

Town of Starks
Public Road & Right-of-Way Use Ordinance
First Promulgated: July 20, 2015

Section I- Name and Purpose:

This Ordinance shall be known and cited as the Public Road & Right-of-Way Use Ordinance for the Town of Starks, Maine.

The purpose of this Ordinance is to protect the public assets and property of the Town of Starks; to assure the immediate as well as long-term availability and benefit of those assets to the town, its citizens and the public-at-large; and, generally to support the well-being of the citizens of the Town of Starks, while also recognizing the appropriateness of occasional limited use of public roads and rights-of-way for private purposes such as, but not limited to, installation of utilities, or private festivities.

The authority for this Ordinance and its promulgation by the Selectmen of Starks lies in state statutes including Title 30-A Maine Revised Statutes §3009.1.B; in precedent; and in common law

Section II- Permission Required:

The Board of Selectmen of the Town of Starks hereby assert their discretion as to the general use and enjoyment of the Town's roads and rights-of-way (the 'Public Assets'). No individual, corporation, partnership or other entity ("Person") shall interfere with the public's use of these Public Assets in the Town of Starks for their intended purpose as travel ways on more than an incidental basis, or undertake exclusive use or control of them to a degree which in any way impedes or reduces their availability to the citizens of Starks or the public at large, without first obtaining permission from the Board of Selectmen. Municipal activities shall be exempt from this Ordinance.

Section III- Permit Application:

Any Person seeking to close or obstruct or to in any way gain temporary exclusive use of any right-of-way or Public Asset in a way which will exclude or impede the public use of that way or Public Asset shall file an application with the Town Clerk. This application shall consist of an explanatory letter together with a fee of \$25 payable to the Town of Starks. Such a letter/application for such a permit shall at a minimum set forth the following information:

- a) The identity of the public way or Public Asset proposed to be used, and the proposed times of day or date(s) for beginning and termination of the use.
- b) The name, postal address, email address and telephone number of the Person seeking to use the said public way or Public Asset. The name and all contact information of at least two individual adults who will, in fact, be fully and ultimately responsible for the use, and who will be on-site throughout the period of use.
- c) The nature and extent of the use and the efforts taken to minimize inconvenience to the public. Also, an explanation, if applicable, as to how access and egress by property owners, emergency personnel and vehicles, and others with legitimate reasons to use the road or Public Asset will be accommodated.

Section IV- Process

- a) In their discretion, on initial review of the letter/application, the Selectmen may require notice either generally to the public-at-large, or specifically to prescribed persons such as abutting landowners, abutting residents, or others, and may further prescribe such notice to be by first class mail, by certified mail, or by other means.
- b) The Selectmen may set a meeting date to hear the application no sooner than seven (7) days from the date of receipt of the letter/application, and no later than fourteen (14) days after the effective date of any notice.

Section V- Standards for Issuance:

The Board of Selectmen shall meet with the Applicant to review and discuss the request. The Board may approve an application on finding that:

- a) the manner and duration of the private use of the public property will not substantially interfere with the safe and orderly movement of other traffic on the public way or of public use of other municipal property, or, if there is a diminishment or impairment of the public's use and enjoyment, the Applicant's proposal is reasonably calculated to minimize that impairment;
- b) the conduct of the activity will not interfere with proper police and fire protection or the dispatch of rescue or ambulance service to the residents or property of the Town of Starks; and,
- c) the use will either not damage the public assets in any way, or safeguards have been established to assure there is minimal damage.

The Board of Selectmen may propose and discuss an approvable alternative to the use requested. An applicant desiring to accept such an alternative shall within seven (7) days of the date of the Board's action file with the Town Clerk a written note amending its application to conform with the approved use. Any alternative shall conform with all conditions and requirements of this Ordinance.

Section VI- Conditions; Insurance:

All approvals are conditional. No permission under this Ordinance shall be valid unless the Applicant shall have first obtained insurance in an amount of not less than \$300,000 dollars from a company authorized to do business in the State of Maine, which said insurance shall have as its purpose to protect the Town of Starks, its officers, agents and employees, from claims of all costs including for property damage and or personal injury that may arise out of the Applicant's use of the public property. This coverage shall be demonstrated by a certificate from the insurance company which shall list the Inhabitants of the Town of Starks, its agents, officials and employees as additional named-insureds. The Board of Selectmen may waive the insurance requirement on good cause shown.

Section VII- Notice of Rejection; Right to Appeal:

If the Board of Selectmen denies the permit application, the Applicant shall be notified within seven (7) days after decision. Such notification may be by letter, telephone call or electronic message.

An appeal from the Board of Selectmen must be taken to the Somerset County Superior Court as provided by applicable law.

Section VIII- Penalty:

Any person who violates this Ordinance at a minimum commits a civil violation for which a forfeiture not to exceed one thousand (\$1,000) dollars may be adjudged.

Section IX- Injunctive Relief:

In its exclusive discretion, the Board of Selectmen, acting through the Municipal Code Enforcement Officer, the Municipal Road Foreman or such other agent as the Board shall designate at the time, hereby undertakes all necessary authority to seek injunctive relief against unauthorized use of such Public Assets, including more immediately, seeking the services of such officers of the law as shall be dispatched, and to seek such civil and/or criminal charges against violators as are appropriate in their discretion.

Dated this 20th day of July, 2015



Paul B. Frederic- Chair



Joseph P. Hayden- Selectman



Ernest W. Hilton- Selectman