, and administrative costs incurred by the Town in reviewing minor and major subdivisions.

Section 5 - Minimum Subdivision Standards

5.1 Introduction and Intent

The intent of these conditions and restrictions are to preserve special attributes, to create and preserve an aesthetically pleasing residential neighborhood and enhance and protect the special living environment of the Town of Tainter.

5.2 Standards

- A. The minimum [lot area](#) in the Town of Tainter for single family housing is one (1) acre. This minimum lot area may be reduced to no less than one-half (1/2) acre by applying conservation subdivisions standards as described in Section 6.3A, Conservation Development Bonuses.
- B. The minimum [lot area](#) in the Town of Tainter for two family housing (a duplex) is two (2) acres. This minimum lot area may be reduced to no less than one (1) acre by applying conservation subdivisions standards as described in Section 6.3A, Conservation Development Bonuses.
- C. The minimum [lot area](#) in the Town of Tainter for multiple family housing is one (1) acre for each family unit (for example, a six unit apartment building would require 6 acres). This minimum lot area may be reduced to no less than one-half (1/2) acre for each family unit by applying conservation subdivisions standards as described in Section 6.3A, Conservation Development Bonuses.
- D. The minimum living space shall be 1,000 square feet (basement and garage excluded) in each single family home, 800 square feet (basement and garage excluded) in each half of a duplex, and 800 feet (basement and garage excluded) for each unit in multiple family housing.
- E. The minimum width for single family, two family, or multiple family structure shall be 24 feet.
- F. The roof pitch for all family structures shall meet minimum industry standards. No flat roofs will be allowed.
- G. Only newly constructed homes shall be permitted.
- H. The minimum acceptable exterior finish for homes shall be vinyl. All home accessory structures, including garages, are to conform to the colors and siding type selected for the home. [Agricultural structures](#) are not considered home accessory structures.
- I. No structure of a temporary character, trailer, basement, tent, shack, garage or other buildings shall be on any Lot as a residence either temporarily or permanently. However, this restriction shall not be interpreted nor applied as preventing the placement or erection of a manufactured home, manufactured or assembled after June 15, 1976, as a place of residence.

- J. No unlicensed motor vehicle which, in order to be operated on public highways, is required to be licensed, shall be kept, parked or stored on any Lot subject hereto except within a building or structure.
- K. Easements for the installation and maintenance of utilities and drainage are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which shall change the direction of flow or drainage channels on the easements which may obstruct or retard the flow of water through drainage channels in the easements.
- L. Solid waste, as defined at 289.01 (33), Wis. Stats., and recyclable materials, as defined with reference to the definition of “recycling” at 287.13 (1) (h), Wis. Stats., shall not be kept on property subject to these covenants except in sanitary containers.
- M. No flat roof storage sheds shall be permitted.
- N. There shall be a minimum of ten (10) six-foot (6’) trees, natural or planted, per lot.
- O. All private sewage systems as defined at 145.01 (12), Wis. Stats., must conform and comply with local and state law.
- P. Within twenty-four (24) months after the completion of each home which has been constructed on a Lot subject to this declaration of conditions and deed restrictions a garage shall be erected on the same Lot as the home.
- Q. Each Lot upon which construction has taken place shall, during the following growing season, if not before, be fully landscaped or planted so as to prevent soil erosion and other environmental problems.
- R. Recommend all dwellings provide or have immediate access to storm shelter.

5.3 Violations and Rights of Parties

If any party violates or attempts to violate any of the conditions or restrictions herein provided, it shall be lawful for any party or parties in interest in the above described lands to institute and prosecute proceedings at law or in equity against the parties violating, either to prevent said violation or recur damages, including but not limited to obtaining a restraining order and/or temporary injunction to immediately stop construction until the provisions herein are complied with.

Section 6 - Conservation Subdivision

6.1 PURPOSE AND ANALYSIS

The purpose of the conservation subdivision is to preserve resources and to maintain, as much as possible, the rural look and feel of the Town. By applying conservation development bonuses, the minimum lot size in a subdivision can be reduced. This reduced lot size may allow more lots to be created in a given parcel of land while at the same time increase the size of open space and green space. The Town has also found that placing the open space or green space into a homeowners association where all lot owners share ownership makes the lots more desirable. In an effort to promote conservation subdivisions, the Town requires subdividers to perform a normal development yield versus conservation development yield analysis for all major subdivisions.

The normal development yield is the maximum number of lots that could be created based on Sections 1-5 of this ordinance for the property being subdivided. To find the normal development yield, the subdivider shall prepare and submit a sketch map showing a potential layout of the maximum number of lots possible. This potential layout must conform to county zoning provisions such as lot widths, setbacks, etc. Land that cannot be developed (e.g. floodplains, wetlands, steep slopes, drainage ways, other laws and/or ordinances) shall be excluded when determining the normal development yield but may be counted towards the 20% green-space requirement.

The conservation development yield is the maximum number of lots that could be created by applying conservation development standards found under this Section. To find the conservation development yield, the subdivider shall prepare and submit a sketch map showing a potential layout of the maximum number of lots possible after applying at least 3 conservation development bonuses. This potential layout must conform to county zoning provisions such as lot widths, setbacks, etc. Land that cannot be developed (e.g. floodplains, wetlands, steep slopes, drainage ways, other laws and/or ordinances) may be considered as open space or green space (as appropriate) when determining the conservation development yield.

The subdivider will present the results of the normal development yield versus conservation development yield analysis to the Town Plan Commission.

6.2 LAND SUITABILITY

Land identified as being environmentally sensitive shall not be developed. These lands shall be identified as out lots or given another designation that indicates the land is not available for development. Areas determined to be environmentally sensitive shall not be included in the Normal Development Yield but may be included as open space when determining the Conservation Development Yield. Areas identified as being environmentally sensitive include, but are not limited to:

- A. All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or any other public or private entity.
- B. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a seventy-five (75)-foot buffer.
- C. All areas within seventy-five (75) feet of the ordinary high water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources Water Management Specialists.
- D. All areas having slopes greater than twenty (20) percent.
- E. Burial sites and Indian mounds.
- F. Drainageways that contain running water during spring runoff or during storm events including a twenty-five (25) foot buffer from the edge of the drainage way.
- G. Any specific areas determined by the Town Plan Commission to be environmentally sensitive.

6.3 CONSERVATION DEVELOPMENT BONUSES

The minimum lot area for non conservation development allowed under Section 5.2 may be reduced by applying conservation development bonuses identified below. These conservation development bonuses may only be applied to lots being served by a municipal sewer or a private shared sewage treatment facility, such as a recirculating sand filter system or other Town approved treatment system that meets or exceeds the treatment capability of a recirculating sand filter system. The Town of Tainter shall consider rezone requests for subdivisions that comply with conservation development standards, provided the rezone requests support the Town Comprehensive Plan.

- A. ***Lot Size Reduction.*** Applying the conservation development bonuses below may allow the creation of more lots than permitted under the normal development yield. Each conservation development bonus lot size reduction is stated as a percentage of reduction and all qualifying reduction percentages will be summed to come up with a final reduction percentage. This final percentage will then be used to determine the conservation development minimum lot size. However, in no case will the minimum lot size be less than the minimum size allowed under Section 5.2 for conservation subdivisions standards.
 1. Lots served by a municipal sewer or a private shared sewage treatment facility serving the subdivision, such as a recirculating sand filter system or other Town approved treatment system that meets or exceeds the treatment capability of a recirculating sand filter system – 30% reduction (must meet this requirement before applying any further reductions below).
 2. Shared water facilities – 10% reduction.
 3. Constructing a trail (i.e. walking path, bicycle path, etc.) through open space – 5% reduction for gravel, 10 % reduction for paved.
 4. Constructing a park (i.e. playground, and/or picnic area) – 10% reduction.
 5. Laying out the subdivision so that 70% of the lots border the open space – 10% reduction.

6. Laying out the subdivision so there is a natural buffer (woods, trees, garden, etc) between the development and any highways, county roads, or town roads so as to preserve the rural look of the community – 20 % reduction.
7. For each 5% of green space above the 20% green space requirement – 10% reduction.
8. For every 5% of land set aside as open space (this may include open space areas identified in other conservation bonuses) - 5% reduction.
9. Providing for access by the general public to open space – 20 % reduction.
10. Constructing a central meetinghouse of suitable size for the development – 10 % reduction.
11. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Secretary of the Interior’s Standards for Rehabilitation of Historic Properties shall apply - 20 % reduction.

6.4 PERFORMANCE STANDARDS.

- A. GENERAL CONSIDERATIONS. Conservation subdivisions shall identify a conservation theme or themes and shall be identified on the subdivision application. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, viewshed preservation, or archaeological and historic properties preservation. The Town Plan Commission shall have the ability to specify which areas may be preserved.
- B. RESIDENTIAL LOT REQUIREMENTS.
 1. Existing farmsteads to be preserved shall have a driveway as part of the preservation of scenic and historic rural character.
 2. Lots shall be configured to minimize the amount of road length required for the subdivision.
 3. Development envelopes shall be configured to minimize loss of woodlands.
 4. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the useable area remaining for such agricultural uses with a thirty (30) foot buffer between agricultural uses and residential structures.
 5. Lots within a subdivision shall be situated so that the maximum number of lots abut the common open space. A local street may separate lots from open space.
 6. Lots shall be oriented so that the maximum number of lots are oriented towards one or more of the following:
 - a. A central green or square.
 - b. A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.
 7. A thirty-five (35) foot native vegetation buffer shall be maintained around open water areas, unless a specific beach or grassed area is identified.
 8. Stormwater management “Best Management Practices” (BMPs)
 - a. Minimize the use of curb and gutter and maximize the use of open swales.
 - b. Roof downspouts shall drain to porous surfaces.

- c. Post development peak discharges during the one hundred (100)-year storm event shall be no greater than the pre-developed peak discharges during the two (2)-year storm event.
- d. The development shall capture eighty (80) percent of the sediment/pollutants from the two (2) year storm event.
- e. Landscape plantings shall be used to increase infiltration and decrease runoff.
- f. Natural open drainage systems shall be preserved.

6.5 RESIDENTIAL CLUSTER SITING STANDARDS

- A. All residential lots and dwellings shall be grouped into clusters.
- B. Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses
- C. Residential clusters shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Wisconsin Department of Natural Resources.
- D. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local and regional recreational trails.
- E. Residential clusters shall be sited to achieve the following goals, to the extent practicable.
 - 1. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - 2. Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.
 - 3. Prevent downstream impacts due to runoff through adequate on site stormwater management practices.
 - 4. Protect scenic views of open land from adjacent roads.
 - 5. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- F. Landscaping around the cluster may be necessary to reduce or minimize off site views of residences.

6.6 OPEN SPACE DESIGN

- A. COMMON OPEN SPACE. The minimum open space required shall be owned and maintained under one of the alternatives listed in Section 6.8, as approved by the Town Board. The uses within the open space shall be accessible to the residents of the development. The uses may also be available to the general public providing the proper approvals are received. The required open space shall be undivided and restricted in perpetuity from future development.
- B. Open space shall be designated as part of the development. The minimum required open space is twenty (20) percent of the gross acreage.
- C. Open Space Conservation Ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enhance the natural features of each particular site.

1. First priority will be given to intact natural communities, habitat and areas for rare and endangered species, environmental corridors and natural and restored prairies, significant historic and archaeological properties, prime or productive farmland and slopes greater than twelve (12) percent.
 2. Second priority will be given to areas providing some plant and wildlife habitat and open space.
 3. Third priority will be given to areas providing little to no habitat but providing viewshed, recreation, or open space.
- D. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required.
1. Parking areas for access to the open space developed at a scale limited to the potential users of the open space.
 2. Privately held buildings or structures provided they are accessory to the use of the open space.
 3. Shared septic systems and shared potable water systems.
- E. Road right of ways shall not be counted towards the required minimum open space.
1. No more than fifty (50) percent of the required open space may consist of water bodies, ponds, floodplane, or wetlands.
 2. The portion of open space designated to provide plant and/or animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
 3. The areas of the open space designed for recreational uses such as trails, play fields, or community gardens shall be designed in a manner that avoids damaging historic or archaeological sites.
 4. A pathway system shall be included to connect existing or potential open space lands on adjoining parcels and shall connect these areas to neighborhood streets and to planned or developed trails.

6.7 SEWAGE AND WATER FACILITIES

- A. **WATER FACILITIES.** Water for subdivisions shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the State of Wisconsin and Dunn County. The use of shared or community wells are encouraged. Plans for shared or community wells shall include a wellhead protection plan with a separation distance for the zone of influence and sources of pollution. Such plans shall be submitted as part of the final construction plans.
- B. **SEWAGE FACILITIES.** All subdivisions shall be provided with adequate sewage treatment facilities meeting the standards of Dunn County and the permit requirements of the Wisconsin Department of Commerce and the Department of Natural Resources. Where sewage treatment is not provided by a publicly owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space is encouraged. Any common treatment facility must meet the requirements of Section 6.3.1. Such plans shall be submitted as part of the final construction plans.

- C. **FINANCIAL GUARANTEE.** A financial guarantee ensuring the construction and completion of the common facilities (e.g. roads, facilities covered in Section 6.3, etc.) shall be submitted to the Town of Tainter.

6.8 OWNERSHIP/MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES

The designated open space and common facilities shall be owned and managed by one or more of the following combinations:

- A. **HOMEOWNER’S ASSOCIATION.** If the common open space is proposed to be owned by a homeowners association, the instrument shall indicate that membership in the association is mandatory for all purchasers of homes in the development and their successors. It shall also indicate the homeowners’ association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association. Such instrument shall be submitted for approval to the Town Plan Commission as part of the information required for the preliminary map or plat. The homeowners; association bylaws or the declaration of covenants, conditions and restrictions shall contain the following information:
 - 1. The legal description of the common land;
 - 2. A description of common facilities;
 - 3. The restrictions placed upon the use and enjoyment of the lands or facilities;
 - 4. Persons or entities entitled to enforce the restrictions;
 - 5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses. A mechanism to assess real-estate taxes and insurance premiums;
 - 6. A mechanism for resolving dispute among the owners or association members;
 - 7. The conditions and timing of the transfer of ownership and control of land or facilities to the association;
 - 8. Any other covenants, restrictions and conditions the developer deems appropriate.
- B. **CONDOMINIUM ASSOCIATIONS.** If the common open space and facilities are to be held under the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. All common open space shall be held as a “common element” as defined in Section 703.01(2) of the Wisconsin Statutes. Such instrument shall be submitted for approval to the Town Plan Commission as part of the information required for the preliminary map or plat.
- C. **PUBLIC DEDICATION OF OPEN SPACE AND STREETS.** The Town Board may accept the dedication of fee title or dedication of a conservation easement to the common open space. Such instrument shall be submitted for approval to the Town Plan Commission as part of the information required for the preliminary map or plat. The Town Board may accept the common open space provided:
 - 1. The common open space is accessible to the residents of the Town of Tainter.
 - 2. The Town of Tainter agrees to and has access to maintain the common open space.

3. Streets or other public ways which have been designated on a duly adopted official map or element of the Town of Tainter comprehensive plan shall be dedicated or reserved by the subdivider to the Town of Tainter. The street or public way shall be made a part of the map in the locations and dimensions indicated in the comprehensive plan (when adopted) and as set forth in this ordinance.