

# BUILDING ORDINANCE FOR THE TOWN OF STARKS

March 9, 2024

ENACTED: March 9, 2024

Date

EFFECTIVE: March 9, 2024

Date

CERTIFIED BY: 

Name

Clerk

Title

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# Building Ordinance for the Town of Starks

## I. Authority, Title

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S. Section 4401 *et. seq.*, as amended.
- B. This Ordinance shall be known as the “Building Ordinance for the Town of Starks, Maine”. This Ordinance repeals and replaces the “Building Ordinance for The Town of Starks” adopted March 11, 1988, and any amendments thereto.

## II. Purpose

The purpose of this Ordinance is to protect the health, safety, and welfare of the residents of the Town of Starks.

## III. Applicability and Basic Requirements

- A. This Ordinance shall apply to construction, relocation, emplacement, and replacement or reconstruction of any building or structure, as defined herein.
- B. No building or structure, permanent or temporary, or of any size, shall be located within a public road right-of-way.
- C. **Building Permit Required:** No person shall undertake any of the following activities without first obtaining a building permit from the Starks Code Enforcement Officer (CEO):
  - 1. Construct, emplace, or relocate a dwelling (any size or type)
  - 2. Construct, emplace, or relocate a commercial, industrial, recreational, or institutional building or structure with a footprint of over 150 square feet
  - 3. Construct or emplace an outbuilding or structure with a footprint of over 150 square feet
  - 4. Increase the footprint of an existing building or structure so that it is 150 square feet or more.
  - 5. Replace or reconstruct a building or structure
  - 6. Convert any existing building or structure to a dwelling

## IV. Non-Conforming Conditions

- A. Any lawful use of a building, structure, premise, land, or parts thereof existing as of the effective date of this building ordinance (adopted March 9, 2024) or amendments thereto, and not in conformance with the provisions of this ordinance shall be a non-conforming condition.
- B. Any non-conforming condition may continue and may be maintained, repaired, and improved. No such non-conforming condition may be expanded, changed to another non-conforming condition, or replaced, or renewed after it has been discontinued for a period of 12 calendar months or more, without a permit from the CEO in accordance with the provisions of this ordinance. A non-conforming condition shall not become more non-conforming.
- C. Except as provided above (Sec. IV, A&B), the provisions of this ordinance regulating the minimum lot size and building or structure setbacks shall not apply to lots of record legally existing on March 11, 1988, as evidenced by deeds recorded in the Somerset County Registry of Deeds on or before that date.

- D. A non-conforming condition (lot) may be built upon, provided that such lot complies with the State Minimum Lot Size Law and the State of Maine Subsurface Wastewater Disposal Rules, as applicable.

## **V. Definitions**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined below in this Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

As used in this Ordinance, the following words shall have the following meanings:

Building or Structure means a permanent dwelling, or any other construction used for shelter or support of persons, animals, goods, or property of any kind, including, but not limited to commercial, industrial, recreational, or institutional facilities. For purposes of clarification this includes but is not limited to garages, sheds, maple syrup houses, concrete pads, in-ground swimming pools, free-standing solar arrays, shipping containers, box cars, unregistered tractor trailer boxes, unregistered buses, public utility poles, and the like. For purposes of this Ordinance, "Building or Structure" does not include buildings or structures less than 150 square feet in area, or temporary construction trailers.

Dwelling means any permanent building, structure, or portion thereof designed or used for residential purposes. The term shall include "permanent" stick-built homes, mobile homes, modular homes, yurts, travel trailers, tiny homes, recreational vehicles, and the like.

Dwelling Unit means a room or suite of rooms used as a habitation by one or more persons occupying a premise and living as a single housekeeping unit.

Footprint means the entire area of ground covered by a building or structure on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

New Construction means a new building or structure, or an addition to an existing building or structure if the addition has a footprint of 150 square feet or larger.

Nonconforming Condition means a lot of record which, at the effective date of the ordinance or amendment thereto does not meet the minimum lot size requirement, or a building or structure which does not meet the setback requirements, but which is allowed to remain solely because it was in lawful existence at the time the ordinance was enacted, or subsequent amendments took effect.

Permanent means any building or structure that is in place for a period greater than 120 days within any 12-month period.

Public Road means a way or public easement for highway purposes as defined in 23 M.R.S. § 3021, as amended, held by any governmental body (state, county or town).

Substantial Change in Use means the change in use of any dwelling, commercial, industrial, recreational, or institutional building or structure from one of these categories to another of these categories or to a mix of these categories (e.g., a garage or any structure converted to a dwelling)

Substantial Start means completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Temporary Construction Trailer means a temporary, portable trailer used on a construction site that has its tires on the ground and has a current registration from any State Department of Motor Vehicles, as appropriate.

## **VI. Code Enforcement Officer Procedures**

The Town of Starks Code Enforcement Officer (CEO) is authorized to review and act on all applications for a building permit. No certificate of occupancy shall be issued by the CEO for any building or structure within the scope of this Ordinance until a building permit has been issued.

- A. **Inspections:** The CEO shall inspect all activities requiring a building permit for the purpose of enforcing this Ordinance and any other local and state law governing the construction, emplacement, relocation, replacement or reconstruction of buildings or structures for which they have responsibility.
  - 1. At least two inspections shall be made by the CEO - one inspection of the project site prior to the applicant beginning the project and a second prior to the issuance of a certificate of occupancy. The CEO may make additional inspections, as deemed necessary to adequately enforce this Ordinance.
  - 2. The CEO shall keep accurate records of all inspections, including dates and comments, upon or attached to the original application form. All records shall be maintained in permanent storage at the Town Office as required by state statute.
- B. **Right of Entry:** The CEO in the performance of their duties may enter any building or site at the convenience of the owner and the CEO. Such entrances shall be for a reasonable length of time for the purpose of making any inspections required by this Ordinance.

## **VII. Permit Required**

Before beginning any activity requiring a permit under this Ordinance, the owner shall obtain from the CEO a permit covering such proposed work.

- A. **Application:** An application for a building permit shall be submitted to the CEO in writing, using an application form available through the CEO, and shall include, but not be limited to:
  - 1. the name, address, and contact information of the applicant
  - 2. evidence of standing to apply for a permit - for example, but not limited to, owner, lessee, or agent
  - 3. an address and map indicating the location of the project site
  - 4. a legible site plan drawn to approximate scale showing the location of existing and proposed building(s), sewage disposal facilities, water supply, off-street parking, lot dimensions, and the property line setbacks
  - 5. a statement of intended use of the proposed building(s) or structure(s)
  - 6. evidence of compliance with the Maine Subsurface Waste Disposal Rules and that a plumbing permit has been obtained, where the State Plumbing Code applies
  - 7. specification of dimensions of the proposed building(s) or structure(s) (length, width, and height), and type foundation
  - 8. evidence of a driveway/entrance permit where applicable
  - 9. evidence of legal access to a public road either directly or via an easement

The CEO may require such additional information as is deemed reasonably necessary to determine the conformance of the proposed construction to this Ordinance.

- B. **Permit Approval:** The CEO, after proper examination of the application for compliance with this Ordinance shall either issue the requested permit or transmit notice of denial within thirty (30) days. Notice of denial shall be in writing and shall state the reasons thereof.
- C. **Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire. Upon a written request by the applicant, the CEO may grant a one-year extension for good cause, such as where there are circumstances beyond the applicant's control, and if all federal and state approvals and permits are current.
- D. **Display of Permit:** Every building permit shall be displayed in a conspicuous place on the premises, clearly visible if practical, from the principal traveled road and shall not be removed until all work covered by the permit has been approved.
- E. **Revisions:** No changes or revisions of the original application shall be made in the process of constructing, emplacing, relocating, replacing, or reconstructing a building or structure without the approval of the CEO and the revisions comply with this Ordinance.

## VIII. Fees

An application for a Building Permit shall include an application fee, which may be paid in cash or by check payable to the "Town of Starks". This fee is non-refundable. The application fee shall be as established and maintained by the Board of Selectmen in the Town of Starks Fee Schedule.

## IX. Certificate of Occupancy

When it can be shown that the provisions of this Ordinance have been met, and after a final inspection, the CEO shall issue a Certificate of Occupancy to verify that all work was performed in compliance with the provisions of this Ordinance, any applicable state law, and any applicable policy of the Town of Starks.

## X. Building Standards

- A. **Minimum Lot Size:** No building or structure shall be constructed upon or moved to a lot with an area of less than one acre.
- B. **Set-Back:** No building or structure shall be erected, emplaced, relocated, or expanded unless it is set back at least 60 feet from the centerline of all adjoining public rights-of-way.
- C. **Property Line Setback:** No building or structure shall be erected, emplaced, relocated, or expanded less than 15 feet from any adjoining lot line.
- D. **Off-Street Parking:** Residential off-street parking shall be provided in the amount of 350 square feet per dwelling unit. Commercial, industrial, recreational, and institutional off-street parking shall be provided in accordance with Section 7.9 of the Site Plan Review Ordinance for the Town of Starks, as applicable. Off-street parking may include driveway space, garage space, or parking lot space, or any combination of the three. This provision shall not apply to lots in

existence prior to March 11, 1988. No credit will be given for parking within the public right-of-way.

- E. **Access to a Public Road:** No building or structure that is to be used as a dwelling shall be erected, emplaced, or relocated on a lot that does not have either frontage on a public road or a vehicle right-of-way easement between the applicant for the Building Permit and the lot owner providing vehicle right-of-way access that has been properly recorded in the County Registry of Deeds. Proof of this recording shall be submitted to the CEO prior to the issuance of a permit.
- F. **Erosion Control:** Steps to prevent soil erosion and sedimentation, including but not limited to, runoff control features such as hay bales, silt fencing, mulching, and revegetation shall be taken for activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions.

#### **XI. Recreational Vehicles, Trailers, Campers, Yurts, and the Like**

- A. Any recreational vehicle, trailer, camper, yurt and the like used for habitation must provide for proper disposal of waste and wastewater that is compliant with applicable State law.
- B. Recreational vehicles, trailers, campers, yurts and the like that are occupied as dwellings for more than 120 days in any 12-month period require a permit pursuant to the requirements of this Ordinance.

#### **XII. Compliance with Other Regulations**

Any construction, emplacement, relocation, replacement or reconstruction of a building or structure shall comply with all local and State plumbing, electrical, environmental protection, and other applicable statutes, rules, and regulations.

#### **XIII. Amendments to Ordinance**

Amendments of this Ordinance may be initiated by the Board of Selectmen, the Planning Board, or as specified in Title 20-A M.R.S. § 2522, as amended. The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

#### **XIV. Conflicts and Severability**

- A. The provisions of this Ordinance shall be construed as minimum requirements. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- B. The provisions of this Ordinance are severable. If any portion of this Ordinance is declared by the courts to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

#### **XV. Enforcement and Penalties**

- A. If the CEO finds that any provision of this Ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and

ordering the action necessary to correct it. Any such notification shall be copied to the Starks Board of Selectmen. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this Ordinance.

- B. The Board of Selectmen is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow a violation of this Ordinance to continue unless there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith, or unless the removal of the violation will result in a threat to public health and safety or substantial environmental damage.
- C. Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A M.R.S. § 4452, as amended. Each day such violation continues after notification by the CEO shall constitute a separate offense.

#### **XVI. Appeals**

Any person aggrieved by a decision of the CEO under this Ordinance may appeal the decision to the Starks Board of Appeals under the Town of Starks Appeals Board Ordinance.

#### **XVII. Effective Date**

This Ordinance shall become effective upon its enactment by the Town.