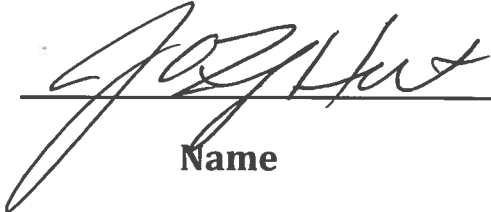


Road and Utility Structures Ordinance for the Town of Starks, Maine

March 9, 2018

ENACTED: 3 | 9 | 18
Date

EFFECTIVE: 3 | 9 | 18
Date

CERTIFIED BY: 
Name

Clerk
Title

Affix Seal

Road and Utility Structures Ordinance for the Town of Starks, Maine

Section 1 - Title and Repeal of Prior Ordinance

Under the authority of M.R.S. Title 30-A, § 4401 and § 3001, and of M.R.S. Title 23, § 3025, this Road and Utility Structures Ordinance for the Town of Starks is hereby adopted. The prior Ordinance, entitled "Minimum Standards for New Roads in the Town of Starks" as amended, is hereby repealed and all references to that Ordinance shall be deemed to be references to this Ordinance.

Section 2 - Purpose

Road construction can have a major effect on safety, municipal services and the environment. The design and construction of roads can affect soil erosion and water quality; the severity of periodic flooding; fire protection; safety conditions and traffic congestion; visual character; the future use of surrounding land; and maintenance costs and requirements. The purpose of this Ordinance is to promote the health, safety and general welfare of residents and businesses by setting standards for the design, layout and construction of new and upgraded roads and utility poles and other utility-related structures, and to address excessive damage to public roads caused by activities on adjacent land or within the public way.

Section 3 - Applicability¹

The provisions of this Ordinance apply as follows:

- 3.1 The requirements of this Ordinance are not applicable to private roads or utility structures, unless otherwise specified below.
- 3.2 **Existing driveway entrances.** A permit is not required for improvements to an existing driveway entrance accessing a Town Road unless the driveway entrance requires a State permit in accordance with Title 23 M.R.S. § 704 and § 705 (applicable to State Routes 43, 134, 148), is associated with a project requiring a Site Plan Review Permit or a Subdivision Permit under local Starks ordinances, or is a change of use, such as where a driveway entrance used for only forestry or agricultural purposes is proposed to be a driveway entrance for a residential use. However, anyone planning to significantly alter an existing driveway entrance should consider the following:
 - 1) Alteration of an existing driveway entrance that intersects with a public road, where the grade, drainage or other alteration creates erosion or sedimentation, or otherwise damages the public road must be prevented. Any damage to the public road must be repaired. (See Section 11. Road Damage);

¹ Note 1: If you are planning to do any excavating on your property, you must contact Dig-Safe® before you begin (It's the law). Dig-Safe® is a clearinghouse that notifies utilities whenever excavation work is being done. They will notify all the member utilities. According to the Underground Protection and Facilities Act, more commonly known as the Dig-Safe® Law, excavation may begin 3 business days after you have contacted Dig-Safe®. Call: 1-888-344-7233

Note 2: A person wishing to build a road involving a stream crossing must obtain a Natural Resources Protection Act Permit from the Maine Department of Environmental Protection.

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- 2) Consulting with the Road Commissioner to reduce the likelihood that the alteration will damage the public road; and
 - 3) Consider the standards in Section 7 of this Ordinance to improve the existing driveway entrance from a safety and fire protection perspective.
- 3.3 **Utilities and Other Structures in the Public Road Right of Way.** Prior to the installation of a new pole or other utility-related structure, or the relocation of an existing pole or utility-related structure, the utility company or other party must consult with the Town and/or State (as applicable) to ensure that the requirements of this Ordinance are met. Utilities are required by state law to get municipal approval.
- 3.4 **New Driveway Entrances.** A Driveway Entrance Permit under this Ordinance is required prior to construction of a new driveway entrance that will intersect with any public road.
- 3.5 **Subdivision and Development Roads.** A Road Entrance and Road Permit may be required in accordance with the Site Plan Review and Subdivision Ordinance(s) and other Ordinances of the Town of Starks
- 3.6 **Damage to a Public Road.** See Section 11.
- 3.7 **Exceptions.**
- 1) No provision of this Ordinance shall apply to activities of the State, County or Town, which may layout, widen or improve any public way, provided, however, the Section 8 Road Construction Standards will serve as a minimum requirement for all new road construction in Starks.
 - 2) The Town of Starks is exempt from the requirements of the Section 8 Road Construction Standards for all Town-owned roads designated as such and already maintained by the Town as of the adoption of this Ordinance. Recognizing the limited resources available and the great need for work on many of the Town's roads to the extent the Town's public resources are expended on the construction or reconstruction of Town-maintained roads, such construction or reconstruction is only required to be conducted substantially in accordance with these standards.
 - 3) This exception does not apply to situations where an applicant for a Development is required to make improvements to a public road in accordance with the Site Plan Review and Subdivision Ordinance, as amended.

Section 4 - Definitions

Code Enforcement Officer (CEO): means the Code Enforcement Officer for the Town of Starks.

Development: a project that requires a permit from the Planning Board in accordance with the Site Plan Review and Subdivision Ordinance for the Town of Starks, as amended, or any other ordinance where reference is made to this Ordinance.

Driveway Entrance: means a vehicular access way to/from a maintained public road.

Major Development: means projects meeting the criteria as classified in the Site Plan Review and Subdivision Ordinance, as amended, for the Town of Starks.

Minor Development: means projects meeting the criteria as classified in the Site Plan Review and Subdivision Ordinance, as amended, for the Town of Starks.

Petition: means a Road Acceptance Petition to the Town of Starks.

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

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Road: means any public or private way designed for vehicular access.

Road Commissioner: means the Board of Selectmen of the Town of Starks, or their designee.

Selectmen: means the duly elected Board of Selectmen of the Town of Starks.

Site Plan Review Ordinance: means the Site Plan Review Ordinance for the Town of Starks.

Subdivision Ordinance: means the Subdivision Ordinance for the Town of Starks.

Town Road (or Way): a public road owned and maintained by the Town of Starks.

Section 5 – Fees and Authorization for Technical Review Assistance

- 1) **Purpose.** Application Fees and Technical Review Fees are intended to cover the Town’s administrative and technical review costs in processing applications. Fees shall be paid to the “Town of Starks”, and must be provided for an application to be considered complete for review purposes.
- 2) **Permit Application Fee.** The permit application fees for a Driveway Entrance Permit and/or a Road Permit shall be established by the Board of Selectmen. No application fees are refundable. The intent of these fees is to cover the cost of processing the application, including notifications and inspections. In addition the Selectmen shall set inspection and technical review fees for road construction projects associated with any given Developments.
- 3) **Technical Review Fee.**
 - a) The Planning Board shall require a technical review fee for any road construction project associated with a Major Development as defined in the Site Plan Review and Subdivision Ordinance, as amended. The Board may waive this requirement for Minor Developments as defined in the above ordinance. The technical review fee is designed to defray the Town’s legal and technical costs in the review of the application and in project compliance with the Board’s decision and the Ordinance requirements. If required, the technical review fee must be paid to the “Town of Starks” for an application to be considered complete for review purposes.
 - b) When required, the technical review fee shall consist of a retainer of at least \$1,000 to be submitted with the application. This retainer shall be deposited in an account where it can be tracked. If any required contract with an independent consultant is estimated to cost more than the retainer submitted with the application, the total estimated cost for the consultant must be provided in the retainer paid by the applicant before the application is considered complete and review is started. That portion of the review fee not used shall be returned to the applicant within 60 days of the Board's decision to approve or deny the application.

Section 6 - Driveway Entrance Permits (New Driveway Entrances)

- 6.1 **Town Roads:** Prior to initiating the construction of any new driveway entrance that intersects with a Town road or a numbered state highway, a person must obtain a Driveway Entrance Permit from the Road Commissioner.
- 6.2 **State Roads:**
 - 1) Prior to initiating the construction, change in location, grade or use served by a driveway entrance to a property accessing State Routes 43, 134, or 148, a person must obtain an Entrance/Driveway Permit from the Maine Department of Transportation (MDOT) in

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accordance with Title 23 M.R.S. § 704 and § 705. (Note: These regulations primarily stipulate drainage structures, entrance/driveway widths, and sight distances.) A copy of this permit shall be submitted to the Road Commissioner and the Code Enforcement Officer.

- 2) After obtaining a MDOT Permit, and prior to the installation of a new driveway entrance a person must also obtain a Town Driveway Entrance Permit from the Road Commissioner.

6.3 **Permitting Authorities:** An application for a Driveway Entrance Permit shall be submitted to the Road Commissioner. An application for Driveway Entrance Permit serving a “Development” shall also be submitted to the Planning Board.

6.4 **Application Requirements:** An application shall include the following, as a minimum:

- 1) Name of property owner(s) and applicant(s), and contact information (address, phone, email).
- 2) Evidence of right, title, or interest in the property, and authorization (signature required)
- 3) Any legal encumbrances on the land upon which the proposed road is located.
- 4) Type of Road Permit Requested (Driveway Entrance Permit, Road Permit, Development Road Permit)
- 5) Location of road. (tax map and lot number, name of interconnecting state or town road)
- 6) Statement of who will own the road following construction and who will be responsible for road maintenance.
- 7) Type of land use associated with road, both current and planned (year-round home, camp, development, commercial, agricultural, forestry, etc.)
- 8) Length-time of use (permanent, temporary, seasonal)
- 9) The anticipated starting and completion dates of road construction.
- 10) Description and location of any utility poles or other utility structures within the right of way of the public road.
- 11) A description of erosion and sedimentation control measures to be employed during and following construction.
- 12) Copies of any drainage easements on adjacent or nearby property.
- 13) A scaled drawing showing: the location of the driveway entrance (name of public road); the scale; the direction of magnetic north; the starting and ending point of the proposed road with relation to established roads and any planned or anticipated future extensions; the boundary lines of all properties abutting the proposed road, including any new lots to be created; all natural waterways; the location and profile of all existing and proposed drainage structures; the design and profile of the 20 feet of the proposed road closest to any Town road intersection; and the location of all existing and proposed overhead and underground utilities. This drawing shall be adequate to clearly display the driveway entrance and/or road design so that the Road Commissioner can determine that it meets the standards of this Ordinance.
- 14) Description of proposed road base and surface material.
- 15) The Road Commissioner or Planning Board, as applicable based on permitting authority, may waive those requirements that are not applicable to an application for just a driveway entrance.

Section 7 - Driveway Entrance Permit Standards and Conditions of Approval

The Road Commissioner shall issue a Driveway Entrance Permit if all of the following standards and conditions are met and the activity is in accordance with this Ordinance. In all instances, the burden of proof shall be on the applicant to produce evidence sufficient to warrant a finding that all applicable requirements have been met.

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- 7.1 **Driveway Entrance Accessing State Routes 43, 134, and 148.** For driveway entrances accessing State Routes 43, 134, 148, the Maine Department of Transportation regulates the sight distance and culvert requirements. A Town Driveway Entrance Permit will be granted based upon satisfying subsections 7.2, 2), 4), and 7). Sections 7.2, 5) and 6) are strongly recommended.
- 7.2 **New Driveway Entrance Accessing Town Roads** must meet the following requirements:
- 1) Adequate sight distance of 10 times speed limit in feet (e.g., 45 mph zone requires 450 feet) of visibility in each direction. This shall be measured from where the driver's seat of a vehicle would be situated 20 feet from the edge of the shoulder, with the height of eye at 3 ½ feet, to the top of an object at 4 ½ feet above the pavement. Any vegetation that blocks the view shall be cleared, and maintained to allow visibility in each direction. Signs, utility poles and other structures shall not be located so as to obstruct visibility in each direction.
A special exception to the sight distance requirement may be granted due to unique circumstances of the land and existing conditions if the following conditions are all met: a) that the driveway entrance is located and designed in the safest possible manner along available road frontage; b) that the applicant agrees to remove any trees, brush, rocks or other physical obstacles to achieve the desired sight distance, and to maintain the sight distance; and c) that the Road Commissioner finds that the driveway entrance will not create a hazard to the traveling public.
 - 2) The angle of intersection of the proposed driveway entrance with the public road must be as close to 90° as possible, but never less than 60°, unless there is a unique situation where it is entirely impossible to otherwise provide access to the lot.
 - 3) The applicant shall purchase and install adequate culverts as directed by the Road Commissioner. In most cases, the minimum size of the culvert shall be 15 inches in diameter, or otherwise sized in accordance with Maine Department of Transportation standards. Once the culvert has been installed to the satisfaction of the Road Commissioner, the Town will be responsible for any future replacement of the culvert unless there is a significant expansion of the land use activity such that a larger/more substantial culvert is required, which case the applicant/landowner would be responsible for upgrading the culvert.
 - 4) The 20 feet of the proposed driveway entrance closest to the public road shall be constructed with at least 12 inches of gravel base and 12 feet of traveled way to support emergency vehicles. The same 20 feet of the proposed driveway entrance shall also have a graded road crown of ¼ inch per foot such that drainage will neither erode the proposed driveway entrance nor wash directly onto the public road. If possible, the proposed driveway entrance should be constructed so that at least the 2 feet closest to the intersection continues the slope created by the crown of the public road being entered to keep drainage from damaging the public road.
 - 5) Driveway entrances and rights-of-way over 150 feet long should have an adequate place for emergency vehicles to turn around.
 - 6) Driveway entrances and rights-of-way over 300 feet long should have a 12 foot traveled way and 12 inches of gravel base to facilitate emergency vehicle access.
 - 7) Driveway entrances must have sufficient capacity to avoid queuing of entering vehicles on any public road.
 - 8) Parking and loading and unloading areas must be designed to eliminate the need for vehicles to back into a public road.

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- 9) Erosion and sedimentation must be effectively prevented during and following construction. No new runoff shall be discharged onto another property including the public road unless the applicant provides evidence of a drainage easement from the applicable property owner. The acceptability of proposed and employed methods will be judged utilizing the Maine Erosion and Sediment Control Practices Field Guide for Contractors, Maine Department of Environmental Protection, 2014, or most recent revision.
 - 10) Notwithstanding all of the above requirements, new driveway entrances that serve sand and gravel, and logging operations or other activities involving large, heavy equipment must meet the minimum requirements in Sections 7.2, 1), 3), and 7).
- 7.3 **Utilities, Utility Poles and other Utility-Related Structures within the Public Road Right of Way (New and Replacements).** Underground utilities, pipes, lines, above-ground utility poles, or the like shall be located so as to minimize, to the greatest extent reasonably practical, their interference with the Town's on-going maintenance of the road surface above or below them, as well as any adjacent shoulder, drainage ditch or swale within the Town's right of way, including, without limitation, the location of any above-ground utility poles outside of any portions of the Town's right of way in which the location of above-ground utility poles within the right of way would unreasonably increase the Town's road maintenance costs.

Section 8 - Driveway Entrance Permit: Application and Approval Process

- 8.1 **Conditional Driveway Entrance or Utility Permit.** After receiving a completed application, the Road Commissioner shall conduct an inspection of the location where the driveway entrance or utility pole is proposed. If the Road Commissioner finds that the application is complete and demonstrates that the proposal will meet the requirements of this Ordinance, he/she shall issue a Conditional Permit.
- 8.2 **Notification Requirement.** The applicant will notify the Road Commissioner at least one week prior to construction so that an inspection may be made both during and after construction to confirm adherence to permit requirements.
- 8.3 If the Road Commissioner determines that the standards of this Ordinance and the conditions of permit have been met, the Road Commissioner will either:
 - 1) Issue final approval for a Driveway Entrance or Utility Permit, or
 - 2) Forward a recommendation to the Planning Board if the road is part of an application for site plan review or subdivision approval.
- 8.4 **Validation Period.** Any Driveway Entrance /Utility Permit issued under this Ordinance shall expire if the work is not completed within 12 months of conditional permit approval in Section 8.2.

Section 9 - Road Construction Requirements for Developments

- 9.1 **Permitting and Approval Authority.**
 - 1) Driveway Entrance Permits, Utility Permits and Road Permits for Developments shall require approval by both the Road Commissioner and the Planning Board.
 - 2) Burden of Proof: In all instances, the burden of proof shall be on the applicant to produce written evidence sufficient to warrant a finding that all applicable requirements of this Ordinance have been met.

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9.2 **Application Requirements and Standards.**

- 1) An approved Driveway Entrance and/or Utility Permit in accordance with this Ordinance is required for Developments.
- 2) The applicant may request that the amount of road base gravel be reduced if the land under the road is stable. The Planning Board, upon a recommendation from the Road Commissioner or Professional Engineer, may authorize a reduction in the gravel depth requirement if they make a finding that it is unnecessary to adequately support the proposed road and anticipated traffic.
- 3) The Planning Board, upon a recommendation from the Road Commissioner or Professional Engineer, may increase the construction requirements based on a finding that the volume and type (heavy and/or large trucks, large motor homes, etc.) of traffic anticipated for the development.
- 4) Requirements (minimum)
 - a) Width of Right of Way – 75 feet
 - b) Width of Traveled Way – 20 feet
 - c) Width of Each Shoulder – 3 feet
 - d) Maximum grade – 10%
 - e) Maximum grade within 75 feet of intersection - 5%
 - f) Sub-base Gravel (unscreened bank run) – 6 inches
 - g) Road base Gravel (maximum 6 inch stones) – 12 inches
 - h) Surface Gravel (maximum 2 inch stones) – 6 inches
 - i) Geotextiles to separate existing soil from sub-base gravel is required.
 - j) Bituminous Paving (or equivalent) - 2½ inches (Paving is not required)
 - k) Road Crown - ¼-½ inches/foot
 - l) Cuts – 18 inches of gravel plus a 6 inch surface shall be used in all cut sections of earth and ledge except that where existing material is clean, well-drained sand or gravel, the base may be lessened to 12 inches.
 - m) The bottom of ditch shall be a minimum of 24 inches below the centerline grade of the road.
 - n) Complete curve data shall be indicated for all horizontal and vertical curves.
 - o) Turning radii at all intersections.
 - p) Centerline gradients.
 - q) Drainage:
 - (i) Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrain and/or storm water drainage systems. Culverts shall be not less than 15 inches in diameter, or otherwise sized in accordance with Maine Department of Transportation standards. Catch basins shall be no less than 30 inches in diameter. All culverts shall be galvanized corrugated metal pipe or made of materials approved by the inspector. All culverts shall be designed to accommodate, at a minimum, the anticipated 25-year flood level.
 - (ii) Where bridge structures or reinforced concrete culverts are required to cross major streams, detailed design plans provided by a certified Professional Engineer, registered in the State of Maine, shall be submitted with the application. All bridges and reinforced

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concrete culverts shall be designed to accommodate, at a minimum, the anticipated 50-year flood level. Stream crossings shall be designed to allow for adequate fish passage.

(iii) A corrugated metal perforated underdrain pipe, or one made of other materials approved by the inspector, of at least 6" in diameter, shall be installed to properly drain all springs or areas where the ground water level is too high and could constitute a hazard to the stability of the roadway base.

- r) Proposed rights of way shall to the extent possible be placed along pre-existing rights of ways. The centerline of the roadway should be the centerline of the right of way.
- s) Dead end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line 75 feet: outer edge of pavement or travel-way 50 feet. The Board may require the reservation of a 20 foot easement to provide continuation of pedestrian traffic or utilities to the next road. The Board may also require the reservation of a 75 foot easement in line with the road to provide continuation of the road where future subdivision is possible.
- t) Historical and cultural features such as stone walls, hedgerows, fencerows, and mature trees shall be preserved to the greatest extent practicable.
- u) Road plans (descriptions and drawings) to include road profiles and cross-sections, construction materials, and drainage systems including the locations of existing ditches and natural waterways prepared by a Professional Engineer, registered in the State of Maine.
- v) A stormwater management and erosion control plan for the construction phase and the final road prepared by a Professional Engineer, registered in the State of Maine.
- w) Signage - Description and location of all road safety and identification signs to be installed by the applicant. (See Emergency 9-1-1 Addressing Requirements)
- x) Description of how the road will be maintained in the future, which may include formation of a road association.

Section 10 - Inspection and Road Permit Approval for Developments

- 10.1 All permit applications for driveway entrances and roads associated with Developments shall be submitted with the Development application to the Planning Board for review under the applicable Ordinance (Site Plan Review and Subdivision Ordinance, as amended, or other applicable ordinances).
- 10.2 The Planning Board shall coordinate with the Road Commissioner to review and consider the application.
- 10.3 The Applicant shall arrange a site visit with the Road Commissioner to review the application for a driveway entrance and road permit. The Road Commissioner shall make recommendations to the Planning Board indicating if the application meets the requirements of this Ordinance.
- 10.4 The Applicant shall provide the Road Commissioner and Planning Board with a construction schedule. Unless otherwise impractical, the Road Commissioner shall serve as the inspector and may call upon one or more members of the Board of Selectmen, Planning Board or other knowledgeable persons to serve on an inspection team. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this Ordinance.
- 10.5 Permit approval shall be conditioned on the road being built to meet or exceed the design and construction requirements of the approved application and the submission of "as built" plans.

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The Road Commissioner and the Code Enforcement Officer may make this determination with or without the assistance of a Professional Engineer registered in the State of Maine.

Section 11 - Public Road Damage

- 11.1 Any drainage, sedimentation, or other damage to a public road that originates from activity on private land, use of the road for which is was not intended, or from negligent or illegal activities that presents a public hazard or causes damage to the public road (e.g., erosion, sedimentation, rutting, displacement of gravel, increased flooding potential), shall be considered a violation of this Ordinance subject to the enforcement provisions in Section 12 Enforcement and Penalties.
- 11.2 The Road Commissioner or Code Enforcement Officer (CEO) may identify a violation under this section and must provide a written notice of violation and order to remediate the damaging condition, including the standard of repair required. Depending upon its severity, the landowner will be given 2-10 days to correct the situation or present a plan for corrective action within a reasonable timeline set by the Road Commissioner or Code Enforcement Officer. Failure to do so constitutes a violation of this Ordinance subject to the provisions of Section 12. The Board of Selectmen may accept or reject the corrective action plan, depending on the severity of the circumstances and show of good faith by the landowner.
- 11.3 Following notification, if action is not taken by the landowner in the specified timeframe, the Road Commissioner or CEO is authorized to take corrective action within the public right of way (e.g. re-routing drainage and/or re-grading) and present a bill for the work to the landowner. Any bill that remains unpaid on the date the Town's property taxes are due will be considered delinquent. In the event the bill remains unpaid, the Town may petition a court for authorization to file a lien against the property for the unpaid amount, plus costs and legal fees. In cases where the person responsible for the damage to the town road is not the landowner, the Town may pursue its legal remedies.

Section 12 - Enforcement and Penalties

- 12.1 The Code Enforcement Officer (CEO) shall enforce this Ordinance. 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. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this Ordinance.
- 12.2 The Starks 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; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.
- 12.3 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. Each day such violation continues after notification by the CEO shall constitute a separate offense.

- 12.4 In any event, in the carrying out of this Ordinance, where either the CEO or the Road Commissioner may be compromised by a conflict-of-interest, the Board of Selectmen shall provide an alternative approach to enforcement, generally by the appointment of an oversight person on a *pro temp*s basis.

Section 13 - Appeals

Any person aggrieved by a decision of the Road Commissioner, Code Enforcement Officer (CEO) or Planning Board under this Ordinance may appeal the decision to the Board of Appeals as an administrative appeal under the Town of Starks Appeals Ordinance. An aggrieved person must file written notice of the appeal with the Town Clerk within 30 days of the date of a written decision by the Road Commissioner, CEO, or Planning Board. The written notice of appeal must clearly state the reasons for the appeal. The review by the Board of Appeals of a decision shall be based exclusively on the written record of the decision, and the Board of Appeals shall reverse the decision only if it makes a positive finding that the decision was clearly contrary to the requirements or standards of this Ordinance. If the Board of Appeals finds the written record is insufficient to support adjudication of the appeal, it shall remand the decision to the Road Commissioner, CEO, or Planning Board for clarification.

Section 14 - Severability

If any portion of this Ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 15 - Conflicts with Other Ordinances or Regulations

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

Section 16 - Amendments

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. The proposed amendments shall be adopted by a simple majority vote of the Town Meeting, either from the floor of Town Meeting or as a referendum ballot vote.

Section 17 - Petitions for Town Acceptance of Roads

Town Meeting approval is required for a private road to become a town road. This section outlines the procedures and requirements for petitions for Town acceptance of new or existing private roads as public roads. This petition process must be followed on any occasion where a previously abandoned or discontinued road is proposed to be re-established as a town-maintained road. No action by any Board of Selectmen or Road Commissioner shall be deemed to have legally cognizable status unless supported by a town meeting approval under this process. The Selectmen may also initiate purchase and acceptance of a road they wish to lay out as a town way, requiring the authorization of funds in addition to acceptance at a town meeting.

17.1 Petition Procedure

1) Petition Procedure Overview

Step 1. Petitioner submits Town Road Acceptance Petition to Road Commissioner

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Step 2. Petitioner schedules and conducts a site visit with the Road Commissioner

Step 3. Petitioner submits the Town Road Acceptance Petition to Board of Selectmen

Step 4. Board of Selectmen place the Town Road Acceptance Petition on the warrant for the annual Town Meeting

Step 5. Town Meeting votes on conditional approval of the Petition

The following steps assume that the Town Meeting votes to approve the Petition.

Step 6. Petitioner constructs the Road

Step 7. Road Commissioner and Engineer inspect the road, and issue a Certification of Compliance

Step 8. Board of Selectmen approve the Certification of Compliance and the Road becomes a Town Road

- 2) Petitions for the acceptance of roads may only be voted on by referendum at the annual town meeting.

17.2 Petition Application Requirements and Review by the Road Commissioner

- 1) The petitioner begins by submitting a Town Road Acceptance Petition to the Road Commissioner. The following information shall be submitted as part of a Town Road Acceptance Petition:
 - a) All information required for a Driveway Entrance Permit and a Road Permit as required by this Ordinance.
 - b) A description, including the location of all road safety and identification signs to be provided by the Petitioner.
 - c) A description, in a form acceptable to the Town Attorney, of the property that the petitioner/owner intends to dedicate to the Town for road purposes, and statement that the owner waives any claim for damages. The letter must indicate whether the dedication is for a full title or a public easement. (Note: If the road is within a subdivision, the dedication must be recorded on the filed plan with the Somerset County Registry of Deeds.)
- 2) All road plans, profiles and cross-sections shall be prepared by a Professional Engineer, registered in the State of Maine.
- 3) The petitioner shall make an appointment with the Road Commissioner at a mutually agreeable time to conduct the site visit. The site visit may be postponed due to snow cover or any other situation that would make it difficult to ascertain the site conditions.
- 4) The Road Commissioner shall make a recommendation as to whether the proposed Town Road Acceptance Petition is complete and meets the requirements of this Ordinance. This recommendation may be in writing or presented orally at the Selectmen's meeting where the petition is to be considered.

17.3 Town Road Acceptance Petition Submitted to Board of Selectmen

- 1) The petitioner shall submit the Town Road Acceptance Petition to the Board of Selectmen for their consideration at a regularly scheduled Board of Selectmen's meeting.
- 2) At the meeting the Road Commissioner shall make a recommendation as to whether the proposed Town Road Acceptance Petition is complete and meets the requirements of this Ordinance.

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- 3) If the Board of Selectmen considers the petition complete, it may prepare a warrant article for a referendum vote at the annual town meeting asking whether the Town wishes to accept the dedication of the road conditional on the road being constructed in accordance with this Ordinance. Suggested warrant article: "To see if the Town will vote to accept the 'insert road name' as a Town Road on the condition that the "insert road name' is constructed in accordance with the Road and Utility Structures Ordinance for the Town of Starks, as evidenced through a Certificate of Compliance issued by the Board of Selectmen upon completion of the Road."

17.4 Conditions for Certificate of Compliance

- 1) **Inspection During Construction.** It is the responsibility of the Petitioner to provide the Road Commissioner with a construction schedule. The Road Commissioner shall serve as the inspector and may call upon one or more members of the Board of Selectmen or other knowledgeable persons to serve on an inspection team. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this Ordinance. There will be a fee assessed per inspection, as established by the Board of Selectmen.
- 2) **Engineer Certification.** Once a road to be offered to the Town is completed, the petitioner shall submit a written certification signed by a Professional Engineer registered in the State of Maine stating that the road as built meets or exceeds the design and construction requirements of this Ordinance. The petitioner shall submit "as built" plans. The Road Commissioner and the Code Enforcement Officer may make their determination with or without the assistance of a Professional Engineer registered in the State of Maine.
- 3) **Issuance of Certificate of Compliance.** The Board of Selectmen must rule in a timely manner following the receipt of the petitioner's Engineer Certification on whether the road meets the requirements of this Ordinance. If the Selectmen determine the road meets the requirements of this Ordinance then the road becomes a town road. If the Selectmen determine the road does not meet the requirements of the Ordinance, then the road does not become a town road.

Section 18 - Effective Date

This Ordinance becomes effective on the date the Ordinance is adopted by Town Meeting or a referendum vote.

Road and Utility Structures Ordinance for the Town of Starks

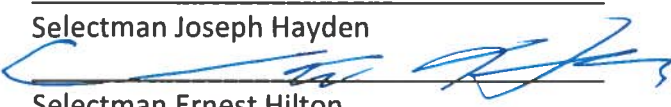
CERTIFICATION:

We the Selectmen of the Town of Starks hereby Certify to the Clerk that the foregoing document is a document entitled "ROAD AND UTILITY STRUCTURES ORDINANCE FOR THE TOWN OF STARKS, MAINE" and further certify it to be the subject of a town meeting referendum vote to take place on Friday, March 9, 2018 between the hours of noon and 8 p.m. at the Town of Starks Community Center, 57 Anson Road, Starks, Maine.

Date of Certification: 2/19/18



Selectman Paul Frederic

Selectman Joseph Hayden


Selectman Ernest Hilton

ATTEST:

A true copy of an ordinance entitled ""ROAD AND UTILITY STRUCTURES ORDINANCE FOR THE TOWN OF STARKS, MAINE" as certified to me by the municipal officers of Starks.

Date: 2/21/18

Signature: 

Jennifer Zweig Hebert, Town Clerk

CONSTABLE'S RETURN:

By virtue of a directive from the Board of Selectmen, I have notified and warned the inhabitants of the Town of Starks to assemble at the time and place and for the purpose therein named by the posting attested copies of the "ROAD AND UTILITY STRUCTURES ORDINANCE FOR THE TOWN OF STARKS, MAINE" and notice of the Town Meeting in three conspicuous places within the said Town.

Date: 2/21/18

Signature: 

Posting Officer