

**Town of Tainter  
Dunn County, Wisconsin**

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# **Town Highway Ordinance**

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

Adopted January 13, 2011 by the Town Board of the Town of Tainter, Dunn County, Wisconsin.

\_\_\_signature on file \_\_\_\_\_  
Randy Valaske, Chairman

\_\_\_signature on file \_\_\_\_\_  
Jody Albricht, Supervisor

\_\_\_signature on file \_\_\_  
Marty Guarneri, Supervisor

\_\_\_signature on file \_\_\_\_\_  
Jerry Mrdutt, Supervisor

\_\_\_signature on file \_\_\_  
Kathy Schlough, Supervisor

\_\_\_signature on file \_\_\_  
Judith Albricht, Clerk  
Witness

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## **Historical Information**

Adoption history:

- 01-13-11 Adopted revisions to all sections to more clearly state Private Road requirements.
- 03-09-06 Adopted "Town Highway Ord." Sections 1- 4

# Table of Contents

<b>SECTION 1 - INTRODUCTION.....</b>	<b>1</b>
1.1 TITLE/PURPOSE .....	1
1.2 AUTHORITY .....	1
1.3 ADOPTION OF ORDINANCE.....	1
1.4 POLICY .....	1
1.5 RELATIONSHIP TO OTHER LAWS .....	1
1.6 INTERPRETATION.....	2
1.7 SEVERABILITY .....	2
1.8 REPEAL .....	2
1.9 EFFECTIVE DATE.....	2
<b>SECTION 2 - GENERAL PROVISIONS .....</b>	<b>3</b>
2.1 APPLICABILITY .....	3
2.2 EXEMPTIONS.....	3
2.3 DISCLAIMER .....	3
2.4 COVERAGE.....	3
2.5 NONCONFORMING PRIVATE ROADS .....	4
2.6 PENALTY PROVISION.....	5
<b>SECTION 3 - DEFINITIONS.....</b>	<b>6</b>
3.1 WORD USAGE.....	6
3.2 DEFINITIONS .....	6
<b>SECTION 4 – REQUIREMENTS AND SPECIFICATIONS .....</b>	<b>8</b>
4.1 TOWN HIGHWAY SPECIFICATIONS .....	8
4.2 HIGHWAY CONSTRUCTION STANDARDS .....	8
4.3 HIGHWAY APPROVAL PROCESS.....	10
4.4 HIGHWAY PLAN .....	11
4.5 PROVISIONS .....	12
4.6 PRIVATE ROADS .....	13
<b>Figure 1.....</b>	<b>18</b>
<b>Figure 2.....</b>	<b>18</b>
<b>Figure 3.....</b>	<b>19</b>



**Town of Tainter  
Dunn County, Wisconsin  
Town Highway Ordinance**

**Section 1 - Introduction**

**1.1 Title/Purpose**

The title of this ordinance is the Town Highway Ordinance. The purpose is to regulate, for public health and safety reasons, the establishment, repair, construction, improvement, modification, and reconstruction of Town Highways and Private Roads, to assure that the methods of repair, construction, improvement, modification, and reconstruction practices used in these highways will protect properly the public health, safety, and general welfare of persons in the Town of Tainter.

**1.2 Authority**

The Town Board of the Town of Tainter has the authority under its village powers under s. 60.22, Wis. stats., and the authority under Chapters 66, 82, and 86 Wis. stats., to adopt this ordinance.

**1.3 Adoption of Ordinance**

The Town Board, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to regulate highways and roads in the Town.

**1.4 Policy**

The Town Highway system shall be designed to meet the following objectives: permit the safe, efficient, and orderly flow of traffic; to meet the needs of the present and future population with a simple and logical pattern; to respect natural features and topology; and to present an attractive appearance. To meet these objectives, the Town Board shall have authority to specify the type of construction, including culverts, for all Town Highways and Private Roads. The Town of Tainter is not liable for performing maintenance on any Private Roads. Private Roads must still meet Town Highway specification and construction standards contained in this ordinance, but do not have to be paved. The Town will not accept ownership and maintenance responsibility for any Private Road that is not paved or that does not meet the minimum construction standards contained in this ordinance.

**1.5 Relationship to Other Laws**

The adoption of this ordinance does not preclude the Town Board from adopting any other ordinance, or providing for the enforcement of any other law or ordinance, or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this ordinance does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this ordinance.

## **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 any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

## **1.8 Repeal**

All other Town ordinances or parts of ordinances in effect when this ordinance is adopted which conflict or are inconsistent 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. The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

## Section 2 - General Provisions

### 2.1 Applicability

This ordinance applies to anyone establishing, constructing, reconstructing, repairing, modifying, maintaining, or using a Town Highway or Private Road. Any landowner wanting to gain access to a Town Highway should refer to the Town of Tainter Highway Access Permit Ordinance.

### 2.2 Exemptions

None.

### 2.3 Disclaimer

- A. **Multiple Jurisdictions.** All persons reviewing the provisions of this ordinance should be aware that the Town of Tainter is only one of a number of governmental bodies that may have jurisdiction in the Town. The Town cannot make any representations on behalf of any other government body.
- 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.

### 2.4 Coverage

All new Town Highways or Private Roads, or the modification, improvement, repair, or reconstruction of an existing Town Highway or Private Road, requires approval of the Town Board. When Private Roads are neglected or when Private Roads that are initially turned over to the Town for maintenance do not meet Town standards, adjoining property owners being served by the Private Road may be subject to a Private Road special assessment fee to bring the road up to Town standards (see Section 4.6 Private Roads).

- A. No person shall establish or construct a new Town Highway or Private Road without first obtaining written permission of the Town Board.
- B. No person shall reconstruct, reroute, or alter any existing Town Highway or Private Road beyond what is required for normal maintenance without first obtaining written permission of the Town Board.
- C. No person may conduct logging operations within Town Highway right-of-ways without first obtaining written permission of the Town Board.
- D. No person may operate any type of equipment on a Town Highway or adjoining right-of-way in a way that causes damage to the highway surface, ditch, shoulder, or highway right-of-way.

## 2.5 Nonconforming Private Roads

The Town Board shall have the authority to order changes and improvements to existing Private Roads that, in the Board's opinion, constitute a safety hazard. The costs of such changes and improvements for Private Roads shall be the responsibility of the adjoining property owners being served by the Private Road.

- A. Commencing 6 months after the effective date of this ordinance and upon receipt of written notice from the Town, no landowner may maintain or use, or allow the maintenance, or use of, any existing Private Road on the landowner's land for general public or emergency vehicle access if the road, for any structural, location, or design reasons, has been determined by the Town Board, or its agents, in writing to substantially limit or negate safe and timely motor vehicle access and travel.
- B. The Town Board shall serve upon any potentially impacted landowner a copy of its written determination under paragraph 2.5A that a Private Road substantially limits or negates safe and timely vehicle access and travel of general public or emergency. The determination of the Town Board shall not be final until a public hearing before the Town Board has been held. The Town Board shall publish a class 2 notice, under s. 985.07, Wis. stats., of the public hearing.
- C. A copy of the Town Board's written determination and notice of the public hearing on the Town Board's determination shall be served by registered or certified mail on any potentially impacted landowner within 20 days of the making of the written determination and at least 10 days prior to the hearing date. The notice shall include the names of all potentially impacted landowners and the location of the subject Private Road in the Town. The notice may specifically contain a warning that due to the existing condition of the road, emergency vehicle access to dwellings served by the subject road may not be possible.
- D. Any potentially impacted landowner may provide at the public hearing evidence regarding access provided by and the condition of the Private Road. Any potentially impacted landowner may be represented by legal counsel at the public hearing and may present witnesses and cross-examine witnesses presented by the Town Board. All witnesses testifying before the Town Board shall be under oath. No person testifying before the hearing shall vote as a member of the Town Board in making a final determination regarding the subject road.
- E. The Town Board, at or after the hearing, may order any of the following:
  1. That the Town attorney seek a court order providing that the Private Road be closed for general vehicle traffic use, but not closed to emergency vehicle use, until the road is structurally designed and reconstructed to allow for safe and timely general public and emergency vehicle access.
  2. That the Town attorney seek a court order providing that the Private Road be reconstructed or repaired to allow for safe and timely vehicle access and travel of general public or emergency vehicles in a proper manner and in a reasonable time specified by the Court and that if the road is not so reconstructed or repaired by the date specified, the Town Board may have the Private Road reconstructed or repaired and the cost assessed as a special assessment under its police power under ss. 66.0701 and 66.0703, Wis. stats., against the land.

3. Other reasonable and necessary action that will serve to protect the public health and safety of persons within the Town, including the owner, occupants, or guests of the owner of the land.

## **2.6 Penalty Provision**

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.

## 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 directs actions or provisions that must be followed. The capitalized word "Town" refers specifically to the Town of Tainter.

### 3.2 Definitions

- A. For the purposes of this ordinance, the following definitions revise, supplement, or are in addition to definitions contained in the Wisconsin Statutes.
1. **Collector Highway.** Means an existing or proposed Town Highway that the Town Board has designated as a collector highways. Collector highways are generally designed to move traffic at higher speeds and therefore the number of intersecting highways and driveways along collector highways shall be held to a minimum.
  2. **Driveway.** Means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any highway or Private Road, and will provide service to a residence, business, recreational site, or other similarly appropriate use.
  3. **Dwelling.** Means a structure or part of a structure that is used or intended to be used as a home or residence by one or more persons to the exclusion of all others.
  4. **Emergency vehicle.** Means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the Town.
  5. **Highway.** Means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools, as defined in Wis, Stat. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors, but does not include private roads or driveways as defined in sub. (11).
  6. **Highway Access.** Means any highway, Private Road, or Driveway in the Town of Tainter that connects or will connect to a Town Highway. The Highway Access only includes that portion of the highway, Private Road, or Driveway that lies within the connecting Town Highway right-of-way.
  7. **Impacted landowner.** Means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
  8. **Motor vehicle.** Means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain

vehicle shall only be considered motor vehicles for purposes made specifically applicable by statute.

9. **Normal Highway Maintenance.** Means repairs made to the highway surface or adjoining Highway Access surface in order to keep the highway in a safe, drivable condition. Pot hole repairs, crack sealing, road grading of gravel roads, and mowing of ditches are considered normal maintenance.
10. **Prime or productive agricultural or forestry land.** Means any land within the Town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
11. **Private Road.** Is every way or place in private ownership and used for vehicular travel only by the owner(s) and those having express or implied permission from the owner(s) and every road or driveway upon the grounds of public institutions other than public schools, as defined in s. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors. For the purposes of this ordinance, a “Private Road” refers only to those Private Roads, driveways, or thoroughfares that serve as a primary means of motor vehicle access to more than one (1) dwelling, or is a primary means of access for more than one (1) lot that can be reasonably expected to contain a dwelling. The Town of Tainter is not responsible for any type of maintenance for Private Roads.
12. **Residential Highway.** Means an existing or proposed highway that the Town Board has not designated as a collector Town Highway. Residential highways generally move traffic at lower speeds from congested residential areas to collector highways.
13. **Town Board.** Means the board of supervisors for the Town of Tainter, Dunn County, Wisconsin and includes any designee of the board authorized to act for the board.
14. **Town Clerk.** Means the clerk of the Town of Tainter, Dunn County, Wisconsin.
15. **Town Highway.** Means any Highway other than a state or county highway in the Town of Tainter.
16. **Wis. stats.** Means the Wisconsin Statutes, including successor provisions to cited statutes.

## Section 4 – Requirements and Specifications

### 4.1 Town Highway Specifications

Town Highway specifications are:

- A. Highway jogs with centerline offsets of less than 150 feet shall be avoided.
- B. No more than two highways may intersect at one point and the intersection angle shall not be less than 75 degrees. Highway intersections must provide adequate visibility to permit the safe flow of traffic, taking into consideration speed limits, curves, obstructions (trees, buildings, lay of the land, snow banks, etc.), highway grades, etc.
- C. Cul-de-sacs: Cul-de-sacs should not exceed 1000 feet in length and will only be allowed when construction of a through highway is not possible/practicable. Cul-de-sacs shall terminate in a circular turnaround having a minimum right-of-way radius of 75 feet and a minimum roadway radius of 60 feet (See
- D. Figure 1). A typical, bulb type cul-de-sac is preferred over the asymmetrical cul-de-sac. The Town Board may require developers to make provisions to extend cul-de-sac, dead end, or no outlet highways to a subdivision boundary to allow development of adjacent lands.
- E. Boulevards: Boulevard type highways are not permitted with the exception that entrances into a subdivision may have a boulevard for aesthetic purposes containing an island of not more than 100 feet in length (see Figure 2). In those cases where boulevards intersect other highway(s) the island portion of the boulevard shall be set back a minimum of 30 feet from the closest edge of the intersecting highway. Parking will not be allowed along the boulevard adjacent to the island and no parking signs will be posted. All boulevard islands shall have a minimum of two (2) feet of shouldering material abutting the roadway pavement. The outside roadway along the boulevard shall be ditched. Maintenance of the boulevard island (lawn mowing, plantings, tree trimming, etc.) shall be the responsibility of the subdivision landowners.

### 4.2 Highway Construction Standards

The minimum highway design standards shall be in accordance with Wisconsin Statutes Section 86.26, unless locally adopted town standards contained herein are more restrictive. Figure 3 shows a typical finished section for Town Highways. The following are construction standards for rural design (with ditches) Town Highways and Private Roads that provide access to more than two (2) individual lots:

- A. Widths, radii, and grades:

	<b>Collector Highway</b>	<b>Residential Highway (or Private Road serving more than two (2) lots.)</b>
Asphalt width (minimum)	22 feet	22 feet

Asphalt slope away from centerline	.02 feet per ft	.02 feet per ft
Shoulder surface width	3 feet	2 feet
Shoulder surface slope	.04 feet per ft	.04 feet per ft
Minimum curve radius of highway center	300 feet	100 feet
Maximum grade within 50 feet of intersection with another highway	2%	2%

- B. Decomposable and/or organic material shall not be used in highway construction.
- C. Sub Base Course: The sub base course will consist of 12 inches of sand, measured after being compacted.
- D. Base Course: The base course (after compaction) will measure a minimum of 6 inches for crushed limestone or a minimum of 7 inches for Wisconsin grade #2 gravel.
- E. Asphalt: Asphalt on collector highways shall be laid in two layers, each being one and one-half inches thick, giving a minimum asphalt thickness of three inches. Asphalt on residential highways shall be a minimum of two inches thick. Private Roads are not required to have a paved surface. However, the Town will not accept maintenance responsibility of a Private Road unless the pavement standards of this ordinance are met and the road is in a good state of repair.
- F. Ditches: All highways will have ditches of sufficient size to handle water runoff from both the roadway and surrounding lands. Next to the 2 or 3-foot roadway shoulder surface, the ditch will have a 3:1 slope away from the highway that extends 5.75 feet. Beyond the 5.75 feet, ditch bottoms will have a 10:1 slope away from the highway and will generally be 3 to 5 feet in width. If the highway is cut into a hillside (no ditch bottom), the maximum slope beyond the 5.75 feet is 2:1 with slopes less than 4:1 being desirable. Back slopes beyond a ditch bottom will have a maximum slope of 2:1, with slopes flatter than 3:1 being desirable. Ditch surfaces will consist of 4 inches of topsoil seeded with a suitable grass mixture to prevent ditch erosion. Ditches with a high washout potential may have to employ other erosion control methods to prevent washouts.
- G. Culverts: (a) Any culverts necessary for proper draining shall be provided and installed after elevation and location are obtained from the Town Board. The minimum length of any culvert installed in highway bed shall be 40 feet in length, however, the diameter, length and material construction of said culvert will be subject to the approval of the Town Board, after amount of flowage is determined. Any secondary culverts installed in any lateral trenches will be of a size and length as determined by the Town Board.

### **4.3 Highway Approval Process**

The Town Board shall approve an application form for the Town Highway Permit and shall set the standard fee and expiration period for the permit. Applications shall be available from the Town Clerk.

- A. The applicant for a Town Highway Permit shall submit to the Town Clerk a completed application for each with the appropriate fee and with the following attachments:
  - 1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions. The sketch map may be submitted to the Town Board prior to the preparation or submission of other supporting documents in order for the Town Board to provide initial comments and review of the proposal. However, formal approval for a Town Highway Permit will not be granted without the submission of complete supporting documents.
  - 2. Plat Map. A plat map indicating the location and dimensions of the desired highway, as well as the parcels immediately adjacent to the applicant's property. The applicant may first submit only a sketch plat. Once the Town Board has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.
  - 3. Aerial Photo/Site Analysis.
  - 4. Soil/Slope Analysis.
  - 5. Highway Plan. (If required).
  - 6. Other Documents. The Town Board may require other documents to be attached to Town Highway Permit.
- B. The Town Board or a designated representative shall approve or deny any Town Highway Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the applicant/permittee. Reasons for denying a Town Highway Permit Application may include, but are not limited to:
  - 1. The inconsistency or nonconformance of the proposed highway with this ordinance, with any existing Town comprehensive plan, master plan, or land use plan, with Town ordinances, rules, regulations, or plans, or any applicable County, State, or Federal laws, ordinances, rules, regulations, or plans.
  - 2. The highway, bridge, culvert, or any combination, when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the Town.
  - 3. The application as filed and submitted is incomplete or contains false material as determined by the Town Board.
  - 4. Alternative highway locations, bridges, or culverts will be safer for persons using the highway.
  - 5. Alternative highway locations will preserve or better protect more prime or productive agricultural or forestry land in the Town.
  - 6. Alternative highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or

environmentally sensitive parcels of land or facilities in the Town, including land adjacent or near the proposed highway.

7. The highway will not provide timely and adequate ingress and egress for emergency vehicles.
- C. In the event of a denial of a Town Highway Permit Application, the Town Board or designee shall recite in writing the particular facts upon which it bases its denial of the permit. The Town Board shall also afford the applicant an opportunity to review the Town Board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the Town Board refuting the determination. Thereafter, the Town Board may affirm, reverse or modify the denial decision. The Town Board shall recite in writing findings for any decision to modify or reverse the denial determination.
- D. Each permit may be renewed for an additional period of 1 year. If the highway has not been constructed by the end of one 1-year renewal period, a new application and fee must be submitted and approved.
- E. The applicant shall notify the Town Board or the designated inspector after completion of construction, reconstruction, rerouting, or alteration of highway. Within 30 days of notification, the Town will conduct an inspection of the highway to ensure full compliance with all of the permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the Town Board shall issue the appropriate permits.
- F. No building permit for any construction of buildings or structures will be issued by the Town until the highway is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.
- G. An application fee that is non-refundable in an amount determined by a resolution of the Town Board will be charged for each permit application. These fees are specified on the permit application forms.
- H. The Town Board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under s. 66.0119, Wis. stats., for the purpose of inspecting existing or proposed highway to determine if the highways will allow for the safe and timely travel by emergency vehicles or vehicles of the general public.
- I. Applicants who want the Town to accept maintenance responsibility for a Town Highway must make the request, in writing, to the Town Board. The Town Board will make a final highway inspection, either accepting or rejecting the highway. If the highway is rejected, the Town Board will state, in writing, corrections that must be made before the highway is again inspected. When the Town Board accepts the highway, the owner(s) will turn over the land deed for the highway to the Town.

#### **4.4 Highway Plan**

The Town Board may, in writing, require a highway plan prior to any proposed highway construction, reconstruction, rerouting, or alteration.

- A. A highway plan prepared by the applicant is required for any of the following unless the requirement is waived by the Town Board in writing:
  1. Construction of a highway or segment of a highway that requires the disturbance of land with a slope of more than 5%.

2. A highway or segment of a highway that requires a retaining wall or other special erosion control measure as determined by the Town Board, Town building inspector, or other designated officer and prior to any permit issuance.
  3. A highway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
  4. When construction or modification of the highway necessitates construction or improvement of a bridge or culvert.
  5. When the Town Board in writing requests a highway plan.
- B. If required by the Town Board or its designee, a highway plan will include a scale plan showing all of the following:
1. Location. The precise location of the highway or the segment of the highway for which the highway plan is required, including the width and length of the highway.
  2. Grade. A profile of the highway route before and after construction showing a maximum finished highway grade that conforms to Wis. Stat 82.50, Town Road Standards, dated 2003-04 when this ordinance was adopted)..
  3. Retaining Walls. The location and structure of any retaining walls.
  4. Bridges. The location, size, and design calculations of any bridges.
  5. Culverts. The location, size, and design calculations of any culverts.
  6. Cross-section. Typical cross sections of the highway.
  7. Erosion Control. Required mulching, matting, or other erosion control.
  8. Storm Water Management. Drainage methods engineered for the particular surface type, including location and dimensions of ditches, proper grading technique, projected water handling capability, and water loads at the point of access to the public highway.

#### **4.5 Provisions**

- A. No construction, reconstruction, rerouting, or alteration of a Town Highway may commence until all of the following conditions are met:
1. The highway plan, if required, is approved by the Town Board.
  2. A Town Highway Permit is issued by the Town.
  3. When applicable, any other necessary approvals are obtained from Dunn County or the State of Wisconsin.
  4. The Town Board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed highway and whether the proposed highway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures served by the highway.
- B. The preparation of a highway plan does not guarantee approval by the Town Board.
- C. As a condition of any Town Highway approval, the highway shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by vehicles until such time as the Town Board accepts, in writing, maintenance responsibility for the highway.

- D. The Town of Tainter reserves the right to not accept highway maintenance responsibility for a new highway whose sole purpose is to provide access to fewer than four (4) building sites.
- E. All driveways connecting to the highway must also meet the standards imposed by the Town Highway Access Permit Ordinance.
- F. As a condition of any Town Highway approval, the Town Board may designate existing or proposed highways as collector or residential highways. Collector highways are generally designed to move traffic at higher speeds and therefore the number of intersecting highways and driveways along collector highways shall be held to a minimum. Residential highways generally move traffic at lower speeds from congested residential areas to collector highways. The decision to designate highways a collector or residential highway shall be based upon County or Town plans for highway networks. The Town Board may also require certain highways be constructed to the subdivision boundary to permit development of adjacent lands. The Town Board shall require proof that the subdivider has given written notice of the proposed locations of the highways to owners of all contiguous lands.
- G. Landscaping or other alterations within the highway right-of-way shall not impede visibility necessary for safe traffic flow nor create a hazard to anyone using the highway. Landscaping cannot reduce the water drainage capacity of the highway right-of-way and must also prevent erosion from occurring. In addition, any shouldering material within three (3) feet from the edge of collector highways (two (2) feet from the edge of residential highways) shall not be excavated or disturbed, thereby helping prevent the breakup of the highway surface. The cost of any landscaping along Town Highways as well as the maintenance of the landscaped area is the responsibility of the landowner(s).
- H. The approval of a Town Highway by the Town Board does not constitute a determination that the highway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant is in compliance with this ordinance. No person may rely on the Town Board approval of the highway to determine that the highway, bridge, culvert, or any other highway features are fit or safe for any purpose or that they are in compliance with this ordinance or any State or County laws or ordinance.
- I. The approval of a highway does not establish or commit the Town to future approval of any highway or driveway in the Town.

#### **4.6 Private Roads**

Private Roads within the Town of Tainter must conform to all Town Highway requirements and specifications contained in sections 4.1 to 4.5 of this ordinance with the exception that Private Roads are not required to be paved. However, before the Town will accept ownership and associated maintenance responsibility of any Private Road, the owner(s) must demonstrate that the road is placed properly and that all requirements and specifications contained in sections 4.1 to 4.5 of this ordinance, including paving requirements, have been met.

- A. There are two ways that Private Roads are identified on a CSM or Plat:

1. **As an Easement:** In this case, lot boundaries extend into the Private Road and no part of the Private Road is identified as a separate parcel. Such Private Roads are identified as an easement on the affected parcel(s).
2. **As a separate parcel:** Lot boundaries do not extend into the Private Road and the Private Road is described as a separate parcel identified as an “outlot”. When a Private Road is identified as a separate parcel, the legal description (deed) of the parcels served by the Private Road must include an ownership percentage of the Private Road outlot and have the tax assessment on said percentage included in the assessment of the served parcels.

Certified Survey Maps (CSMs) or Plats depicting Private Roads shall have the roads 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.

- B. No private well or private septic system, or any portion thereof, may be placed within the right-of-way of any Private Road. All structures along the Private Road must comply with Dunn County Zoning requirements for public highways.
- C. The Town requires a Private Road Developer’s Agreement prior to anyone constructing a Private Road in the Town of Tainter. This developer’s agreement will be drafted by the developer as a means of stating specific details pertaining to the Private Road. While certain circumstances may call for additional agreement conditions, as a minimum a developer’s agreement shall contain:
  1. A CSM or Plat showing the Private Road.
  2. A copy of the bid(s) to construct the highway.
  3. Establish the Private Road completion date and contain a statement that after that date, the Town may exercise its rights to complete the Private Road through the secured financial assurance.
  4. Some type of financial assurance (performance bond, letter of credit, etc.) that the Town may exercise in the event that the Private Road is not constructed to Town standards by the completion date established in the developer’s agreement. The expiration date of the financial assurance shall be no less than one month after the completion date established in the developer’s agreement.
  5. The developer will notify the Town upon completion of the Private Road so the Town can inspect the road for compliance with Town standards before releasing the developer from the financial assurance.
  6. A statement that if the Private Road is ever turned over to the Town, accompanying documentation will be provided showing Wisconsin statutes were complied with. A statement that the Wisconsin statute dealing with road construction and prevailing wage laws will be complied with.
  7. If the road is to remain private after the road completion date, a copy of the finalized Private Road Maintenance Agreement that will be filed with the registrar of deeds as an attachment the CSM or Plat (see paragraph on Private Road Maintenance Agreement below).

D. A road that will remain private after the road completion date established in the Private Road Developer's Agreement requires a Town approved Private Road Maintenance Agreement. This Private Road Maintenance Agreement must be filed with the registrar of deeds as an attachment to the CSM or Plat. Further, if any future subdivisions affect the conditions outlined in the maintenance agreement, a new agreement must be negotiated, approved by the Town, and filed as an attachment to all affected CSMs or Plats with the registrar of deeds. As a minimum, a Private Road Maintenance Agreement shall contain:

1. A list clearly indicating which lot owners are responsible for maintaining the Private Road and the percentage of financial responsibility for those lot owners.
2. A means to establish and maintain a current, single point of contact on file with the Town for issues dealing with the Private Road (can be an association president, elected representative, etc.).
3. Provide details on how road maintenance decisions will be made (association president, majority vote, etc.) and how the served lot owner's financial obligations will be collected.
4. The following statement shall be at the beginning of the maintenance agreement:

As of the date of filing, the Private Road shown on the CSM or Plat filed along with this maintenance agreement is not maintained by the Town of Tainter. For the current road status, contact the Town of Tainter.

Private Roads in the Town of Tainter that are not maintained to Private Road standards set forth in the Town of Tainter Highway Ordinance may be subject to a Private Road special assessment fee. This Private Road special assessment fee may be assessed to property owners who use the Private Road to gain access to their property. This Private Road special assessment fee will be used to bring the Private Road up to Town standards and the fee will be in compliance with any Wisconsin prevailing wage rate laws in effect at the time of assessment. The fee assessed to each individual parcel shown on this CSM or Plat will be determined using the percentage of maintenance responsibility for a parcel as recorded below.

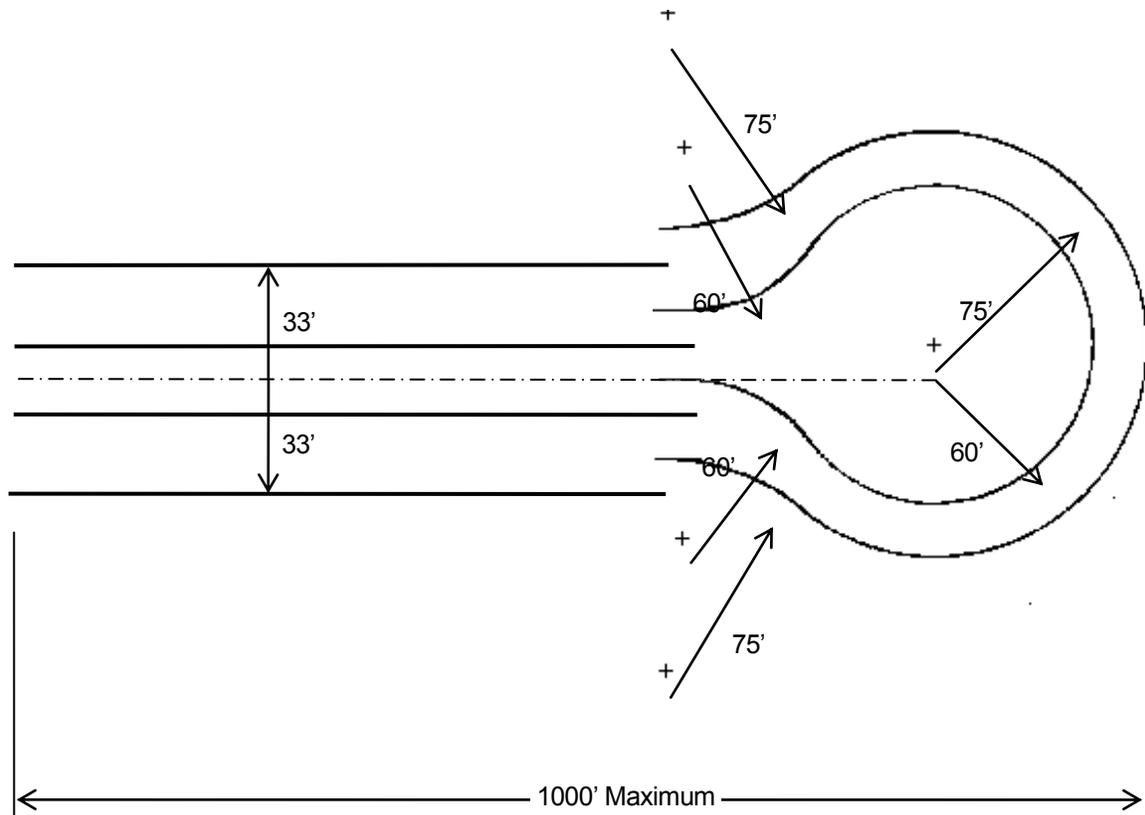
E. In situations that the Town determines a Private Road has deteriorated to an unusable condition and no corrective maintenance actions are being taken, the Town may assess a Private Road special assessment fee to property owners who use the Private Road to gain access to their property. This Private Road special assessment fee will be used to bring the road up to Town Private Road standards and the fee will be in compliance with any prevailing wage rate laws in effect at the time of assessment. The fee assessed to each individual parcel will be determined by the percentage of responsibility as recorded in the Private Road Maintenance Agreement filed with the Dunn County Register of Deeds for said road. In cases where a Private Road Maintenance Agreement is not on file or where the Private Road Maintenance Agreement does not determine the percentage of responsibility for each parcel, the percentage of responsibility for each parcel will be based on the number of lineal feet adjoining the Private Road. For example, if 5 parcels served by the road have a total of 1000 feet of adjoining road boundary, then a parcel that has 300 adjoining feet would be responsible for 30 percent of the maintenance cost ( $300/1000 = 0.3$  or 30 percent). Note

that only adjoining property that uses or must use the road to gain access to the adjoining property is subject to the Private Road special assessment fee. This precludes assessing a Private Road special assessment fee to an adjoining property owner when a Private Road is built along an existing property line. However, if that adjoining property owner ever uses the Private Road to gain motor vehicle access that property, the adjoining property owner will be considered as being served by the Private Road and is subject to maintenance fees.

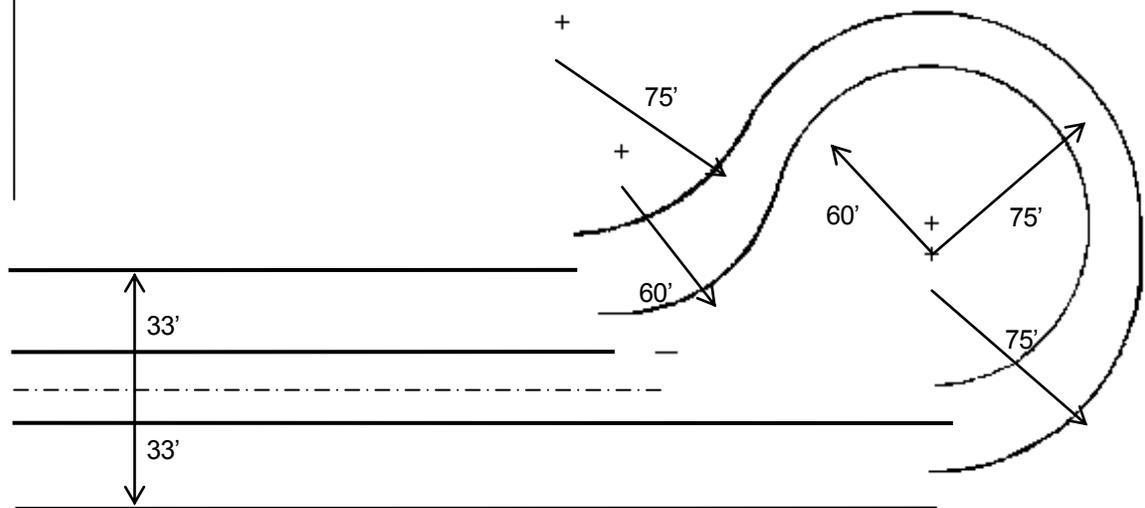
# Cul-De-Sac Construction Standards

(Note: Not to Scale)

## Standard Cul-De-Sac (Preferred)



## Asymmetric Cul-De-Sac



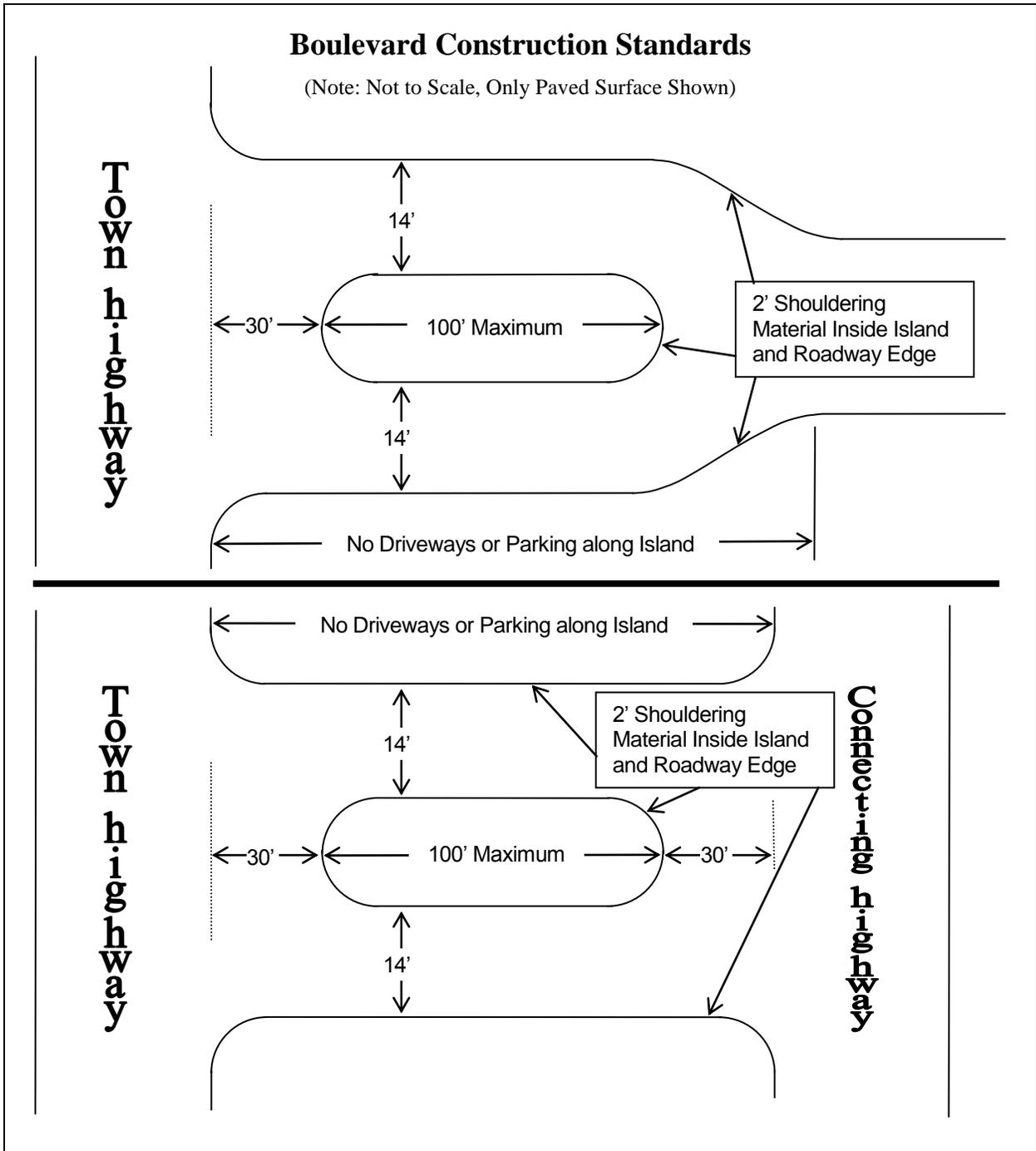


Figure 2

# Road Construction Standards

(Note: Not to Scale)

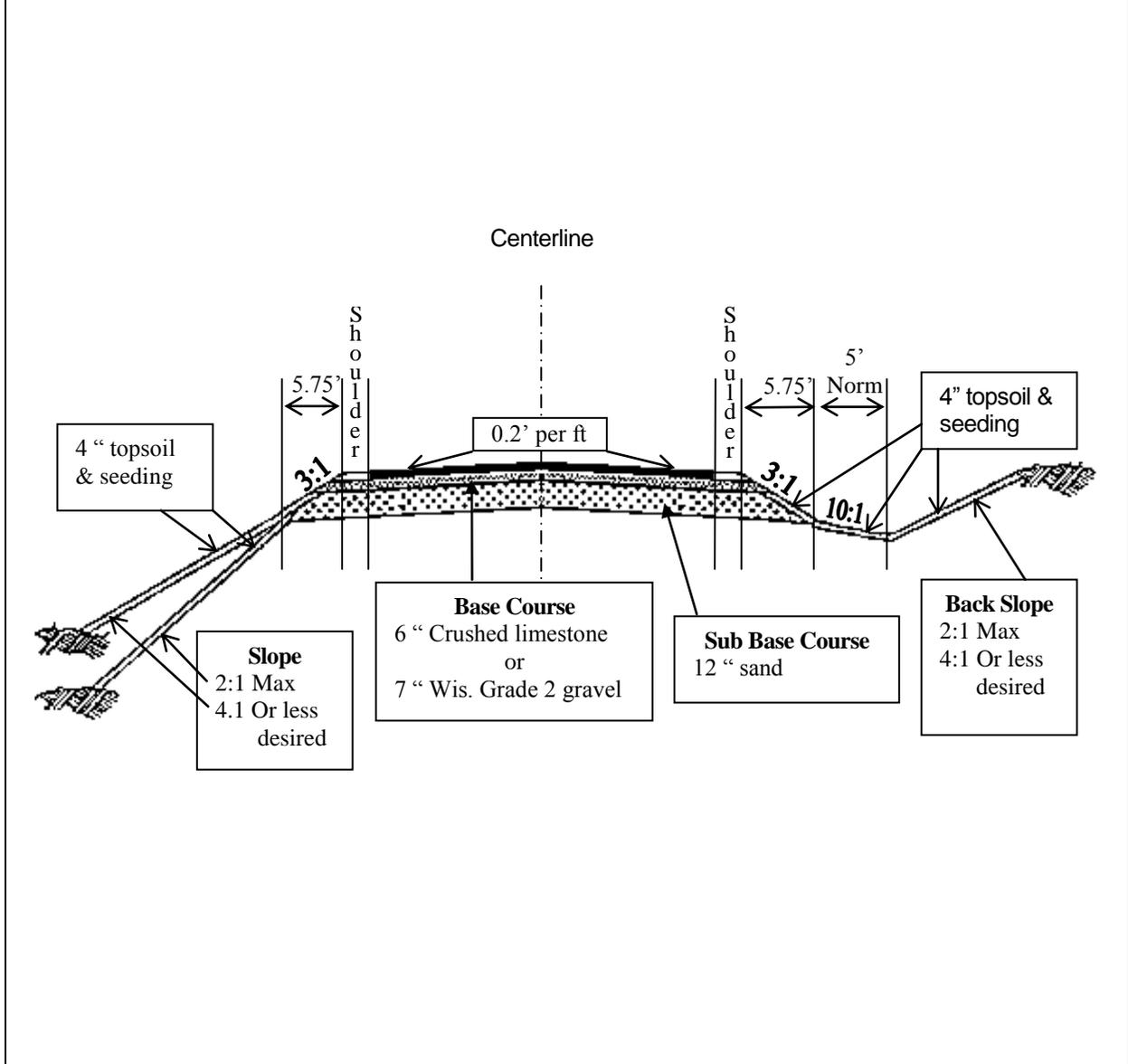


Figure 3

TOWN OF TAINTER  
 N8150 County Road D  
 Colfax, WI 54730

## TOWN HIGHWAY PERMIT APPLICATION

It is unlawful to commence work before the Town of Tainter Chairman or designee approves this application and a Highway Permit is placed in a conspicuous location next to the proposed highway.

NAME AND ADDRESS OF APPLICANT		CONNECTING TOWN ROAD(S)	COUNTY  DUNN
TOWN OF TAINTER			
HIGHWAY PLAN REQUIRED?	HIGHWAY ACCESS PERMIT REQUIRED?	PROPOSED LAND USE	COMPLETION DATE

Location of Highway  
 \_\_\_\_\_ side of the road \_\_\_\_\_ miles \_\_\_\_\_ of \_\_\_\_\_

Quadrant \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ North Range \_\_\_\_\_

REQUIRED DRAINAGE STRUCTURE(S)	IF NO DRAINAGE STRUCTURE, STATE WHY
--------------------------------	-------------------------------------

DESCRIPTION OF PROPOSED WORK (INCLUDE SPECIAL RESTRICTIONS, INTERSECTION CLEARANCES, OTHER DETAILS, AND REFERENCE TO ANY SKETCHES WHICH MAY BE ATTACHED.)

**\*\*\*\*\*PLEASE PLACE VISIBLE STAKES AT THE DESIRED LOCATION FOR OUR INSPECTION\*\*\*\*\***

Installation of the highway is the responsibility of applicant. All highways shall be constructed in accordance with all requirements in Town Highway Ordinance, and any special conditions stated herein. The maintenance of the highway shall be the responsibility of the applicant until the Town Board accepts the highway for maintenance in writing.

\_\_\_\_\_  
 Phone #                      Signature of Applicant                      Date

APPROVED

\_\_\_\_\_  
 Town of Tainter Chairman or Designee                      Date                      Application Number

FINAL INSPECTION

\_\_\_\_\_  
 Town of Tainter Chairman or Designee                      Date

## TOWN HIGHWAY GENERAL PROVISIONS

All new Town Highways (or any changes to existing Town Highways) require a Town Highway Permit.

**First:** A \$100.00 permit fee is due upon filing the Town Highway Application. Make checks payable to Town of Tainter. The Highway Permit is good for two (2) years.

**Second:** Prior to opening the highway to the public, the highway must meet all requirements of this application, must meet Town Highway standards, and must be inspected by the Town Board or their designated inspector.

**Third:** The permittee shall furnish all materials, do all work, and pay all costs in connection with the construction of the highway and its appurtenances on the Town Highway right of way. Until the Town Board accepts the highway in writing, the subsequent maintenance of the highway and its appurtenances within the limits of the Town Highway right of way shall be the responsibility of the permittee, who shall be obligated to pay all costs and accomplish all works necessary in relation to the said maintenance of the highway. Materials used and the type and character of the work shall be suitable and appropriate for the intended purpose.

**Fourth:** No revisions or additions shall be made to the highway or its appurtenances on the right of way without the written permission of the Town Board.

**Fifth:** The Town of Tainter reserves the right to make such changes, additions, repairs and relocations within statutory limits to the highway or its appurtenances on the right of way as may at any time be considered necessary to facilitate the relocation, reconstruction, widening and maintaining of a Town Highway, or to provide proper protection to life and property on or adjacent to the highway.

**Sixth:** The permittee, his successors or assigns agree to hold harmless the Town of Tainter and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.

**Seventh:** The Town of Tainter does not assume any responsibility for the removal or clearance of snow, ice or sleet, or the opening of windrows of such material, upon any portion of any highway that has not been accepted in writing by the Town Board, even though snow, ice or sleet is deposited or windrowed on said highway by its authorized representatives engaged in normal winter maintenance operation.

**Eighth:** The permittee must notify the Town Board or the designated inspector within 30 days of highway completion.

**Nine:** Any Wisconsin Statutes dealing with road construction and prevailing wage law will be complied with.