

Subdivision Ordinance  
for the  
Town of Starks

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March 8, 2019

ENACTED: 3/9/19  
Date

EFFECTIVE: 3/9/19  
Date

CERTIFIED BY: [Signature]  
Name

Clerk  
Title

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# Subdivision Ordinance for the Town of Starks

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## **Section 1 Purposes and Applicability**

### **1.1 Purposes**

The purposes of this Ordinance are as follows: to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Starks; to protect the environment; to promote the development of an economically sound and stable community; to assure that a sufficient level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures; to minimize potential negative impacts from new subdivisions on neighboring properties and on the Town; to provide for the expeditious and efficient process for the review of proposed subdivisions; and to comply with M.R.S. § 4401 *et. seq.*, and all amendments thereto.

### **1.2 Applicability**

The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, M.R.S. § 4401 *et. seq.*, as amended. A lot of 40 or more acres shall be counted as a subdivision lot for the purposes of this Ordinance.

## **Section 2 Authority and Administration**

### **2.1 Authority**

- 2.1.1 This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A Part 2, Section 1 of the Maine Constitution and 30-A M.R.S. § 3001. These standards have been prepared in accordance with M.R.S. § 4401 *et seq.*, and all amendments thereto.
- 2.1.2 This Ordinance shall be known and may be cited as "Subdivision Ordinance for the Town of Starks, Maine", adopted and effective by vote of the Town on Friday, March 8, 2019. This Ordinance repeals and replaces any municipal ordinance provisions previously enacted to control the development of subdivisions in the Town of Starks.
- 2.1.3 The Town of Starks Planning Board shall administer this Ordinance.

### **2.2 Amendments to this Ordinance**

This Ordinance may be amended by the legislative body of the Town of Starks. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

### **2.3 Interpretation, Conflict and Severability**

- 2.3.1 The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated they are necessary to promote the public health, safety and welfare. 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.

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- 2.3.2 The provisions of this Ordinance are separable. 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.
- 2.3.3 This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

### Section 3 Definitions

#### 3.1 Construction of Language

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

The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.

The words "shall," "will" and "must" are mandatory; the word "may" and "should" are permissive.

The word "lot" includes the word "parcel".

The word "structure" includes the word "building".

The word "Town" or "municipality" means the Town of Starks, Maine.

The term "Planning Board" means the Town of Starks Planning Board.

The terms: "Code Enforcement Officer or CEO" means the Town of Starks Code Enforcement Officer

The term "Board of Selectmen" means the Town of Starks Board of Selectmen.

The term "Board of Appeals" means the Town of Starks Board of Appeals.

#### 3.2 Definition of Terms

In this Ordinance the following terms shall have the following meanings:

**Abutter** means the owner of any property with one or more common boundaries, or across the road or stream from, the property involved in an application or appeal.

**Abutting Property** means any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a road or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

**Agriculture** means the production, keeping or maintenance for sale or lease, of plants and/or animals including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. "Agriculture" does not include forest management and timber harvesting activities.

**Agricultural Products** means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other

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plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**Applicant** means the person or persons applying for subdivision approval under this Ordinance.

**Basement** means any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Certified Soil Scientist** means as registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Common Open Space** means land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment by the residents of the development or general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application** means an application shall be considered complete upon submission of the required fee and all information required by this Ordinance unless waived, after the applicant's written request, by a vote by the Planning Board.

**Complete Substantial Construction** means the completion of a portion of the improvements which represents no less than 30% of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Conservation Easement** means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density** means the number of dwelling units per acre of land.

**Development** means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other man-made construction.

**Drinking Water Standards** means thresholds for contaminants set by the Maine Department of Health and Human Services. Standards have been established for contaminants which pose a health threat ("primary drinking water standards") and those which pose an aesthetic concern ("secondary drinking water standards").

**Driveway** See "Roads, Entrances and Driveways"

**Dwelling Unit** means a room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums and time-share units.

**Engineered Subsurface Waste Water Disposal System** means a subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BODs (biological oxygen demands) and total suspended solids concentrations than domestic waste water. Any engineered system must be approved by the Maine Department of Health and Human Services.

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**Farmland** means a parcel consisting of 5 or more acres of land that is either: (a) classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or (b) used for the production of agricultural products as defined in 7 M.R.S., §152, sub-§2.

**Final Plan** means the final drawings on which the applicant's plan of subdivision are presented to the Planning Board for approval and which, if approved, must be recorded at the Registry of Deeds.

**Flood, 100-Year** means the highest level of flood that, on the average, has a 1% chance of occurring in any given year.

**Floodway** means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Flood-prone Area** means those land areas which are susceptible to inundation during a 100-year flood (a flood with a one percent probability of occurring in any given year). Flood-prone areas shall include mapped areas of floodplain and floodway (zones A or AE). Where maps are unavailable or of insufficient accuracy, a determination may be made by a professional land surveyor.

**Groundwater** means the water that is found beneath the earth's surface recharged from rain infiltration. Groundwater moves slowly, finding its way from pore space to pore space in the subsurface soils and rocks; but it may surface as seeps and springs when intercepted by an excavation or slope cut.

**Frontage** means that portion of a lot boundary which abuts a road or shoreline. A frontage measurement consists of the horizontal distance between the points where side lot lines intersect the road or shoreline. On lots with more than one frontage, such as corner lots, a requirement for road frontage shall apply to only one frontage.

**High Intensity Soil Survey** means a map prepared by a certified soil scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location.

**Hydrogeologic Assessment** means an assessment of groundwater quantity, quality, availability, and movement, for the purpose of determining whether adequate water supply exists for development needs without significant negative impact to neighboring properties.

**Lot Length (Lot Width)** means the horizontal distance between front and rear (length) or side (width) lot lines. Where lots are not rectangular, length and width shall be calculated as the average distance between the most-parallel lines of the lot.

**Liquidation Harvesting** means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

**Medium Intensity Soil Survey** means the *Soil Survey of Somerset County, Maine*, published by the USDA, Soil Conservation Service - recognized as a medium intensity soil survey.

**Multifamily Development** means a subdivision that contains 3 or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

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**New Structure or Structures** means any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

**Outstanding River Segments** means, in accordance with Title 38, section 480-P, as amended, "outstanding river segments", which includes the Sandy River from the Kennebec River to the Madrid and Township E town line.

**Person** means a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Performance Guarantee** means any surety or commitment that may be accepted by the Town of Starks to assure that infrastructure improvements required as part of the subdivision approval will be satisfactorily completed.

**Principal Structure** means any building or structure in which the main use of the premises takes place.

**Professional Engineer** means a professional engineer registered in the State of Maine.

**Professional Land Surveyor** means as registered licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Public Improvements** means the term shall include all roads; fire protection structures and ponds; any structure or land proposed to be dedicated to the Town; any land or structure which is offered as an easement to the Town; and, all stormwater drainage structures designed to allow water to flow outside the property or the subdivision.

**Public Water System** means two basic types: 1) a "community water system" which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents; and 2) a "non-community water system" that is not a "community water system", but that serves at least 25 of the same persons for 6 months or more per year and may include, but is not limited to, a school, factory, industrial park or office building, or a water system that serves at least 25 persons, but not necessarily the same persons, for at least 60 days per year and may include, but is not limited to, a highway rest stop, seasonal restaurant, seasonal motel, golf course, park or campground. A bottled water company is a non-community water system.

**Recording Plan** means an original of the final plan, suitable for recording at the Registry of Deeds and which needs to show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**River, Stream or Brook** means a channel between defined banks that is created by the action of surface water and has two or more of the following characteristics:

1. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
2. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
3. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
4. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
5. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.



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"River, stream or brook" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater or a grassy swale.

**Roads and Driveways** mean as follows:

1. **Driveway or Driveway Entrance** means a vehicular access way to a maintained public road.
2. **Road** means any public or private way designed for vehicular access.
3. **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).
4. **Town Road (or Way)** means a public road owned and maintained by the Town of Starks.

**Runoff** means the part of precipitation excluding evaporation and infiltration that becomes a discharge of stormwater.

**Sketch Plan** means conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Subdivision** means the term shall be defined as in 30-A, M.R.S. § 4401, sub-§4, as amended, with the modifications as described in Section 1.2 Applicability of this Ordinance.

**Subdivision, Major** means any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed road.

**Subdivision, Minor** means any subdivision containing 4 lots or dwelling units or fewer, and in which no road is proposed to be constructed.

**Substantial Construction** (See "Complete Substantial Construction")

**Tract or Parcel of Land** means all contiguous land in the same ownership provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Traffic Impact Analysis** means a study and report assessing road and traffic conditions with and without the addition of traffic from a proposed development, and which includes an analysis of mitigation measures necessary to address congestion or unsafe conditions on public roads.

**Vegetation** means all live trees, shrubs, and other plants.

**Vernal pool** means an area exhibiting pooling, aquatic vegetation and even small creatures for a limited time of year, usually during the spring flooding, and drying up over the course of the summer.

**Waiver** means a modification of one or more submission requirements for subdivision review, granted by the Planning Board upon a finding that the submission requirement is not necessary to proper review of the application.

**Wetland** means areas which are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and which are not part of a great pond, river, stream, or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This also includes forested wetlands.

### Section 4 Administrative Procedures and Fees

#### 4.1 *Agenda, Submission Deadlines, Applicant Attendance Required*

- 4.1.1 The Planning Board Chair shall prepare a written agenda for each regularly scheduled meeting, special meeting or hearing. Applicants shall request to be placed on the Planning Board's

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agenda at least 14 days in advance of a scheduled meeting. A file shall be established for every proposed subdivision.

- 4.1.2 All applications shall be submitted to the Planning Board Chair at least 14 days prior to the meeting at which the applicant wishes to be heard by the Planning Board. The applicant, or a representative, shall present the application to the Planning Board. Failure to attend the meeting may result in a delay of the Planning Board's review until the next meeting the applicant attends.

### **4.2 *Joint Meetings with Adjacent Municipalities***

If any portion of a subdivision crosses town boundaries, all meetings and hearings to review a subdivision application must be held jointly by the reviewing authorities from each town. The reviewing authorities in each town, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

### **4.3 *Application Fee and Escrow Account for Review by Outside Experts***

- 4.3.1 Application Fee. An application for subdivision approval shall include payment of a non-refundable permit fee as set by the Board of Selectmen. The application shall not be considered complete until this fee is paid.
- 4.3.2 Escrow Account. The Planning Board may require that the applicant deposit with the Town, funds sufficient to reimburse the Town for all reasonable costs for hiring independent consulting services to review engineering and other technical submissions associated with the application and to ensure compliance with this Ordinance. If the Planning Board requires an escrow account, the applicant shall pay an escrow fee as specified in the Board of Selectmen's permit fee schedule to be deposited in a special escrow account designated for that subdivision application. If the balance in this special account is drawn down by 75%, the Planning Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Planning Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. In the event that the amount held in escrow is more than the amount of actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

## **Section 5 Application Review Process**

### **5.1 *Sketch Plan Review***

- 5.1.1 The purpose of sketch plan review is for the applicant to present general information regarding the proposed subdivision, and to receive Planning Board comments prior to undertaking the costs associated with further development of the proposal. The Planning Board shall also classify the subdivision as a minor or major subdivision in accordance with section 5.1.4. Sketch Plan Review shall not be considered the initiation of the review process for the purposes of bringing the plan under protection of 1 M.R.S. § 302.
- 5.1.2 The applicant shall submit to the Planning Board Chairperson an application for sketch plan review as required in Section 6.1 of this Ordinance.
- 5.1.3 At the sketch plan review meeting, the Planning Board will provide guidance as follows:

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- A. A determination of the scope of the application, including the classification of the subdivision as a minor or major subdivision, the required review process, and other information such as to whether the subdivision contains roads or other utilities which may require detailed information, or whether the proposed subdivision may need permits or review by state or federal agencies.
  - B. A determination of a suitable contour interval to be utilized on the final plan, and whether additional submittals, such as a traffic study, erosion control plan, or analysis of special historic or ecological resources, should be included.
  - C. A preliminary opinion concerning any waivers to submission requirements. Formal acceptance of waivers shall not occur until the Planning Board has an opportunity to review the final plan.
  - D. An opinion on the requirement for and amount of a technical review fee.
- 5.1.4 The Planning Board shall classify each project as a major or minor subdivision.
- A. A Minor Subdivision is any subdivision containing 4 lots or dwelling units or fewer, and in which no road is proposed to be constructed.
  - B. A Major Subdivision is defined as any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed road.
- 5.1.5 The Planning Board may hold an on-site inspection of the property. The applicant shall, if requested by the Planning Board, place "flagging" at the center of any proposed roads and at the approximate intersections of the road center lines and lot corners prior to the on-site inspection.
- 5.1.6 The Planning Board shall authorize the submission of the final plan application, as applicable, when the sketch plan review is complete.
- 5.1.7 Upon receipt of the formal application of the final plan the Planning Board shall determine if the classification is still correct and may reclassify the application if the scope has changed.

### **5.2 Final Plan Review**

- 5.2.1 The applicant shall submit a final plan as specified in Section 6.2 of this Ordinance within 6 months after the Planning Board has authorized the submission. The Planning Board may, upon failure to meet the 6 month deadline, require the application to return to the sketch plan review phase, and that the applicant pays required application fees.
- 5.2.2 The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Planning Board.
- 5.2.3 Within one week of receipt of a final plan application, the Planning Board Chairperson shall issue a dated receipt to the applicant, and: 1) notify the clerk and the review authority of any neighboring towns if any portion of the subdivision abuts or crosses the municipal boundary; and 2) notify any supplier of a "public water system" when the subdivision is located on parcels wholly or partially within the "source water protection area" as mapped by the Maine Drinking Water Program.
- 5.2.4 Within 30 days of the receipt of a final plan application, the Planning Board shall determine if the submission is complete and shall notify the applicant in writing of this finding. If the Planning Board determines the application is incomplete, the notice shall specify the additional materials required, and shall advise the applicant that the application will not be considered by

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the Planning Board until the additional information is submitted. A determination of completeness under this section does not preclude the Planning Board from requiring additional materials necessary for the review of the project.

- 5.2.5 Upon a determination that the application is complete, the Planning Board may notify other town officials and entities, such as the Board of Selectmen, Road Commissioner, Water District Superintendent, and Fire Chief.
- 5.2.6 Planning Board Meeting to Review the Final Plan
- A. Upon a determination that the application is complete, the Planning Board shall schedule, and provide public notice for, a meeting of the Planning Board to review the application. The applicant or his/her authorized agent must be present at all Planning Board meetings and hearings where the application is to be considered.
  - B. All final plan submission requirements shall be submitted to the Planning Board Chairperson at least 14 days prior to the meeting at which the applicant wishes to be heard by the Planning Board.
  - C. All abutting landowners and landowners within 1,500 feet of the subdivision property boundaries as shown on the Starks Assessor's records shall be notified by first-class mail, that an application has been accepted. All public water suppliers shall be notified for proposals within 1,500 feet of their wellheads. This notice shall contain a description of the proposal, the applicant's name, the availability of the application for public inspection, and the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project. This notice shall also include notice for the Planning Board meeting and hearing where the final plan will be considered. Public notice to the abutters and public water suppliers shall be provided by the applicant, with Planning Board approval of the contents of the notice. The Planning Board may waive this requirement.
- 5.2.7 A public hearing must be held within 30 days after the determination that a complete application has been submitted or within any other time limit that is mutually agreed upon by the Planning Board and the applicant. The purpose of the hearing is to allow the applicant and affected property owners to provide information as part of the record the Planning Board will use in considering its action on the application. The Planning Board Chairperson shall notify the applicant and publish the time, date, and place of the hearing at least 2 times; the date of the first publication to be at least 7 days prior to the hearing in a newspaper of area-wide circulation.
- 5.2.8 Planning Board Decision on the Final Plan
- A. The Planning Board shall, within 30 days of the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, make findings of fact on the application, and approve, approve with conditions, or deny the final plan application. The Planning Board shall specify in writing its findings of fact, conclusions, and reasons for any conditions or denial.

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- B. The Planning Board shall notify the applicant of the Planning Board's action including the findings of fact and any conditions of approval or reasons for denial. This requirement can be met through the distribution of minutes of the meeting or an approval letter.

### **5.3 Final Approval and Filing**

- 5.3.1 No plan shall be approved by the Planning Board as long as the applicant is in violation of the provisions of a previously approved subdivision plan within the Town.
- 5.3.2 Upon findings of fact and a determination that all standards in 30-A, M.R.S. § 4404, as amended, and this Ordinance have been met, the Planning Board shall vote to approve the subdivision and sign the final plan. The Planning Board shall specify in writing its findings of fact and conclusions, and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Planning Board for its permanent records. Copies shall be forwarded to the Starks Property Tax Assessors and the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.
- 5.3.3 No changes, erasures, modifications, or revisions shall be made to any after Planning Board approval, unless the Planning Board approves the revised plan in accordance with Section 9. The Planning Board shall make findings and conclusions of law that the revised plan meets the criteria of 30-A, M.R.S. § 4404, as amended, and the standards of this Ordinance. If a plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- 5.3.4 Planning Board approval of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any road, recreation area, easement, or other open space shown on such plan. The Planning Board shall require the final plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 5.3.5 Failure to complete substantial construction (see definitions) of the subdivision within 3 years of the date of approval and signing of the final plan shall render the plan null and void. Upon determining that a subdivision approval has expired under this paragraph, the Planning Board shall have a notice placed in the Registry of Deeds to that effect.
- 5.3.6 When an approved subdivision permit is transferred to a new owner or lessee of the property for which the permit was granted, the new owner or lessee must appear before the Planning Board with a signed statement that he/she will adhere to all of the conditions and specifications of the approved final plan. This provision shall not supersede the expiration of approved subdivision permits (Section 5.3.5 Subdivision Approval Expiration).

## **Section 6 Submission Requirements**

### **6.1 Sketch Plan Review Submissions**

The sketch plan, which may be a free-hand penciled sketch, shall show the proposed layout of the subdivision, and should be supplemented with general information to describe the existing conditions

## Subdivision Ordinance for the Town of Starks

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of the site and the proposed development as required in Table 6.1. The sketch plan shall contain, at a minimum, 8 copies of the following:

Table 6.1 Required Sketch Plan Submissions (Checklist)
1. Completed sketch plan application form and application fee
2. A description of existing conditions - the number and size of lots, constraints and opportunities
3. Name, addresses, and contact information of record owner, applicant, preparer, and consultants
4. Evidence of right, title, or interest in the property
5. Copy of the property tax map showing the map and lot number of the parcel to be subdivided
6. A copy of a portion of the U.S.G.S. topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision
7. A copy of that portion of the Somerset County Medium Intensity Soil Survey covering the proposed subdivision with the boundaries of the proposed subdivision shown
8. A plan of the parcel, with an accurate scale, showing at a minimum the information listed below: <ul style="list-style-type: none"><li>a. Name(s) of the applicant and owner of the parcel</li><li>b. North arrow, date and map scale</li><li>c. Boundary and lot lines of the subdivision</li><li>d. Approximate location, width and purpose of easements or restrictions</li><li>e. Roads on and adjacent to the tract</li><li>f. Approximate location and size of existing utilities on/adjacent to the tract</li><li>g. Existing buildings, structures, or other improvements on the site</li><li>h. The major natural features of the site, approximated by the applicant, including wetlands, streams, ponds, floodplains, groundwater aquifers, tree lines, significant wildlife habitat and fisheries, and other important natural features</li></ul>
9. Any anticipated requests for waivers from the submission requirements (See Sec.9 Waivers)
10. Listing of any traffic studies, utility studies, market studies or other applicable work to be conducted for the plan

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### 6.2 Final Plan Submissions

Final plan submissions shall approximate the layout shown on the sketch plan, plus any recommendations made by the Planning Board, and shall include the submissions listed in Table 6.2, unless the applicant is granted a waiver in accordance with Section 8 Waivers. The Planning Board may require additional information, as necessary, to determine if the criteria of this Ordinance are met (See Section 7 Review Criteria and Standards). Eight copies of the following shall be submitted:

Table 6.2 Required Final Plan Submissions (Checklist)
A. Completed application, the application fee, establishment of escrow account (if applicable)
B. Location Map drawn at a size adequate to show the relationship of the subdivision to adjacent properties, and to allow the Planning Board to locate the subdivision within the Town. The map shall show:
1. Existing land uses and subdivisions in the proximity of the proposed subdivision
2. Locations and names of existing and proposed roads
3. Boundaries and designations of shoreland zoning districts
4. An outline of the subdivision and any remaining portion of the owner's property if the Plan covers only a portion of the owner's entire contiguous holdings
C. Final plan that consists of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can be easily read. Plans shall be no larger than 24 inches 36 inches in size, and shall have a margin of 2 inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the Plan for endorsement by the Planning Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and 3 full sized paper copies of all the final plan sheets and any supporting documents shall be submitted. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual. In addition, one copy of the plan shall be reduced to a size of 8½ inches by 11 inches or 11 inches by 17 inches for Planning Board members. The following information shall be on the plan:
1. Name of subdivision or identifying title, and name of the town(s) in which it is located, plus property tax assessor's map and lot numbers
2. Date plan was prepared, magnetic and true north point, graphic map scale
3. Names and addresses of record owner, applicant, and all involved in preparing plan
4. Deed references, existing and proposed deed restrictions, covenants, easements, rights-of-way, or other encumbrances or conditions affecting the property. Include any public rights for physical or visual access to the shoreline of a water body.
5. Names and addresses of all abutters, including property owners across any existing road from the subdivision. Include property lines, tax map and lot numbers, and deed references
6. Standard boundary survey and internal development survey with complete descriptive data by bearings and distances, made by a professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years (Title 30-A M.R.S. § 4401). The plan shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. (Table continues on next page)

## Subdivision Ordinance for the Town of Starks

7. Location of all monuments to be placed at the corners of the parcel and each lot, and the type of monument (granite, concrete, iron pin, or drilled hole in ledge)
8. Number of acres in the subdivision; proposed lot numbers and acreages for each lot
9. Contour lines at interval specified by Planning Board, showing elevations relative to mean sea level
10. Location and boundaries of all water bodies and wetlands, including vernal pools, and the location of any shoreland zoning affecting the tract
11. Location and type of vegetative cover, unusually large trees, other essential features
12. Proposed building locations that meet the requirements of the Building Ordinance for the Town of Starks and the Maine Subsurface Wastewater Disposal Rules. For proposed subsurface wastewater disposal systems, the location of at least one test pit per lot, performed by a Maine licensed site evaluator or certified soil scientists
13. Emergency 911 lot addresses, approved by Town's addressing agent, shown on plan
14. The location, names, and dimensions of existing and proposed roads, utilities, easements, building lines, parks, open spaces or other improvements on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
15. Proposed locations of private, shared, and/or community wells
16. Location and size of existing and proposed water lines, culverts, and drainage ways on or adjacent to the property to be subdivided
17. Detailed design and construction plans for the infrastructure, including, but not limited to, roads, parking lots, sidewalks, and utilities in accordance with the Town's Ordinances, including, but not limited to, the Road and Utility Structures Ordinance for the Town of Starks.
18. If roads are to remain privately owned, the following shall be noted on the final plan: "All roads shall remain private roads to be maintained by the developer or lot owners, and shall not be accepted or maintained by the Town."
19. Location of any proposed open spaces to be preserved including vegetative buffers, common areas, significant wildlife habitat, unique natural areas, historic or prehistoric sites, shoreland zone resource protection zones, and farmland. (See Sections 8.7 and 8.8)
20. Delineation of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map. If any portion of the subdivision is within the flood hazard area, the following note shall be on the final recording plan: "If any portion of this subdivision is within a flood hazard area, all principal structures hereafter constructed or placed herein shall be so located that their lowest floor, including basement, is at least one foot above the 100-year flood elevation"
21. Any waiver(s) approved by the Planning Board in accordance with Section 9 Waivers
<b>D. Other Required Information</b>
1. Verification of right, title, and interest to the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest
2. Copy of most recently recorded deed, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property
3. Copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision (Table continues on next page)



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4. For private subsurface sewage disposal systems, a copy of the test pit analysis for each lot performed by a Maine licensed site evaluator or certified soil scientist
5. When water is to be supplied by an on-site well(s), a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate
6. When water is to be from an existing public water supply, a written statement from the servicing water district indicating the district's approval of the water system design. A written statement from the Fire Chief approving all hydrant locations or other fire protection
7. For projects located wholly or partially within the wellhead protection area of a public water supply as mapped by the Maine Drinking Water Program, a written statement from the water provider indicating the proposed development will not negatively impact essential operations
8. When a private community water supply system is proposed, evidence that the system shall conform to the Maine Rules Relating to Drinking Water (10-144A CMR 231)
9. Location of any sand and gravel aquifers as mapped by the Maine Geologic Survey (MGS). The Planning Board may require a hydrogeologic assessment prepared by a certified geologist or professional engineer, experienced in hydrogeology, when any part of the subdivision is located over a significant sand and gravel aquifer, or where site considerations or development design indicate greater potential of adverse impacts on groundwater quality.
10. Medium intensity soils map that encompasses the area to be subdivided. Wetlands shall be identified on the survey, regardless of size. The Planning Board may require a high intensity soils map in instances where poor soils are evident and/or if the subdivision proposes high-density development
11. Description of the measures to be taken to control erosion and sedimentation onto adjacent properties including roads, and into water bodies in accordance with Section 7.3. Major subdivision applicants must submit an erosion and sedimentation control plan prepared by a qualified professional that details control structures to be installed along with ongoing maintenance procedures and practices to be followed during site preparation, construction and clean-up stages.
12. Description of solid waste and demolition waste disposal
13. Landscape plan showing the preservation of any existing trees, replacement of trees and vegetation, graded contours, streams, and preservation of scenic, historic, or environmentally significant areas
14. Description of measures to assure no undue adverse effect to identified significant wildlife habitat and unique natural areas based on attached letters from public agency(ies) (Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Department of Marine Resources) and/or other experts approved by the Planning Board.
15. Description of measures to assure no undue adverse effect to any historic or prehistoric sites within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places based on attached letter(s) from the Maine Historic Preservation Commission and/or other experts approved by the Planning Board.
16. Description of any measures to conserve productive farmland
17. Description of any measures to provide solar energy access (Table continues on next page)

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<p>18. Affidavit signed by the applicant indicating no timber harvest occurred on the tract within the preceding 5 years, or if it has, an affidavit signed by a licensed forester or an agent of the Maine Forest Service indicating the timber harvest was not in violation of rules adopted pursuant to 12 M.R.S. § 8869(14), as amended</p>
<p>19. Evidence of adequate financial and technical capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit.</p>
<p>20. Copy of driveway entrance permit(s) from Town and/or Maine Department of Transportation</p>
<p>21. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours, with trip generation rates from the most recent available edition of the Trip Generation Manual (Institute of Transportation Engineers). Trip generation rates from other sources may be used if these sources better reflect local conditions.</p>
<p>22. Description of proposed ownership, management and any improvements for all parcels proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained. These may include homeowners' association bylaws and condominium declarations. The applicant shall provide evidence that a legal entity has been established for common multi-user systems and ownership vested by deed reference for future potential owners for such items as roads, wells, septic systems, stormwater facilities, etc.</p>
<p>23. If proposed roads or other land is to be offered to the Town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title. All roads and other public improvements not dedicated to the Town during such time prior to the actual acceptance by the Town shall be maintained by the subdivision owners or developer. A legal agreement indicating how the infrastructure will be maintained shall be submitted. The Planning Board shall review the maintenance plan to ensure sufficient provisions have been incorporated to maintain all improvements for the applicable time period.</p>
<p>24. The construction items for which cost estimates and performance guarantees will be required to include a construction schedule, cost estimates taking into account inflation, provisions for inspections, and a completion date after which the developer will be in default and the Town will have access to the funds to finish the construction. Planning Board approval of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any road, easement, open space, or other land shown on the plan. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.</p>
<p>25. All submissions required by the Town of Starks Road and Utilities Ordinance, the Starks Site Plan Review Ordinance, and any other Town Ordinance, as applicable.</p>
<p>26. Letters from the Starks Board of Selectmen, Road Commissioner and/or Fire Chief indicating their review and any concerns regarding the subdivision, as required by the Planning Board</p>
<p>27. Written evidence that all required federal and state permits have been obtained. Where there is uncertainty, the Planning Board may require that the applicant to obtain a written opinion from the respective agency.</p>

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# Subdivision Ordinance for the Town of Starks

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## Section 7 Review Criteria and Standards

**Purpose:** These review criteria are those found in 30-A, M.R.S. § 4404. The standards clarify and expand upon the review criteria. In all instances, the burden of proof is on the applicant to present information that, in the judgment of the Planning Board, sufficiently demonstrates conformance with these review criteria and standards. This shall not be construed as limiting the authority of the Planning Board to require additional evidence or impose additional standards based on characteristics of the site or development. For example, the Planning Board may require that minor subdivisions meet the additional requirements of major subdivisions where necessary to demonstrate conformance with the review criteria and standards of this section.

**Findings of Fact and Conclusions of Law.** In issuing its decision, the Planning Board shall make written findings of fact and conclusions of law relative to the review criteria and standards contained in this Ordinance. Applicants for major subdivisions are encouraged to prepare written findings of fact and conclusions of law for the Planning Board's consideration. If the Planning Board finds that all criteria and standards of this Ordinance have been met, it shall approve the final plan. If the Planning Board finds that any of the provisions of this Ordinance have not been met, the Planning Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards shall be met.

### 7.1 Sufficient Water Supply

7.1.1 Criterion: The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

7.1.2 Criterion: The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

7.1.3 Standards:

- A. A subdivision not served by the Starks Water District shall be served in accordance with applicable state rules for individual wells or private community water supply systems.
  1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other potential sources of contamination. Each lot shall be designed so that wells comply with the Maine Subsurface Wastewater Disposal Rules and the Maine Well Drillers and Pump Installers Rules.
  2. The water source, source protection measures, and system design, installation and operating procedures for a private community water supply system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231). Documents establishing the legal responsibilities and procedural framework for the ongoing fiscal and operational management of the community water system shall be executed prior to occupancy of the subdivision.
  3. In situations where there is concern about the available water supply, the Planning Board may require applicants to submit a letter from a local well driller or hydrogeologist familiar with the area indicating there is a sufficient, healthful water supply to serve the needs of the subdivision.

## Subdivision Ordinance for the Town of Starks

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4. Major Subdivisions (additional standards). In areas where the Starks Fire Department has identified the need for additional water storage capacity for fire-fighting, water storage facilities such as ponds and underground storage tanks, satisfactory to the Fire Chief, should be provided at the applicant's expense.
- B. The following standards apply to a subdivision located within the Water District's service area:
  - 1) Upon occupation of the subdivision, service demand shall fall within the District's available service capacity; and
  - 2) The complete water service system, including the service lines to each lot or unit, and fire hydrants, shall be designed and installed in accordance with the rules and specifications of the District and at the applicant's expense. The applicant shall provide letters from the applicable water supplier and Fire Chief indicating that the water service system is designed to their satisfaction.

### **7.2 Impact on Groundwater Quality and Quantity**

- 7.2.1 Criterion: The subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- 7.2.2 Standards:
  - A. The subdivision shall not pose an unreasonable risk that a discharge of pollutants to groundwater will occur, or that groundwater withdrawals will lower the water table beyond the boundaries of the subdivision.
  - B. Major Subdivisions (additional standards)
    1. The Planning Board may require a hydrogeologic assessment prepared by a certified geologist or professional engineer, experienced in hydrogeology, when:
      - a) Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985 as amended;
      - b) If the subdivision exceeds 20 lots or dwelling units with individual or shared wells and septic systems; or
      - c) In other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality, such as the proposed development will use shared or common subsurface waste water disposal systems.
    2. When a hydrogeologic assessment is required, it should contain at least the following:
      - a. A map showing the basic soils types and locations of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries
      - b. The depth to the water table at representative points throughout the subdivision
      - c. Drainage conditions throughout the subdivision
      - d. Data on existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties
      - e. An analysis and evaluation of the effect of the subdivision on groundwater resources. The evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. Projections of groundwater quality shall be based on the assumption of drought conditions (i.e. 60% of annual average precipitation).

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3. Drinking water wells and subsurface wastewater disposal systems shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a condition of plan approval, and as restrictions in the deeds to the affected lots.

### **7.3 Soil Erosion, Sedimentation and Impact on Water Bodies**

7.3.1 Criterion: The proposed subdivision will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

7.3.2 Standards:

- A. The proposed subdivision shall be designed to prevent soil erosion and sedimentation from entering water bodies, wetlands, public roads, and adjacent properties.
- B. Filling, excavation, and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:
  1. Preservation and protection of natural vegetation where possible
  2. Keeping duration of exposure of disturbed soils to as short a period as possible
  3. Use of temporary vegetation or mulching to protect exposed areas during development
  4. Where appropriate or necessary, use of sediment basins, silt traps or other acceptable methods to trap sediment from stormwater runoff
  5. No storage of fill materials within 50 feet of any stream or water body
  6. Topsoil shall not be removed from the site, except for surplus topsoil removed from areas to be occupied by buildings, paving, or other surfaces that will not be revegetated.
  7. Adequate provision shall be made for surface drainage so that discharge of stormwater will not have an unreasonable adverse effect on neighboring properties, downstream water quality, soil erosion, or on public roads, culverts, and other infrastructure. Whenever possible, on-site absorption of runoff shall be used to minimize discharges from the site.
- C. Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation
- D. The subdivision shall comply with 38 M.R.S. § 420-C. Erosion and Sedimentation Control and the Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, 2003, or most current edition, as required by state law.
- E. Major Subdivisions (additional requirement). The application shall include an erosion and sedimentation control plan prepared by a qualified professional that details control structures to be installed, ongoing maintenance procedures, and practices to be followed during the site preparation, construction, and clean-up stages.

### **7.4 Traffic Conditions**

7.4.1 Criterion: The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

7.4.2 Standards:

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- A. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision to: safeguard against hazards to traffic and pedestrians in existing roads and within the subdivision; avoid traffic congestion on any road; and provide safe and convenient circulation on public roads and within the subdivision.
- B. Access and circulation shall also conform to the following:
  - 1. Entrance/ Driveway Permits Required
    - a. State Permit. If the proposed subdivision requires driveways or road entrances onto a state or state aid highway, the applicant shall provide documentation indicating that the driveways or entrances conform to Maine Department of Transportation (MDOT) Chapter 299, Highway Driveway and Entrance Rules as amended.
    - b. Local Permit. The applicant must provide documentation that the proposed subdivision meets the requirements of the Road and Utility Structures Ordinance for the Town of Starks.
  - 2. If the proposed subdivision requires a MDOT Traffic Movement Permit (23 M.R.S. § 704-A), the applicant shall submit evidence of permit approval from the MDOT.
  - 3. Where a subdivision lot is proposed to have frontage on two or more roads, access to the lot shall be via the road where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. The Planning Board may waive this requirement where there are aspects of the site that would make this requirement not feasible.
- C. Major Subdivisions (additional standards)
  - 1. The road providing access to the subdivision and neighboring roads and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. The Planning Board may require a traffic impact study of roadways and intersections in the vicinity of the proposed subdivision if the subdivision has the potential of generating significant amounts of traffic, or if traffic safety and capacity deficiencies exist in the vicinity of the project site.
  - 2. Where topographic and other conditions allow, provisions shall be made, and noted on the plan, for connections to adjoining lots of similar existing or potential use.
  - 3. Where a major subdivision abuts a state highway (e.g., Routes 43, 134 and 148), no lot shall have direct vehicular access directly onto the state highway. This requirement shall be noted on the final plan and in deeds of any lot with frontage on the state highway. To satisfy this requirement, a driveway for an individual lot may connect to a shared driveway on internal subdivision road.
    - a. Subdivisions with up to 6 lots may be served by a single shared driveway. Shared driveways are exempt from the Section 9 Road Construction Standards for Developments in the Road and Utility Structures Ordinance for the Town of Starks, excepting that shared driveways must have a right-of-way width of at least 75 feet.
    - b. Subdivisions with more than 6 lots must be served by an internal subdivision road that meets the Section 9 Road Construction Standards for Development in the Road and Utility Structures Ordinance for the Town of Starks.
  - 5. Any subdivision containing 15 lots or more shall have at least two connections with existing public roads, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted.

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## Subdivision Ordinance for the Town of Starks

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### **7.5 Sewage Disposal**

- 7.5.1 Criterion: The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- 7.5.2 Standard: A proposed subdivision served by individual subsurface wastewater disposal systems, or by a common collection and subsurface disposal system, or other treatment system shall be in full compliance with the Maine Subsurface Wastewater Disposal Rules. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

### **7.6 Solid Waste**

- 7.6.1 Criterion: The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if municipal services are to be utilized.
- 7.6.2 Standard: The proposed subdivision must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes. The applicant shall provide a description of how solid waste, including demolition waste shall be disposed of. The Planning Board may also require that the application include a letter from the Board of Selectmen referencing the ability of the Town's solid waste services to absorb the additional materials, as applicable.

### **7.7 Aesthetic, Cultural and Natural Values**

- 7.7.1 Criterion: The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- 7.7.2 Standards:
- A. The Planning Board may require a landscape plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas. Further, the Planning Board may require notes on the final plan and deed restrictions, as necessary to assure the required landscaping is maintained in the future.
  - B. Any existing or proposed public or private rights for physical or visual access, including access to the shoreline of a water body, shall be depicted on the Plan and shall be described in the deed or deeds of any lot or other parcel within the subdivision that benefits from or is subject to such access rights.
  - C. Subdivisions shall be designed to retain and conserve important open spaces, and natural and cultural resources to the greatest extent practicable to assure there will be no undue adverse effect to these resources. The Planning Board may require that any restrictions to protect historic and prehistoric sites, unique natural areas, or significant wildlife habitat appear as notes on the Plan and as deed restrictions to the affected lots.
    - 1. An application for a subdivision that includes any historic or prehistoric sites that are either listed on, or deemed eligible to be listed on the National Register of Historic Places, shall

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- describe the measures to be taken to assure there will not be an undue adverse effect on these sites.
2. An application for a subdivision that includes any area designated as a Unique Natural Area by the Maine Natural Areas Program (MNAP) shall describe the measures to be taken to assure there will not be an undue adverse effect on these unique natural areas and the species they support.
  3. If any portion of a subdivision lies within 250 feet of Significant Wildlife Habitat (SWH) as identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW), the following shall apply: a) the application shall describe the measures to be taken to assure there will not be an undue adverse effect on the SWH and the species it supports; b) there shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge of the normal high-water mark of such habitat areas unless the applicant demonstrates there will be no undue adverse effects; and c) the application shall include written comments from the MDIFW.
- D. Major Subdivisions (additional standards): The Planning Board may require the reservation of common open space (as defined) within a proposed subdivision to conserve cultural or natural resources, and/or to provide for the recreational needs of the occupants of the subdivision.
1. In determining the need for common open space the Planning Board shall consider the following:
    - a. Open space needs consistent with the Planning Board's findings for Sections 7.7.2, A, B and C (above), and Section 7.8 Farmland, including the proximity of the subdivision to neighboring open space with similar purposes.
    - b. Recreational needs for common open space based on the proximity of the subdivision to neighboring facilities, the type of development and the demographic characteristics of potential residents of the subdivision, and the density of the development.
  2. Land reserved for common open space purposes shall be of a character, configuration and location suitable for the particular use intended.
  3. Further subdivision of common open space and its use for other than conservation, agriculture or non-commercial recreation shall be prohibited, except that easements for underground utilities may be allowed. Only structures accessory to these uses may be erected on common open space. Common open space that is to be owned by an entity other than the Town shall be subject to a perpetual conservation easement, held by the Town, the state, or a qualified land trust.
  4. All common open space and associated facilities shall be owned by an incorporated lot owners' association to which all lot or dwelling unit owners shall belong, a land trust or other qualified nonprofit land conservation organization, or the Town.
  5. Notes on the final plan shall state that common open space shall not be used for residential or commercial purposes, and shall indicate which portions of the common open space, if any, are to be offered to the Town for acceptance.
  6. The final plan application shall include draft legal documents to assure the common open space is adequately maintained by the lot owners, and the developer until there is adequate development for the lot owners to assume maintenance of the open space.



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### **7.8 Farmland**

- 7.8.1 Criterion: All farmland within the proposed subdivision shall be identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
- 7.8.2 Standards: All subdivisions should be configured to preserve productive farmland (as defined) to the maximum extent practicable. New structures and roads may be built on farmland to the extent allowed under other provisions of this Ordinance, but the applicant is encouraged to seek creative measures to minimize development that occurs on productive farmland, or divides a single field, or otherwise reduces the ease with which a parcel of farmland can be farmed in the future. All areas of farmland of 5 or more acres must be identified on one or more plan drawings. Farmland is defined by state statute as any area of 5 or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by the United States Department of Agriculture Natural Resource Conservation Service, or is used for the production of agricultural products as defined in 7 M.R.S. § 152(2).

### **7.9 Conformance with Local Ordinances and Plans**

- 7.9.1 Criterion: The proposed subdivision is in conformance with the duly adopted plans and ordinances for the Town of Starks. In making this determination, the Planning Board may interpret these ordinances and plans.
- 7.9.2 Standard: The proposed subdivision shall conform to the Shoreland Zoning Ordinance for the Town of Starks, the Site Plan Review Ordinance for the Town of Starks, the Floodplain Management Ordinance for the Town of Starks, the Road and Utility Structures Ordinance for the Town of Starks, the Building Ordinance for the Town of Starks, and other ordinances and plans, as applicable.

### **7.10 Financial and Technical Capacity**

- 7.10.1 Criterion: The developer has adequate financial and technical capacity to meet the standards of this Ordinance.
- 7.10.2 Standards:
- A. The applicant shall demonstrate the availability of financial resources sufficient to implement the proposed subdivision plan. In determining the applicant's financial capacity, the Planning Board shall consider cost estimates for implementation of the plan, letters from prospective sources of financing, the proposed time frame for construction, and performance guarantees required of the applicant, as applicable. (See Section 10 Performance Guarantees and Inspection of Required Improvements)
  - B. The applicant shall demonstrate the qualifications of the contractors and consultants, who will supervise, construct and inspect the improvements of the proposed subdivision, as applicable. In determining the applicant's technical ability, the Planning Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the number and nature of any violations of previous approvals granted to the applicant, if any.

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## Subdivision Ordinance for the Town of Starks

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### **7.11 Floodplain Management**

- 7.11.1 Criterion: The subdivision shall be evaluated based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- 7.11.2 Standards: When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency (FEMA), the following shall apply:
- A. The applicant shall determine the 100-year flood elevation, and the flood hazard boundaries within the subdivision shall be shown on the subdivision plan.
  - B. All public utilities and facilities, such as septic, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
  - C. Adequate drainage shall be provided to reduce exposure to flood hazards.
  - D. The subdivision plan shall include a statement that all principal structures shall be constructed with their lowest habitable floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sales agreement, or document transferring or expressing the intent to transfer any interest in real estate or structure.
  - E. The plan shall meet the requirements of the Town's Floodplain Management Ordinance.

### **7.12 Freshwater Wetlands, Rivers, Streams and Brooks**

- 7.12.1 Criterion: All freshwater wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.
- 7.12.2 Criterion: Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 § 480-B, sub§9.
- 7.12.3 Standards. Every wetland, river, stream or brook within or abutting the proposed subdivision shall be identified and depicted on the subdivision plan. Wetland boundaries shall be delineated in the field in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers.

### **7.13 Stormwater Management**

- 7.13.1 Criterion: The proposed subdivision will provide for adequate stormwater management.
- 7.13.2 Standards:
- A. Adequate provision shall be made for managing the quantity and quality of all stormwater generated within the subdivision, including the collection and disposal of all runoff from proposed roads, parking areas, and other impervious surfaces. Stormwater shall be retained using vegetation and other natural features of the site to the greatest extent feasible. Stormwater shall not create adverse impacts on public roads and other public properties, water bodies, or on abutting or downstream properties.

## Subdivision Ordinance for the Town of Starks

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- B. Major Subdivisions Requiring State Stormwater Permits (additional standards)
1. Applications for subdivisions that require a state permit under the Site Location of Development Law or the Stormwater Management Law shall include a stormwater management plan prepared by a professional engineer demonstrating compliance with the standards of Maine Department of Environmental Protection Rule Chapter 500 (Stormwater Management Regulations). Applications shall include a copy of the State permit.
  2. For projects involving structural treatments, such as detention ponds, a Stormwater Maintenance Agreement that describes how the stormwater facilities shall be maintained through the course of their projected life, shall be submitted at the time of application.

### **7.14 Spaghetti Lots Prohibited (Shoreland Zoning Areas)**

- 7.14.1 Criterion: If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 M.R.S. § 480-B, none of the lots created within the subdivision will have a lot depth to shore frontage ratio greater than 5 to 1, unless other provisions of this Ordinance are more restrictive.
- 7.14.2 Standard: The subdivision plan shall clearly show that any subdivision lot with shore frontage on a river, stream, brook or great pond, as defined in the Maine Shoreland Zoning statute, will not have a lot depth to shore frontage ratio greater than 3 to 1, unless the lot is greater than 40 acres, in which case the lot depth to shore frontage ratio shall not be greater than 5 to 1. (See Section 7.19, C)

### **7.15 Surface Waters and Outstanding River Segments (e.g., Sandy River)**

- 7.15.1 Criterion: Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
- 7.15.2 Standard: When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

### **7.16 Impact on Adjoining Municipality**

- 7.16.1 Criterion: For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- 7.16.2 Standard: If any proposed subdivision crosses municipal boundaries, the Planning Board shall conduct a review parallel to the review of the adjoining municipality, and shall attempt to conduct at least one joint meeting. If either municipality requests a traffic study or traffic impact analysis by the applicant, the study shall be made available to both review authorities.

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### **7.17 *Lands Subject to Liquidation Harvesting***

7.17.1 Criterion: Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. § 8869, sub-§14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.

7.17.2 Standards:

- A. If the tract to be subdivided shows evidence of having been forested within the preceding 10 years, the applicant shall submit an affidavit concerning the status of timber harvesting operations. The affidavit shall be signed by the Maine Forest Service (MFS) or a forester licensed pursuant to Title 32, chapter 76. The affidavit shall state whether the timber was harvested in compliance with 38 M.R.S. § 8869(14), and the MFS Rule (Chapter 23 Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting).
- B. If a violation of the above-cited rules adopted by the MFS has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the MFS to determine whether a rule violation has occurred. For the purposes of this subsection, "parcel" means a contiguous area within the Town owned by one person or a group of persons in common or joint ownership.

### **7.18 *Pollution***

7.18.1 Criterion: The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider: 1) the elevation of the land above sea level and its relation to the floodplains; 2) the nature of soils and subsoils and their ability to adequately support waste disposal; 3) the slope of the land and its effect on effluents; and 4) The applicable state and local health and water resource rules and regulations.

7.18.2 Standards

- A. Water Pollution
  1. The proposed subdivision will meet all applicable water quality control standards of the Maine Department of Environmental Protection.
  2. Water supplied to lots or units within the subdivision shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If water supplied to any lot or unit within the subdivision contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the final subdivision plan.
  3. The subdivision will satisfy the requirements of sections 8.3, 8.5, 8.10, and 8.11, of this Ordinance.
- B. The proposed subdivision will meet any applicable air pollution regulations of the Maine Department of Environmental Protection.

### **7.19 *Lot Size, Dimensional and Setback Requirements, and Monumentation***

7.19.1 Criterion and Standards: The proposed subdivision will meet the following requirements.

- A. All lots shall be at least one acre in size. If a lot on one side of a stream, public road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream or road to meet the minimum lot size. For the

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purposes of subsection 7.19.1 “stream” is defined as the following waterbodies: Lemon Stream, Hilton Brook, Pelton Brook, Josiah Brook, and Falls Brook, as labeled on the Town of Starks Shoreland Zoning Map.

- B. All buildings and structures must be erected, reconstructed, expanded or moved onto a lot in compliance with the requirements of the Building Ordinance for the Town of Starks, as may be amended.
- C. The ratio of lot length to lot width shall not be more than three to one. The lot size ratio shall not be construed to prohibit the grant of a strip or rights necessary to gain access to rear lots however, systems of odd shaped lots such as flag lots in which narrow strips are joined to other parcels to meet minimum lot size requirements or to circumvent the lot size ratio are prohibited. The distances used to determine the lot size ratio shall be the longest straight distance between any two principal turning points in the lot as compared to the shortest distance between any two principal turning points where a principal turning point is defined as one with a deviation in course of more than thirty degrees. For lots greater than 40 acres in size, the allowable lot size ratio shall not be more than five to one.
- D. Monuments.
  - 1. Stone, precast concrete monuments, or iron pins shall be set at all road intersections and points of curvature, but no further than 750 feet apart along road lines without curves or intersections.
  - 2. Stone, precast concrete monuments or iron pins shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
  - 3. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

### **7.20 Access to Direct Sunlight**

7.20.1 Criterion: Encourage the protection of access to direct sunlight for solar energy systems.

7.20.2 Standard: Encourage the platting of lots and orientation of new roads on an east-west axis to allow for building siting with maximum exposure of roof and wall area to the sun. The slope of the property and the nature and location of existing vegetation as they affect solar access should also be considered.

### **7.21 Multifamily Developments**

7.21.1 Criterion: All multifamily developments shall comply with the applicable provisions of the Site Plan Review Ordinance for the Town of Starks.

7.21.2 Standards: All multifamily developments shall comply with the following subsections of the Site Plan Review Ordinance for the Town of Starks: Section 7.8 Storage of Materials, Section 7.10 Traffic Access, Internal Traffic Circulation and Parking, Section 7.12 Nuisances and Aesthetics, Section 7.13 Signs, Section 7.14 Landscaping, Section 7.15 Recreation Areas, and Section 7.19 Multifamily Developments.

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# Subdivision Ordinance for the Town of Starks

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## **Section 8 Waivers**

### **8.1 Waivers of Certain Submission Requirements**

The Planning Board may waive certain submission requirements where there are special circumstances of the development, or where the application is simple and minor in nature, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

### **8.2 Waivers of Certain Improvements**

The Planning Board may waive certain required improvements where there are special circumstances of the development such that the required improvements are not requisite to providing for the public health, safety and welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

### **8.3 Requirements for Waivers**

When granting waivers, the Planning Board may set conditions so that the purposes of this Ordinance are met. The Planning Board shall make a written record of waivers granted and the reasons for granting them to be made a part of the decision. When the Planning Board grants a waiver to any of the improvements required by this Ordinance, the final plan, to be recorded in the Registry of Deeds, shall indicate the waiver(s) granted and the date on which they were granted.

## **Section 9 Revisions to Approved Plans**

### **9.1 Procedure and Scope of Review**

- 9.1.1 If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.
- 9.1.2 Minor Subdivisions. If the revision involves the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed, unless the addition of lots or dwelling units creates a major subdivision, in which case Section 9.1.3 below shall apply.
- 9.1.3 Major Subdivisions. If the revision involves the creation of additional lots or dwelling units, the procedures for final plan approval of a major subdivision shall be followed.
- 9.1.4 The scope of review shall be limited to those portions of the plan proposed to be changed.

### **9.2 Submissions**

The applicant shall submit a copy of the approved plan as well as 8 copies of the proposed revisions, with enough supporting information to allow the Planning Board to determine if the proposed revisions meet the standards of this Ordinance. The revised plan shall indicate it is the revision of a previously approved and recorded plan, and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

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## Section 10 Performance Guarantees and Inspections of Improvements

### 10.1 Performance Guarantees

#### 10.1.1 Application

- A. Improvement Guarantee. The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 10.1.2 below as is reasonably necessary to ensure the proper installation of all improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant. The performance guarantee must be approved as to form and enforceability by the Planning Board or their appointed representative.
- B. Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the Code Enforcement Officer (CEO). The CEO shall inspect all improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
- C. The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the CEO, the Road Commissioner, Board of Selectmen, or other designated individual or expert.
- D. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

#### 10.1.2 Types of Guarantees. The applicant shall provide one of the following types of performance guarantees with the application for final plan approval. The performance guarantee shall be for an amount adequate to cover up to 120% the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rates for construction costs. Agreement on the amount of the guarantee shall be a condition of approval for the application.

- A. Cash Collateral Account. An account may be opened in the name of the Town of Starks at any FDIC insured financial institution. The account may be a savings account, or certificate of deposit. The Town shall be named as owner of the account and the Town shall have the exclusive right to withdraw funds pursuant to the provisions of this Ordinance. Any interest earned on the account shall be returned to the applicant unless the Town has found it necessary to use such interest to complete the required improvements which the Town shall have the right to do under this Ordinance.
- B. Performance Bond. A performance bond issued by a surety company licensed to do business in the State of Maine shall be made payable to the Town and approved by the Board of Selectmen. The performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the development for which approval is sought.
- C. Letter of Credit. An irrevocable letter of credit from an FDIC insured financial institution from which the Town may draw if construction is inadequate as determined by the Board. The Letter

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of Credit shall detail the conditions of the Letter, the method for calling on the Letter or portions of the Letter to the applicant, and the procedures for collection by the Town. The Letter of Credit documents shall specifically reference the development for which approval is sought.

### **10.2 Inspection of Required Improvements**

10.2.1 At least 5 days prior to commencing construction of required improvements, the developer shall:

- A. Notify the CEO in writing of the time when (s)he proposes to commence construction of such improvements, so the Board of Selectmen can arrange for inspections to assure all Town specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Deposit with the Board of Selectmen a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the developer as appropriate. If the inspection account shall be drawn down by 90%, the developer shall deposit an additional 1% of the estimated costs of the required improvements.

10.2.2 If the CEO finds upon inspection of the improvements any of the required improvements have not been constructed in accordance with the plans and specifications filed by the developer, the CEO shall so report in writing to the Board of Selectmen, Planning Board, and the developer. The Board of Selectmen shall take any steps necessary to assure compliance with the approved plans.

10.2.3 If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board and Board of Selectmen. Revised plans shall be filed with the Planning Board and Board of Selectmen. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the developer shall obtain permission from the Planning Board to modify the plans in accordance with Section 9 Revisions to Approved Plans.

10.2.4 At the close of each summer construction season the Town shall, at the expense of the developer, have the site inspected by the CEO. By October 1 of each year during which construction was done on the site, the CEO shall submit a report to the Planning Board and the Board of Selectmen based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

10.2.5 Prior to the sale of any lot, the developer shall provide the Planning Board with a letter from a professional land surveyor, stating all monumentation shown on the plan has been installed.

10.2.6 Upon completion of road construction and prior to a vote by the Board of Selectmen to submit a proposed public way to a Town Meeting vote, a written certification signed by a professional



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engineer shall be submitted to the Board of Selectmen at the expense of the applicant, certifying the proposed public way meets or exceeds the design and construction requirements of these regulations and the Road and Utility Structures Ordinance for the Town of Starks. If there are any underground utilities, the servicing utility shall certify in writing they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Board of Selectmen.

- 10.2.7 The developer shall be required to maintain all improvements and provide for snow removal on roads and sidewalks until acceptance of the improvements by the Town or control is placed with a lot owners' association.

### Section 11 Violations and Enforcement

- 11.1 No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance.
- 11.2 A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- 11.3 A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- 11.4 No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
- 11.5 Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.
- 11.6 Default. Any developer who 1) fails to perform any required improvements in accordance with any timetable established at the time of final plan approval, 2) completes required improvements in a manner which, although timely, is not acceptable to the Town, or 3) maintains a situation that is hazardous to the public health and safety, shall be deemed in default. In addition, a developer shall be deemed in default if any required improvement is not completed in accordance with the final plan and all applicable regulations before the expiration date of any performance guarantees tendered by the developer to the Town with respect to required improvements. The Town will not be required to initiate action to exercise its rights under any financial performance guarantee in order to declare a developer in default. For purposes of interpreting this paragraph, "hazards to public health and safety" shall include, but not be limited to, inadequate drainage, stormwater management, or erosion and sedimentation control measures.
- 11.7 No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with final plan approval and this Ordinance, up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the road upon which the unit is accessed is completed in accordance with final plan approval and this Ordinance.

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11.8 Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S. § 4452.

### **Section 12 Appeals**

Any person aggrieved by a decision of the Planning Board under this Ordinance may appeal the decision to the Starks Board of Appeals as an administrative appeal under the Town of Starks Appeals Board Ordinance. Written notice of the appeal shall be filed within 30 days of the date of the Planning Board's written decision being appealed. The notice of appeal shall clearly state the reasons for the appeal. The review by the Board of Appeals 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 Planning Board for clarification.