

TOWN OF DUNN, DANE COUNTY, WISCONSIN

ORDINANCE NO. 4-3 amended
RELATING TO THE TOWN OF DUNN
RURAL PRESERVATION PROGRAM

The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin, DO
ORDAIN as follows:

SECTION I. An ordinance to create the Town of Dunn Land Trust Commission and to establish the Town of Dunn Rural Preservation Program pursuant to the laws of the State of Wisconsin, specifically including Sections 60.10(2)(c) and (e), 60.10(3)(a), 60.22(3), 61.34(1), 61.34(3m) and 700.40 of the Wisconsin Statutes is hereby created to read as follows:

I. DEFINITIONS. In this Ordinance:

- A. *Board* means the Town of Dunn Board of Supervisors.
- B. *Conservation easement* means a holder's nonpossessory interest in real property within the Town of Dunn imposing any limitation or affirmative obligation the purpose of which includes protecting viable farm operations and farmland to maintain the rural character of the Town of Dunn, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and woodlots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, protecting the Town of Dunn from encroachment of neighboring cities and villages, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological or cultural aspects of real property.
- C. *Commission* means the Town of Dunn Land Trust Commission.
- D. *Conservation interest* means a holder's interest in a conservation easement, a third-party right of enforcement in a conservation easement or fee title interest in real property.

- E. *Nonprofit conservation organization* means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

II. LAND TRUST COMMISSION

- A. *Creation.* There is hereby created the Town of Dunn Land Trust Commission (hereinafter the "Commission").
- B. *Duties.* The commission shall be responsible for general supervision of the Open Space Program as set forth in this Ordinance, including the following:
1. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of the Town.
 2. The Commission shall determine the interest of owners of land within the Town at least annually, to donate or sell interests in real property for the purpose of the rural preservation program.
 3. The Commission may recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the Town for rural preservation purposes.
 4. The Commission may recommend changes to the Open Space Program and suggestions as to how the Open Space Fund acquisition program may be integrated with the Town of Dunn's Land Use Plan and Open Space Plan and other local and regional land use plans.
 5. The Commission may conduct public meetings or public hearings as it determines necessary or convenient to its work.
- C. *Membership.* The commission shall consist of seven (7) members consisting of:
1. A representative of a Dane County nonprofit conservation organization, as defined in Section 23.0955, Wis. Stats., to be designated by the Board, after consideration of the recommendation of the governing

body of the nonprofit conservation organization, to serve a three-year term, expiring on the third anniversary after the appointment.

2. The Commission Chair and four members nominated by the Town Chair, and with the advice and consent of the Board, appointed for staggered terms expiring on June 1 following the third anniversary of their appointment, subject to the following:
 - a) The Commission Chair and at least three members shall be electors of the Town.
 - b) Notwithstanding the foregoing, two of the initial members appointed under this subparagraph iii shall be designated to serve for terms expiring on June 1 following the first anniversary of their appointment and two of such initial members shall be designated to serve for terms expiring on June 1 following the second anniversary of their appointment.
 - c) To the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.

D. *Officers.* The Commission shall have the following officers:

1. The Chair shall preside at all meetings of the Commission. In his or her absence, the Commission shall designate a member to serve as presiding officer of its meeting.
2. A Secretary shall be elected by a majority vote of the Commission at the first meeting of the Commission following June 1 of each year to serve for a term expiring on June 1 of the following year. The Secretary shall maintain records of the Commission's work, including minutes of all meetings of the Commission.
3. The Commission may establish any additional officers it determines necessary or convenient to the operation of the Commission.

E. *Rules of Procedure.* The Commission may adopt rules of procedure governing its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition.

III. RURAL PRESERVATION PROGRAM EXPENDITURES. The Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural preservation as provided herein.

- A. *Conservation Easement Purchases.* The Board may, subject to subsection D, expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party rights of enforcement in conservation easements as defined, respectively, in Secs. 700.40(1)(b) and 700.40(1)(c) of the Wisconsin Statutes.
- B. *Land Purchases.* The Board may, subject to subsection D, expend funds for the purchase of land for the purpose of rural preservation.
- C. *Payments to Nonprofit Organizations.* The Board may, subject to subsection D, appropriate money for payment to a nonprofit conservation organization for the conservation of natural resources within the Town or beneficial to the Town through the acquisition of conservation interests, provided that the recipient organization submits and the Board approves a detailed plan for the work to be done as provided for in Section 60.23(6) of the Wisconsin Statutes. The Board may attach such conditions and restrictions on the appropriation as the Board considers necessary and appropriate to protect the Town's interests in rural preservation.
- D. The Town Board shall refer to the Commission, for its consideration and recommendation before final action is taken by the Board, the expenditure of funds under subsections A, B or C. Unless such recommendation is made within 30 days, or such longer period as may be stipulated by the Board, the Board may take final action without it.
- E. *Voluntary Conveyances.* The Board may acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such interests.

- F. *Indirect Costs.* In addition to the purchase price therefor, the Board may expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration and acquisition of conservation interests, including but not limited to survey costs, title evidence, attorneys' fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

IV. PROCEDURE FOR ACQUISITION OF CONSERVATION INTERESTS

- A. The Board may conduct public meetings or public hearings as it determines necessary or convenient to consideration of Rural Preservation Program expenditures.
- B. Prior to purchasing any conservation interest, the Board shall cause an appraisal to be prepared by a qualified appraiser setting forth the fair market value of the interest proposed to be purchased.

V. ALIENATION OF ACQUIRED INTERESTS. Except where the intention to reconvey a conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the Town under the provisions of this Ordinance shall thereafter be alienated, unless all of the following conditions have been met:

- A. The Board or the Commission has conducted a public hearing for the purpose of considering the proposed alienation;
- B. The Town Board has referred to the Commission, for its consideration and recommendation before final action is taken by the Board, the proposed alienation. Unless such recommendation is made within 30 days, or such longer period as may be stipulated by the Board, the Board may take final action without it;
- C. An advisory referendum on the proposed alienation is approved by a majority of the electors of the Town voting on the measure.
- D. A resolution in support of the proposed alienation is adopted by an affirmative vote of two-thirds of the members of the Board; and
- E. A resolution in support of the proposed alienation is adopted by a majority of the members of the governing body of any public agency or nonprofit

conservation organization which jointly undertook the acquisition of the conservation interest proposed to be alienated.

- VI. CONFLICT OF INTEREST. No person may participate in any deliberation of the Commission or of the Board in the consideration or determination of any expenditure under this Ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.
- VII. AMENDMENT OR REPEAL. This Ordinance may be amended or repealed only by affirmative vote of the Board following a public hearing.
- VIII. SEVERABILITY. Should any provision of this Ordinance be adjudged invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other provision of this Ordinance.