

**Town of Tainter, Town of Menomonie
Dunn County, Wisconsin**

Draft for
06.14.07

JOINT SLOW NO WAKE ORDINANCE

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

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

Randy Valaske, Chairman

Kathy Schlough, Supervisor

Jerry Mrdutt, Supervisor

Judy Albricht, Clerk, Witness

Adopted this _____ day of _____, _____.

Published this _____ day of _____, _____ in The Dunn County News.

Filed on this _____ day of _____, _____ by certified mail to the DNR.

Signs posted this _____ day of _____, _____.

Adopted by the Town Board of Town of Menomonie, Dunn County, Wisconsin.

Frank Bammert, Chairman

Francis Eiseth, Supervisor

Neil Koch, Supervisor

Leslie Hulbert, Clerk, Witness

Adopted this _____ day of _____, _____.

Published this _____ day of _____, _____ in The Dunn County News.

Table of Contents

SECTION 1 - INTRODUCTION	1
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
SECTION 2 - GENERAL PROVISIONS	3
2.1 JURISDICTION/APPLICABILITY	3
2.2 EXEMPTIONS.....	3
2.3 DISCLAIMER	3
2.4 COVERAGE.....	3
2.5 ORDINANCE AMENDMENT OR REPEAL.....	4
2.6 ISSUANCE AND SERVICE OF CITATION.....	4
2.7 PENALTY PROVISION.....	4
SECTION 3 - DEFINITIONS	5
3.1 WORD USAGE.....	5
3.2 DEFINITIONS	5
SECTION 4 – TOWN OF TAITER RESPONSIBILITIES	6
4.1 COMPLIANCE WITH STATE STATUTE AND DNR REQUIREMENTS	6
4.2 BUOY PLACEMENT AND MAINTENANCE.....	6
ATTACHMENTS	7
1 TAITER LAKE SLOW-NO-WAKE CONTROLLED AREA MAP	7
2 SLOW-NO-WAKE CONDITION REPORT.....	8
3 WATERWAY MARKER APPLICATION AND PERMIT – CONTROLLED AREA # 1.....	10
4 WATERWAY MARKER APPLICATION AND PERMIT – CONTROLLED AREA # 2.....	10
5 WATERWAY MARKER APPLICATION AND PERMIT – CONTROLLED AREA # 3.....	10

**Town of Tainter, Town of Menomonie
Dunn County, Wisconsin
Joint Slow-No-Wake Ordinance**

Section 1 - Introduction

1.1 Title/Purpose

The title of this Ordinance is the Town of Tainter and Town of Menomonie Joint Slow-No-Wake Ordinance. The intent of this Ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation on Tainter Lake consistent with public rights and interests and the capability of the water resources.

1.2 Authority

The town boards of the Town of Tainter and Town of Menomonie (hereafter referred to as the Jurisdiction Towns) have specific authority to adopt this Ordinance under s. 30.77, Wis. Stats. This statute requires at least 50% of the towns, villages, and cities having jurisdiction over the lake to enact an identical ordinance and for at least 60% of the footage of shoreline of the lake to fall within the boundaries of these towns, villages, and cities in order for the ordinance to be valid. Since 100% of the slow-no-wake areas defined by this Ordinance fall within the boundaries of the Town of Tainter, the Town of Tainter and either the Town of Menomonie, Town of Red Cedar or the Town of Sherman must adopt this Ordinance for it to be valid.

1.3 Adoption of Ordinance

The town boards of the Jurisdiction Towns, by this Ordinance, adopted on proper notice with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority to regulate boating upon the waters of Tainter Lake specified as “Slow-No-Wake” and prescribing penalties for violation thereof.

1.4 Policy

- A. The provisions of this Ordinance shall apply to the waters of Tainter Lake.
- B. No person shall operate a boat faster than Slow-No-Wake at any time in the channel areas identified in the controlled areas map (see attached) and marked by buoys during the period between May 1st and September 15th.

1.5 Relationship to Other Laws

State boating laws as found in ss. 30.50 to 30.71, Wis. Stats., are adopted by reference. The adoption and authorization for use of a citation under this Ordinance does not preclude the Jurisdiction Towns 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 Jurisdiction Towns 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.

1.8 Repeal

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

1.9 Effective Date

This Ordinance shall become valid and take effect upon passage and adoption by the Tainter Town Board, passage and adoption by the Menomonie Town Board, and posting by the adopting town boards as provided by law. The town clerks shall properly post or publish this Ordinance as required under s. 60.80, Wis. stats.

Section 2 - General Provisions

2.1 Jurisdiction/Applicability

The issuance of a citation by a person authorized to do so under subsection 2.6 shall be deemed adequate process to give the appropriate court jurisdiction over the subject matter of the offense for the purpose of receiving cash deposits and other purposes under s. 66.0113 Wis. Stats.

2.2 Exemptions

None.

2.3 Disclaimer

- A. **Multiple Jurisdictions.** All persons reviewing the provisions of this Ordinance should be aware that any Jurisdiction Town is only one of a number of governmental bodies that may have jurisdiction in the town. Towns 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 any Jurisdiction 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

No person shall operate a boat faster than slow-no-wake at any time between May 1st and September 15th in the waters (see attached controlled areas map):

1. Beginning at the NW entrance of the Hay River Bridge channel and ending at the SE end of the channel entering Tainter Lake as marked by buoys.
 - a. 44.993562° N -091.847831° W
 - b. 44.991761° N -091.846856° W
2. Beginning at the North end of the channel between Upper and Lower Tainter Lake and ending at the South end of the Northern channel as marked by buoys.
 - a. 44.975537° N -091.862705° W
 - b. 44.973885° N -091.863717° W
 - c. 44.972446° N -091.865307° W
3. Beginning at the North end of the center channel between Upper and Lower Tainter Lake and ending at the South end of the center channel as marked by buoys.
 - a. 44.970074° N -091.870087° W
 - b. 44.966974° N -091.876533° W

2.5 Ordinance Amendment or Repeal

Any Jurisdiction Town that proposes to amend or repeal this Ordinance must notify the other Jurisdiction Towns in writing as the amendment or repeal may render this Ordinance invalid under s. 30.77, Wis. Stats. Jurisdiction Towns that propose to amend or repeal this Ordinance must hold a public hearing on the issue at least 30 days before the amendment or repeal would take effect. Amendments will not take effect until the required towns necessary to render the Ordinance valid in accordance with s. 30.77, Wis. Stats., adopt the amendments.

2.6 Issuance and Service of Citation

Since the entire slow-no-wake areas regulated by this Ordinance fall within the boundaries of the Town of Tainter, the Town of Tainter is responsible for enforcement of those slow-no-wake areas.

- A. Town of Tainter Town Board Members will cooperate with and encourage the Dunn County Sheriff's Department and the Department of Natural Resources or a qualified trained patrol employed by the Town of Tainter to issue such citations.
- B. Town of Tainter citations, in addition, shall specifically be issued by enforcement official(s) identified in Section 4 of the Town of Tainter Citation Ordinance.

2.7 Penalty Provision

Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted. 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. Citations shall be issued to the party violating this Ordinance.

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

Definitions for certain words or phrases used in this Ordinance, in particular where this Ordinance references another town ordinance, can be found in the referenced ordinance. Definitions for other words or phrases can be found in the Wisconsin Statutes, Sections 30 and 66. For the purposes of this Ordinance, the following definitions revise, supplement, or are in addition to definitions contained in the above referenced documents.

1. ***DNR.*** Department of Natural Resources.
2. ***Jurisdiction Town.*** Means the Town of Menomonie and Town of Tainter, all of which are in Dunn County, Wisconsin.
3. ***Peace officer.*** Means a state, county, city, village, town, town sanitary district or public inland lake protection and rehabilitation district officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, including buildings, building premises and building contents.
4. ***Town Board.*** Means the board of supervisors for a Jurisdiction Town and includes any designee of the board authorized to act for the board.
5. ***Town Clerk.*** Means the clerk of a Jurisdiction Town.
6. ***Wis. stats.*** Means the Wisconsin Statutes, including successor provisions to cited statutes.
7. ***Slow-no-wake.*** Means that speed at which a boat moves as slowly as possible while still maintaining steering control.

Section 4 – Town of Tainter Responsibilities

4.1 Compliance with State Statute and DNR Requirements

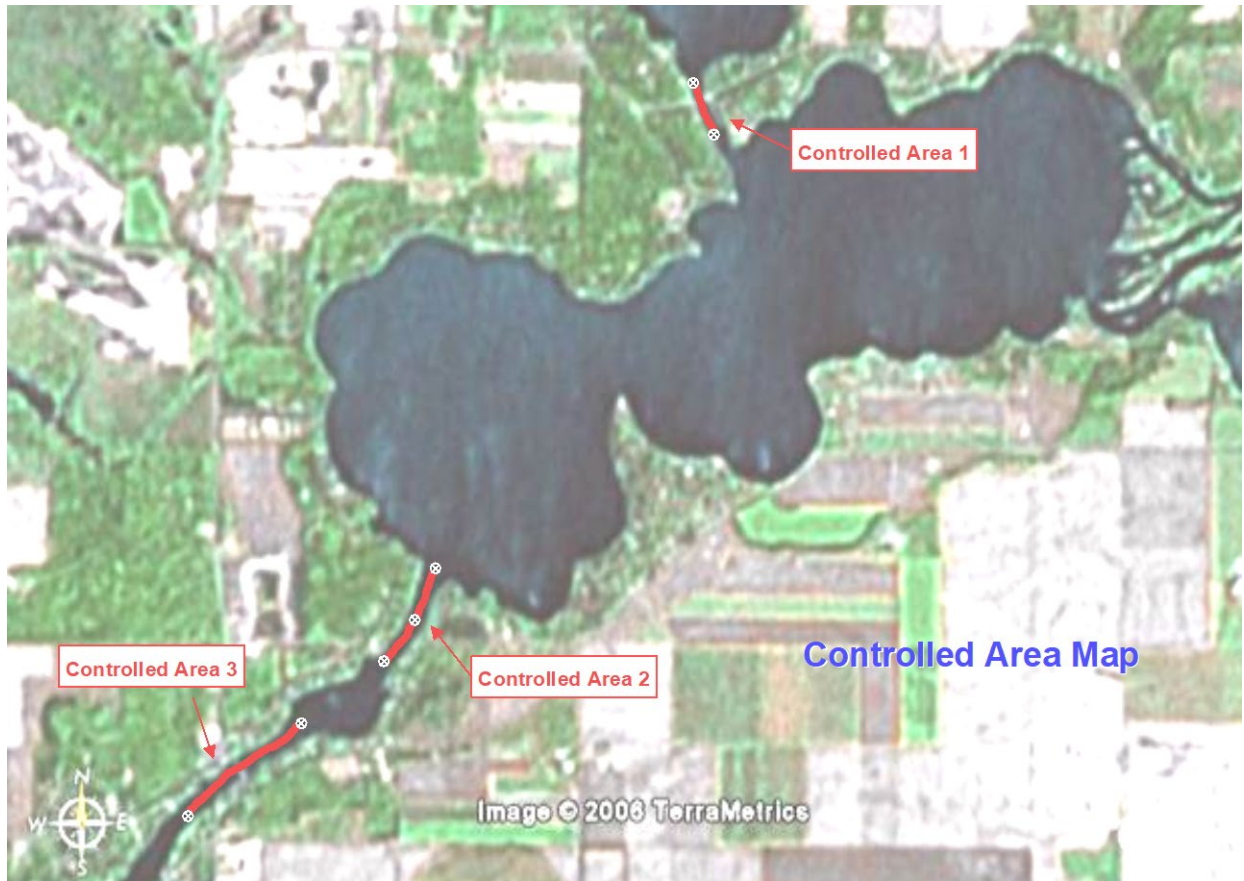
The Town of Tainter shall be responsible for complying with all State Statute and DNR requirements associated with this Ordinance.

4.2 Buoy Placement and Maintenance

Since all controlled areas covered by this Ordinance fall within the Town of Tainter boundaries, the Town of Tainter shall be responsible for enforcement of the provisions of this Ordinance and all costs associated with buoy placement and buoy maintenance.

Attachments

1 Tainter Lake Slow-No-Wake Controlled Area Map



Tainter Lake, Dunn County, Wisconsin (see 2004 Dunn County platt book page 46)

2 Slow-No-Wake Condition Report

TAINTER LAKE CONDITION REPORT

1/23/06

Purpose

The following is a record for the justification of a slow-no-wake ordinance in the channels of Tainter Lake (see attached controlled area map). The primary purpose of the ordinance is to ensure the public safety in the channel areas of Tainter Lake in Dunn County, Wisconsin.

Local conditions necessitating the regulation change:

The existing statute restricts boats to slow-no-wake to within 100' of any docks, rafts or piers (see ss. 30.66(3) Wis. Stats.). Because most of the channel areas on Tainter Lake are between 200' to 300' in width, it allows boaters to operate their watercraft at full throttle down the center of the channel.

The channel areas on Tainter Lake are highly populated. Residential lots along this shoreline typically range from between 100' to 150' of channel frontage and high percentages have docks, piers, boathouses or swimming areas. The watercraft using these channels includes both motorized and non-motorized craft e.g. fishing boats, speedboats, pontoons, PWC, canoes, sailboats, kayaks, paddle boats, etc. It is a popular fishing and recreational lake for both residents and non-residents which become apparent with the significant increase in watercraft on weekends and holidays. The narrow width of the channel; the high concentration of shoreline residents and the high volume of watercraft on weekends and holidays make these areas prone to safety issues. The potentially unsafe conditions in these channel areas are substantiated by shoreline residents during local Sportsman and Lake Association meetings.

Ordinance Positive Effects:

- 1) A slow-no-wake ordinance in portions of the channel areas of Tainter Lake would reduce watercraft speeds in these narrow corridors therefore improving the public safety in the channels.
- 2) The buoys authorized by the ordinance would heighten the awareness of boaters in the areas to the relationship of their craft's speed to the public safety in the area.

Ordinance Negative Effects:

- 1) The channel between upper and lower Tainter Lake is lengthy; restricting boat traffic to slow-no-wake for portions of this distance would increase the time it takes to get between the two main areas of the lake.
- 2) In addition to the channel being used as a pathway between the two main areas of the lake, it is also currently used for speed boating and water skiing. Making portions of the channel a slow-no-wake area would restrict these forms of recreation from the channel areas.

Impact on Public Safety if Ordinance is Not Adopted:

Like most lakes in Wisconsin, boat traffic continues to increase on Tainter Lake, as does the number of residences on the shoreline. If the ordinance is not adopted, it is highly unlikely the risk to public safety in these areas will decrease. There is a greater likelihood the risk will increase due to the increasing congestion in these areas.

Summary of Ordinance Opposition:

The opposition to the ordinance seems to be similar to that of local neighborhoods trying to enact slower speed limits on their streets. The residents that live on the street endorse lower speed limits but the nonresidents oppose the inconvenience of the slower speed limit. This seems to be the case with a Tainter Lake slow-no-wake ordinance; most of the support for the ordinance comes from the residents along the channel areas and most of the resistance comes from boaters residing off the channel areas.

Options Considered:

See attached Tainter Menomin Lake Improvement Association (TMLIA) survey results.

3 Waterway Marker Application and Permit – Controlled Area # 1

4 Waterway Marker Application and Permit – Controlled Area # 2

5 Waterway Marker Application and Permit – Controlled Area # 3