

# Site Plan Review Ordinance

## for the Town of Starks

March 8, 2019

ENACTED: \_\_\_\_\_

Date

EFFECTIVE: \_\_\_\_\_

Date

CERTIFIED BY: \_\_\_\_\_

Name

\_\_\_\_\_

Title

# Site Plan Review Ordinance for the Town of Starks

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## **Section 1 Purpose**

This Ordinance is intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that development is designed and developed in a manner which assures adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; conservation of productive farmland; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

## **Section 2 Authority, Administration, Conflicts and Severability**

### **2.1 Authority**

- 2.1.1 This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S. Section 4401 *et. seq.*
- 2.1.2 This Ordinance shall be known as the “Site Plan Review 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 by the Town of Starks for site plan review.

### **2.2 Administration**

- 2.2.1 The Planning Board is authorized to review and act on all applications for site plan review.
- 2.2.2 No building permit or plumbing permit or certificate of occupancy shall be issued by the Board of Selectmen or Code Enforcement Officer (CEO) for any use or development within the scope of this Ordinance until a site plan review application has been approved by the Planning Board.

### **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.
- 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.

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## **Section 3 Applicability**

### **3.1 Activities Not Requiring Site Plan Approval**

The following activities shall not require Site Plan approval. Certain of these activities, however, will require the applicant to obtain a building permit, plumbing permit and/or other state or local approvals:

- A. The construction, alteration, or enlargement of a single-family or two-family dwelling, including accessory buildings and structures
- B. The placement, alteration, or enlargement of a single manufactured home or mobile home, including accessory buildings and structures on individually owned lots
- C. Agricultural activities, including agricultural buildings and structures
- D. Timber harvesting and forest management activities
- E. The establishment and modification of a home occupation that meets the definition of a “home occupation” in Section 4 of this Ordinance.
- F. Sand and gravel extraction
- G. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this Ordinance
- H. Wireless Communications Facilities that require a permit through the Town of Starks Wireless Communications Facilities Ordinance, unless that Ordinance specifies otherwise

### **3.2 Activities Requiring Site Plan Approval**

A person who has right, title, or interest in a parcel of land must obtain Site Plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

- A. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of 400 square feet or more
- B. The expansion of an existing nonresidential building or structure, including accessory buildings or structures, if the enlargement increases the total area for all floors within a 5 year period by more than 20% of the existing total floor area or 400 square feet, whichever is greater
- C. The conversion of an existing building in which 400 square feet or more of total floor area are converted from residential to nonresidential use
- D. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as cemeteries, automobile graveyards, junkyards, automobile recycling businesses, golf courses, and other nonstructural nonresidential uses
- E. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use
- F. The construction of a residential building(s) containing 5 or more dwelling units, if it does not meet the definition of a subdivision
- G. The modification or expansion of an existing residential building that increases the number of dwelling units by 5 or more in any 5 year period, if it does not meet the definition of a subdivision
- H. The conversion of an existing nonresidential building, in whole or in part, into 5 or more dwelling units within a 5 year period, if it does not meet the definition of a subdivision

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- I. The construction or expansion of paved areas or other impervious surfaces serving nonresidential uses, including walkways, access drives, and parking lots involving an area of more than 2,500 square feet within any 3 year period
- J. The construction of a commercial water extraction facility which removes in the aggregate more than 5,000 gallons per day of groundwater, or the expansion of any groundwater extraction facility which increases its extractive capacity by more than 5,000 gallons per day of groundwater
- K. The construction of a commercial wind facility or commercial solar facility unless these uses are regulated under another ordinance for the town of Starks.

### **3.3 *Non-Conforming and Grandfathered Uses***

- 3.3.1 Any lawful use of buildings, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of the Ordinance shall be considered to be a non-conforming condition.
- 3.3.2 Any non-conforming use condition may continue and may be maintained, repaired and improved. No such non-conforming condition may be expanded, changed to another non-conforming condition, or replaced, or renewed after it has been discontinued for a period of 12 calendar months or more, without a permit from the Planning Board in accordance with the provisions of this Ordinance. A non-conforming use condition shall not become more non-conforming.
- 3.3.3 Except as provided above, the provisions of this Ordinance regulating the minimum lot size and building setbacks shall not apply to lots of record existing on March 9, 1990 as evidenced by deeds recorded in the Somerset County Registry of Deeds on or before that date.

## **Section 4 Definitions**

### **4.1 *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 word "person" shall be construed to include persons, partnerships, firms, companies, corporations, owners, lessees or licenses or their agents.

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

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

The words "Town" or "municipality" mean the Town of Starks, Maine.

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

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

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

The terms "Code Enforcement Officer" or "CEO" mean the Town of Starks Code Enforcement Officer.

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## 4.2 Definitions

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

**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 street 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.

**Accessory Building** means a detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

**Accessory Structure or Use** means a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved Party** means an owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

**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, or commercial activities such as non-agricultural events or commercial equipment storage.

**Applicant** means the person or persons applying for Site plan review approval under this Ordinance.

**Aquifer** means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

**Automobile Graveyard** means a yard, field or other area used as a place of storage of three or more unserviceable, discarded, unregistered worn-out or junked motor vehicles or parts thereof other than temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work for the purpose of making repairs to render a motor vehicle serviceable. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

**Automobile Recycling Business** means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, where 80% of the business premises is used for automobile recycling operations.

**Building** means any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

**Change from One Category of Nonresidential Use to Another Category of Nonresidential Use** means change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

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**Commercial Use** means the use of lands, buildings, or structures, other than a "home occupation" (as defined below), the intent and result of which activity is the production of income from the buying and selling of goods or services exclusive of rental of residential buildings and/or dwelling units.

**Commercial Solar Energy Facility** means a facility used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for commercial use and/or a solar energy facility that occupies more than 10,000 square feet. Solar Energy Facilities may consist of free-standing ground, building-integrated, roof-mounted solar collector devices, or other solar related equipment and other accessory structures and buildings, including, but not limited to: light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines; and other appurtenant structures.

**Commercial Water Extraction** means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5,000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized for commercial use. This definition does not include water extraction for the municipal public water supply.

**Commercial Wind Energy Facility** means a facility consisting of one or more wind turbines, towers, footings, electrical infrastructure and associated equipment or structures intended to produce electrical power for commercial use (e.g., sale to a utility company) and/or a wind energy facility that has a rated capacity of more than 10 kilowatts.

**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.

**Driveway (See Road and Driveway)**

**Dwelling** means any building, structure, or portion thereof designed or used for residential purposes. The term shall include mobile homes and modular homes, but shall not include travel trailers or other recreational vehicles.

**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, multifamily dwellings, and residential condominiums and time-share units.

**Enlargement or Expansion of a Structure** means increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or the State Fire Code.

**Enlargement or Expansion of Use** means any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

**Fisheries, Significant Fisheries** means areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the Starks Comprehensive Plan.



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**Floodplain** means a 100-year floodplain as mapped by the National Flood Insurance Program.

**Floor Area** means the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**Groundwater** means all of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**Historic or Archaeological Resources** means areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Starks Comprehensive Plan.

**Home Occupation** means a home-based enterprise in which the business activity is conducted completely within the dwelling or structure accessory thereto (e.g. home, garage), and the principal use of the property remains residential. A home occupation will not require site plan review if it complies with all of the requirements of this section, including the following.

1. The use of a dwelling unit for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.
2. A home occupation shall be carried on only by residents of the dwelling unit, and not more than two non-residents.
3. A home occupation may not alter the residential character of the structure or change the character of the lot from its principal use as a residence.
4. The home occupation shall be carried on wholly within the principal or one accessory structure.
5. A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 20 vehicle trips/day.

**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.

**Impervious Surface** means the area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

**Junkyard** means a yard, field or other area used as a place of storage for:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. Discarded, scrap and junked lumber;
3. Old or scrap copper, brass, rope, rags, batteries, motor vehicle parts, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material;
4. Garbage dumps, waste dumps, and private sanitary landfills; and
5. Includes automobile graveyards.

**Kennel** means an establishment, in which more than 5 dogs or 5 cats are sold, housed, bred, boarded, or trained for a fee.

**Lot Area** means the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Lot Lines** mean the lines bounding a lot as defined below:

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1. **Front Lot Line** means on an interior lot the line separating the lot from the street or right-of-way; on a corner or through lot, the line separating the lot from either the street or rights-of-way, but not both.
2. **Rear Lot Line** means the lot line opposite the front lot line; on a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line; on a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line** means any lot line other than the front lot line or rear lot line.

**Lot Width** means the distance between the side boundaries of the lot measured at the front setback line.

**Multifamily Development** means a building(s) containing 5 or more dwelling units, such buildings being designed exclusively for residential use and occupancy by 5 or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

**Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities** means areas identified by a governmental agency such as the Maine Natural Areas Program as having significant value as a natural area and any areas identified in the Starks Comprehensive Plan.

**Principal Structure** means a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal Use** means a use other than one which is wholly incidental or accessory to another use on the same premises.

**Public Water Supply, 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.

**Recharge Area** means an area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

**Road and Driveway** 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.

**Setback** means the horizontal distance from a lot line to the nearest part of a structure.

**Setback, Front** means an open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**Setback, Rear** means an open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

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**Setback, Side** means an open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**Structure** means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

**Substantially Completed** means construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than 70% of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

**Use** means the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

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

**Water Extraction** means the withdrawal, removal, diversion, taking, or collection by any means of water from groundwater sources, aquifers, springs, wells, pumps, or similar.

**Water Extraction Point** or **Water Extraction Facility** means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

**Wetland** means swamps, marshes, bogs and similar areas, which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adopted for life in saturated soils.

**Wildlife Habitat; Significant Wildlife Habitat** means areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the Starks Comprehensive Plan.

**Zone of Contribution** means the area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at an approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary)

### Section 5 Approval Authority and Review Procedures

The Planning Board is authorized to review and act on all applications for Site plan review. In considering Site Plans under this Ordinance, the Planning Board may act to approve, disapprove, or approve the project with conditions as authorized by these provisions. The applicant or his/her authorized agent must be present at all Planning Board meetings and hearings where the application is to be considered. Failure to attend a meeting may result in a delay of the Planning Board's review until the next meeting the applicant attends. The Planning Board shall use the following procedures in reviewing applications for Site plan review.

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## **5.1 Pre-application Process**

- 5.1.1 Prior to submitting a formal application, the applicant may request an informal and informational pre-application conference with the Planning Board. A pre-application conference is required for Major Developments. The pre-application conference review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S. §302. No decision on the substance of the plan shall be made at the pre-application conference.
- 5.1.2 The purposes of the pre-application conference are to:
- A. Allow the Planning Board to understand the nature of the proposed use and the issues involved;
  - B. Allow the applicant to understand the development review process and required submissions;
  - C. Identify issues that need to be addressed in future submissions;
  - D. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities; and
  - E. Classify the project as a Minor or Major Development.
- 5.1.3 At the pre-application conference the applicant should be prepared to discuss the following:
- A. The proposed site, including its location, size, and general characteristics;
  - B. The nature of the proposed use and potential development;
  - C. Any questions about existing Town regulations and their applicability to the project;
  - D. Any requests for waivers from the submission requirements; and
  - F. Any other information necessary to classify the project as a Minor or Major Development.
- 5.1.4 The Planning Board may schedule a site inspection if deemed necessary to resolve any requests for waivers and variations from the submission requirements.

## **5.2 Classification of the Proposed Development**

- 5.2.1 The Planning Board shall classify each project as a Minor or Major Development. Minor Developments are smaller scale, less complex projects for which a more streamlined review process is adequate to protect the Town's interest. Major Developments are larger, more complex projects for which a more detailed review process and additional information may be required.
- 5.2.2 **Minor Developments** are defined as follows:
- A. Projects involving the construction or addition of fewer than 5,000 square feet of impervious surface and/or enclosed floor space
  - B. Projects involving the conversion of existing uses or structures 5,000 square feet or less from one use to another without enlargement of the gross developed area
- 5.2.3 **Major Developments** are defined as follows:
- A. Projects involving the construction or addition of 5,000 square feet or more of developed area
  - B. Projects involving the conversion of existing buildings or structures 5,000 square feet or more from one use to another without enlargement of the developed area
  - C. Multifamily developments involving the creation of 5 or more dwelling units in a 5 year period
  - D. Projects that will generate an average of 400 vehicle trips per day when open for business
  - E. Commercial water extraction

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- F. Commercial solar farm
- G. Commercial wind farm
- H. Other projects requiring review which are not classified as Minor Developments

## **5.3 Application Submission and Review Procedures**

### 5.3.1 Site Inventory and Analysis Procedures

- A. Minor Developments. Applicants shall not be required to submit a site inventory and analysis, but may proceed directly to submitting a formal site plan review application.
- B. Major Developments. Applicants must submit a site inventory and analysis for Planning Board review. The Planning Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis is deemed complete.
- C. Site Inventory and Analysis Procedures
  1. Upon receipt of a site inventory and analysis application, the Planning Board shall give a dated receipt to the applicant. Within 30 days of the receipt, the Planning Board shall determine if the submission is complete. If the submission is incomplete, the Planning Board shall notify the applicant indicating what additional material is necessary. When the submission is determined to be complete, the applicant shall be notified and the item placed on the Planning Board's agenda for consideration.
  2. The Planning Board may hold an on-site inspection to review existing conditions, field-verify the submissions, and investigate the development proposal. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application may be extended for a period not to exceed 30 days after the Planning Board is able to conduct an on-site inspection.
  3. Within 45 days of finding that the site inventory and analysis submission is complete, the Planning Board shall complete its review of the submission and notify the applicant in writing of its findings.
- D. Site inventory and analysis review shall be informational and shall not result in any formal approval or disapproval of the project. The Planning Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Planning Board of the issues and constraints to be addressed in the formal site plan review application. The Planning Board shall also act on any requests for waivers.
- E. The Planning Board shall provide public notice of all meetings and site visits. The Planning Board may provide public notice as required in subsection 5.3.2 (C).

### 5.3.2 Site Plan Review Application Procedures (Major and Minor Developments)

- A. Upon receipt of a site plan review application, the Planning Board shall give a dated receipt to the applicant. Within 30 days of the receipt of the application, the Planning Board shall determine if the submission is complete. If the submission is incomplete, the Planning Board shall notify the applicant indicating what additional material is necessary for the application to be deemed complete.

## Site Plan Review Ordinance for the Town of Starks

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- B. As soon as the Planning Board determines the application is complete, the applicant shall be notified in writing of this finding, and the application shall be placed on the agenda for substantive review and/or a public hearing within 30 days.
- C. Once the application is deemed to be complete, public notice shall be given as follows:
  - 1. The Planning Board shall post a notice of the application for public review at the Town Office, and shall notify the Board of Selectmen, Code Enforcement Officer, individual Board members, and any other government officials, as appropriate.
  - 2. All abutting landowners and landowners within 1,500 feet of the site property boundaries as shown on the 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. The applicant may be required to provide this public notice with the content of the notice approved by the Planning Board.
- D. The Planning Board may hold an on-site inspection to review existing conditions, field verify submissions and investigate the development proposal. The Planning Board may schedule this visit either before or after the public hearing. If an application is pending during a period when there is snow cover, the Planning Board may request that the applicant agree to extend the review period to allow an adequate on-site inspection. The inability to hold a site inspection due to snow cover shall be sufficient grounds for denial of an application.

### 5.3.3 Public Hearing on Major and Minor Development Applications

- A. A public hearing shall be held for all developments.
- B. The Planning Board shall cause written notice of the date, time and place of the hearing to be given to the applicant and all parties receiving the notice in Section 5.3.2 (C) and, in addition, shall cause a notice to be published in a newspaper of general circulation in Starks be at least 7 days prior to the hearing. The purpose of the hearing is to allow the applicant and affected property owners to provide information as part of the record that the Planning Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this ordinance or other municipal ordinances.

### 5.3.4 Final Planning Board Action on the Application

- A. The Planning Board shall take final action on the application within 30 days of the public hearing. The Planning Board shall act to deny, to approve, or to approve the application with conditions. The Planning Board may impose conditions to assure compliance with the standards of this Ordinance.
- B. In issuing its decision, the Planning Board shall make written findings that establish whether the proposed development does or does not meet the standards and requirements of this Ordinance.

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- C. The Planning Board shall notify the applicant of its decision, including the findings of fact and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Planning Board.
  - D. All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.
- 5.3.5. Once the final plan has been approved by the Planning Board the applicant must submit all application materials to the Code Enforcement Officer.

### **5.4 Fees**

- 5.4.1 Application Fees shall cover the Town's administrative costs in processing applications, including notifications, advertising, mailings and similar costs. Fees shall be paid to the "Town of Starks" and must be provided for an application to be considered complete for review purposes. All application fees are not refundable.
- 5.4.2 Technical Review Fee
- A. The Planning Board shall require a technical review fee for Major Developments. The Planning Board may waive this requirement for Minor Developments. The technical review fee is designed to defray the Town's legal and technical costs in the review of the application and in project compliance with the Planning Board's decision and ordinance requirements. If required, the technical review must be paid to the "Town of Starks" for an application to be considered complete for review purposes.
  - B. The technical review fee shall consist of a retainer to accompany the application for site plan review. This retainer shall be deposited in an account where it can be tracked. If any required contract with an independent consultant is estimated to cost more than the retainer submitted with the application, the total estimated cost for the consultant must be provided in the retainer by the applicant before the application is considered complete and review started. That portion of the review fee not used shall be returned to the applicant within 60 days of the Planning Board's decision to approve or deny the application.
- 5.4.3 Application and Technical Review Fees shall be as established and maintained by the Board of Selectmen in the Town of Starks Fee Schedule.

## **Section 6 Submission Requirements**

### **6.1 Major Developments: Site Inventory and Analysis Submission Requirements**

- 6.1.1 The site inventory and analysis provides the applicant and the Planning Board with an understanding of the opportunities and constraints of the development site so that those areas most suitable for the proposed use will be utilized, while those areas that are not suitable or present significant constraints will be avoided to the maximum extent possible.
- 6.1.2 All submissions shall be submitted in both paper copy, and, if possible in electronic format that can be accessed by the general public from the Town's website.
- 6.1.3 The submission must contain, at a minimum, the following information:
- A. Application Form (8 copies) and Application Fee
  - B. The names, mail and email addresses, phone numbers of the record owner and the applicant

## Site Plan Review Ordinance for the Town of Starks

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- C. The names and addresses of all consultants working on the project
- D. Evidence of right, title, or interest in the property
- E. Eight copies of an accurate scale Inventory Plan of the parcel at a scale of not more than 100 feet to the inch showing as a minimum:
  - 1. The name of the development, north arrow, date and scale
  - 2. The boundaries of the parcel
  - 3. The relationship of the site to the surrounding area
  - 4. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. 10 foot contours will be adequate)
  - 5. The major natural features of the site and within 1,000 feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, public water supplies, significant wildlife habitats and fisheries or other important natural features
  - 6. Existing buildings, structures, or other improvements on the site
  - 7. Existing restrictions or easements on the site
  - 8. The location and size of existing utilities, roads, or improvements serving the site
  - 9. A class D medium intensity soil survey. The Planning Board may require a class B high intensity soil survey if any portion of the site is located in a resource protection district or wetland.
- F. Eight copies of a Site Analysis Plan at the same scale as the Inventory Plan highlighting the opportunities and constraints of the site, including portions of the site are unsuitable for development (e.g., steep slopes, soil constraints, wetlands, aquifers, wildlife habitat, fisheries, floodplains) and areas that may be subject to off-site conflicts or concerns (e.g., noise, lighting, traffic); and which areas that are well suited to the proposed use. The inventory and site analysis plans may be combined as long as the information is clearly depicted.
- G. Eight copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
- H. Any requests for waivers from the submission requirements for the site plan review application.

### **6.2 All Developments: Site Plan Review Submission Requirements**

- 6.2.1 Applications for Major Developments will not be accepted until the review of the Site inventory and analysis is completed. A complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Chairperson of the Planning Board. The Planning Board may waive any of the submission requirements based upon a written request of the applicant at the initial review of the application. A waiver of any submission requirement may be granted only if the Planning Board makes a written finding that the information is not required to determine compliance with this Ordinance.
- 6.2.2 All submissions shall be submitted in both paper copy, and in electronic format that can be accessed by the general public from the Town's website. The Board may waive the requirement for submissions in electronic format for Minor Developments where this requirement presents a hardship for the applicant.



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6.2.3 All Applications for site plan review must contain the following information:

- A. A fully executed and signed copy of the application for site plan review
- B. Evidence of payment of the application and technical review fees
- C. Eight copies of written materials plus 8 sets of maps or drawings containing the information listed below. The maps or drawing must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than 100 feet to the inch for that portion of the tract of land being proposed for development
- D. General Information
  1. The record owner's name, mailing address, email address, and phone number, and the applicant's name, mailing address, e-mail address, and phone number
  2. The location of all required building setbacks and buffers
  3. Names and mailing addresses of all property owners within 1,500 feet of any and all property boundaries of the proposed development
  4. Sketch map showing general location of the site within the town based upon a reduction of the property tax maps
  5. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time
  6. The tax map and lot number of the parcel or parcels on which the project is located. GPS coordinates for the site entrance
  7. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant
  8. The name, registration number, and seal of the person who prepared the plan, if applicable. The Planning Board may waive the requirement for a professionally prepared plan for Minor Developments
  9. Evidence of the applicant's technical and financial capability to carry out the project as proposed
- E. Existing Conditions
  1. If applicable, Shoreland Zoning classification(s), including the location of zoning district boundaries
  2. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries
  3. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting roads, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. The Planning Board may require elevations to determine the direction of flow
  4. Location, names, and present widths of existing public and private roads and rights-of-way within or adjacent to the proposed development
  5. The location and dimensions of all existing buildings on the site
  6. The location and dimensions of existing driveways, parking and loading areas, and walkways on or immediately adjacent to the site

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7. Location of intersecting roads or driveways within 200 feet of the site
  8. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, habitat for rare and endangered plants and animals, unique natural communities and natural areas, significant sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features
  9. The direction of existing surface water drainage across the site
  10. The location, front view, dimensions, and lighting of existing signs
  11. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions
  12. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection
- F. Proposed Development Activity
1. A general description of the proposed use or activity
  2. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed. A written statement from any public water supplier may be required.
  3. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on adjacent properties
  4. Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities
  5. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site
  6. Proposed landscaping and buffering, as applicable
  7. The location and dimensions of all proposed buildings and/or building expansions
  8. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign
  9. Location and type of exterior lighting
  10. The location of all utilities, including fire protection systems
  11. An estimate of the peak hour and daily traffic to be generated by the project
  12. A stormwater management and erosion control plan for the construction phase and the final development
  13. An erosion and sedimentation control plan.
  14. Evidence that all applicable state, federal, and local laws and regulations will be satisfied, such as copies of permit approvals
  15. Any additional information that the applicant wants to provide to demonstrate that the proposed development will satisfy the standards of this Ordinance
- G. Approval Block. Space must be provided on the final plan for the signatures of the Planning Board and date together with the following words, "Approved: Town of Starks Planning Board"

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- 6.2.2 Major Developments: (Additional Requirements). In addition to the information required for all applicants, an application for a Major Development must contain the following additional information unless it is waived by the Planning Board:
- A. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis
  - B. A grading plan showing the existing and proposed topography of the site at 2 foot contour intervals or such other interval as the Planning Board may determine
  - C. A stormwater drainage and erosion control program showing:
    - 1. The existing and proposed method of handling stormwater runoff
    - 2. The direction of flow of the runoff, through the use of arrows
    - 3. The location, elevation, and size of all catch/retention basins, drainage ditches, and swales
    - 4. Engineering calculations used to determine drainage requirements based upon the 25 year 24 hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed
    - 5. Methods of controlling erosion and sedimentation during and after construction
  - D. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of 2,000 gallons or more per day
  - E. The name, registration number, and seal of the architect, engineer, or similar professional who prepared the plan
  - F. A utility plan showing the provisions for water supply and wastewater disposal, the location and nature of electrical and any other utility services to be installed on site
  - G. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent roads, if the project or expansion will provide parking for 50 or more vehicles or generate more than 100 trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers
  - H. Cost of the proposed development and evidence of the applicant's 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.
- 6.2.3. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the initial review of the application. A waiver of any submission requirement may be granted only if the Planning Board finds that the information is not required to determine compliance with this Ordinance.

## **Section 7 Approval Standards and Criteria**

### **7.1 Standards and Criteria for Review**

- 7.1.1 The Planning Board shall use the following criteria and standards in reviewing applications for site plan review. These standards and criteria shall serve as minimum requirements for approval.
- 7.1.2 The application shall be approved unless the Planning Board determines the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the

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applicant to produce evidence sufficient to warrant a finding that all applicable standards and criteria have been met.

### **7.2 Lot Size and Setback Requirements**

7.2.1 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 purposes of subsection 7.2.1, "stream" is defined as the following: Lemon Stream, Hilton Brook, Pelton Brook, Josiah Brook, and Falls Brook, as labeled on the Town of Starks Shoreland Zoning Map.

7.2.2 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.

### **7.3 Utilization of the Site and Preservation of Important Natural and Cultural Features**

7.3.1 The development must reflect the natural capabilities of the site to support the proposed use. Buildings, lots, and support facilities should be located in those portions of the site that have the most suitable conditions for the development.

7.3.2 All building, site, and roadway designs and layouts should be compatible with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity is kept to a minimum. Natural vegetation and drainage should be preserved and protected wherever possible. The design should take all practical steps possible to prevent a visible scar up or across a ridgeline visible from public streets, roads, or water bodies.

7.3.3 Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and significant sand and gravel aquifers must be preserved to the maximum extent practicable.

7.3.4 Significant historic or archaeological resources should be preserved to the maximum extent practicable.

7.3.5 Actively farmed agricultural land identified as prime and significant farmland should be preserved and protected to the maximum extent practicable. The development should be designed to minimize adverse impacts to existing farming operations. This standard shall not be construed to obstruct purposeful alternative uses of land, but shall seek to prevent land from being permanently removed from agricultural production unnecessarily.

7.3.6 To demonstrate that the above criteria have been met, applicants should refer to maps and information within the Town of Starks Comprehensive Plan and information readily available at <https://geolibrary-maine.opendata.arcgis.com/datasets#data>, and/or solicit information from the Maine Historic Preservation Commission, the Maine Department of Inland Fisheries and Wildlife, the Maine Natural Areas Program, the U.S. Department of Agriculture Natural Resources Conservation Service, the Starks Historic Society, the Starks Agricultural Commission, and other state and federal agencies, as appropriate to determine what resources might be

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impacted and the best approaches to mitigate impacts. In addition, the Planning Board may require that applicants of Major Developments look for and identify important natural and cultural features in addition to those identified above, if the Planning Board has reason to believe important features exist.

### **7.4 *Water Quality and Quantity Protection***

- 7.4.1 The proposed development must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems.
- 7.4.2 The quantity of the water to be used by the development shall not: significantly lower the ground water table or surface water levels; cause adverse changes in groundwater flow patterns; cause ground subsidence; or cause adverse impacts on the quality or quantity of groundwater.
- 7.4.3 Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply with the standards for safe drinking water as established by the State of Maine. The Planning Board may require a report from a qualified hydrogeologist stating that the quantity of water to be taken will not substantially lower the ground water table beyond the property lines or cause undesirable changes to subsurface flow patterns under drought conditions, and that the proposed development will not cause diminution of the quality of the aquifer from which water is to be extracted.
- 7.4.4 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- 7.4.5 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the U.S. Environmental Protection Agency, the Maine Department of Environmental Protection and the Maine Fire Marshall's Office.
- 7.4.6 The Planning Board shall require that proposed uses, such as junkyards, automobile graveyards, gas stations, bulk storage of petroleum products, and other similar uses be located at least 500 feet from existing private wells and at least 1,000 feet from existing public water supplies.
- 7.4.7 The Starks Water District and other public water suppliers shall be notified of all proposed developments that are located within 1,000 feet of public water supply well-heads. Applicants of developments within 1,000 feet of public water supply wellheads should obtain a written statement from the Starks Water District or any other public water supplier to demonstrate that the proposed development will not negatively impact public water supplies.

### **7.5 *Water Supply***

- 7.5.1 The development must be provided with an adequate supply of water for the proposed use.

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- 7.5.2 If the development is to be served by an existing public water supply, the applicant must provide a written statement from the supplier that the proposed water supply system conforms with the supplier's design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.
- 7.5.3 If a new public water supply is proposed, the public water supply system must be designed in accordance with all state and federal laws and regulations.
- 7.5.4 Applicants of Major Developments must demonstrate that the development will have access to an adequate supply of water for fire protection either through existing sources or through the installation of a dry hydrant, fire pond, or other mechanisms. The applicant shall provide a written statement from the Starks Fire Chief to indicate how this requirement is or will be satisfied.

### **7.6 Sewage Disposal**

The development must be provided with a method of disposing of sewage which is in compliance with the Maine Plumbing Code and the Maine Subsurface Wastewater Disposal Rules. The applicant shall provide written evidence that this requirement will be met.

### **7.7 Solid Waste Management**

The proposed development 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.

### **7.8 Storage of Materials**

- 7.8.1 All materials stored outdoors, including solid waste, shall be stored in such a manner so as to: prevent the breeding and harboring of insects, rats or other vermin; not be a fire hazard; and otherwise not create a public health hazard or nuisance to adjacent properties.
- 7.8.2 Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.
- 7.8.3 The Planning Board may require the following for Major Developments:
- A. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public road, it must be screened by fencing or landscaping.
  - B. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public roads.

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### 7.9 *Traffic Access, Internal Traffic Circulation and Parking*

- 7.9.1 Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Vehicular access to and from the development must be safe and convenient.
- 7.9.2 All developments must meet the requirements of the Road and Utility Structures Ordinance for the Town of Starks, as applicable.
- 7.9.3 Internal roads, pedestrian areas, parking areas, loading/unloading areas and emergency access must be safe, convenient, and adequately constructed and designed to handle anticipated vehicular and pedestrian movements.
- 7.9.4 Adequate off-street parking must be available for the development to include the necessary number, size and configuration of parking spaces and areas.
  - A. Parking areas with more than 2 parking spaces must be arranged so that it is not necessary for vehicles to back into the road.
  - B. All parking spaces, access drives, and impervious surfaces must be located at least 5 feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within 5 feet of the front property line.
  - C. The following parking guidelines may be used to determine the amount of parking needed for the proposed development.

Parking Guidelines	
Activity	Minimum Number of Parking Spaces
Residential (Multifamily) - with 1 bedroom -with 2 or more bedrooms	1.5 spaces per dwelling unit 2 spaces per dwelling unit
Lodging house, motel, inn, bed & breakfast	1 space per room/rental unit and 1 space for each employee
Church, House of Worship	1 space per 3 seats based upon maximum seating capacity
Retail and Service Businesses	1 space for every 250 sq. ft. of floor space or market space
Industrial Businesses, Manufacturing	1 space per employee on maximum work shift
Warehouse, wholesale	1 space for every 500 sq. ft. of floor area
Automobile/large equipment repair garages and gasoline stations	5 spaces for each bay or area used for repair work
Commercial recreation facility	1 space for each 100 sq. ft. of floor area
Motor vehicle sales	1 space reserved for customers per 30 vehicles on the lot

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## **7.10 Hazardous, Special, and Radioactive Materials**

- 7.10.1 The handling, storage, and use of all materials identified by a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.
- 7.10.2 No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage.

## **7.11 Stormwater Management and Erosion and Sedimentation Control**

- 7.11.1 Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces to prevent adverse impacts on abutting or downstream properties. Stormwater runoff in excess of the natural pre-development conditions should be minimized. Existing features, such as berms, swales, terraces and wooded areas should be retained where they reduce runoff and encourage infiltration of stormwater. Stormwater runoff control systems and features shall be maintained to ensure proper functioning.
- 7.11.2 All activities that involve filling, grading, excavation, or other activities resulting in unstabilized soil conditions shall require a written soil erosion and sedimentation control plan that addresses the following: mulching and revegetation of disturbed soil; temporary runoff control features such as hay bales, silt fencing or diversion ditches; and permanent stabilization structures such as retaining walls or riprap.
- 7.11.3 Guidelines
  - A. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
    - 1. Where mulch is used, it shall be applied at a rate of at least 1 bale per 500 square feet and shall be maintained until a catch of vegetation is established.
    - 2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
    - 3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  - B. Natural and man-made drainage ways and drainage outlets shall be stabilized with vegetation, lined with riprap, or otherwise protected from erosion from water flowing through them.
- 7.11.4 Major Developments. In addition, the Planning Board may require the preparation of a stormwater management plan by a professional engineer and the installation of ditches, catch basins, piping systems, and other appurtenances for the conveyance, control, or disposal of surface waters. Adequate measures shall be taken for both the construction phase and for long-term management.
- 7.11.5 Applicants shall demonstrate that the proposed development complies with all federal and state requirements for stormwater management and erosion and sedimentation control.



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[NOTE: A Stormwater Management Permit is required from the Maine Department of Environmental Protection prior to the disturbance of five acres or more or the construction of 40,000 square feet or more of impervious surface.]

## 7.12 Nuisance and Aesthetics

7.12.1 Nuisance Containment: The proposed land use shall be designed so as to incur no off-site adverse impacts, including but not limited to glare, dust, smoke, fumes, noise, odor, or activity at unreasonable hours, beyond those consistent with existing background levels. The Planning Board may require landscaped buffers adequate to protect neighboring property owners and the traveling public from disturbance that would otherwise exceed background levels. The Planning Board may make exceptions for this requirement for short periods of time during the construction phase of the development or for activities on a short-term, temporary basis. (Note: Agriculture, forestry and sand and gravel extraction are exempt)

### 7.12.2 Noise

A. The estimated sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four feet above ground at the property boundary of the source.

Noise Standards		
Abutting Use	7 A.M. - 10 P.M.	10 P.M. - 7 A.M.
Residential	55	45
Public, semipublic and institutional	60	55
Vacant or rural	60	55
Commercial	65	55
Industrial	70	60
Sound Pressure Level Limits Using the Sound Equivalent Level of One Minute (leq 1) (Measured in dB(a) Scale)		

- B. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4- 1961) *American Standards Specification for General Purpose Sound Level Meters*.
- C. Construction of approved projects and on a site abutting any residential use, shall limit external building activity to between the hours of 7:00 A.M. and 10:00 P.M.
- D. Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities are exempt from these noise requirements.

7.12.3 Hours of Operation: The Planning Board may set reasonable limits to hours of operation as a condition of permit approval; any such restrictions will be held to the minimum necessary to provide neighboring residents with adequate relief from any unavoidable adverse impacts caused by the development or activity, including traffic. Normal hours of operation shall be deemed to be 6 A.M. To 8:30 P.M. (Monday-Saturday) and 8 A.M.-8:30 P.M. Sunday, although variations from this standard may be approved by the Planning Board if the affected parties are agreeable.

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7.12.4 Lighting and Advertising: Exterior lighting, signs and other advertising features shall not be placed so as to cause glare, light pollution, or constitute a safety hazard for the public or neighboring properties. Emergency lighting shall be consistent with state and federal law. Lighting shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties, directed downward and incorporate full cut-off fixtures to reduce light pollution. The Planning Board may specify the hours when exterior lighting is permitted, and may specify that only motion-sensitive lighting be used for security purposes or business operations during night-time hours.

7.12.5 Buffers:

- A. The Planning Board may require that developments and commercial activities located within 100 feet of existing residences plant a vegetative buffer that will effectively shield 80% of the activity from residential view on a year-round basis within five years of establishment of the proposed use, unless the Planning Board, based upon input from abutting property owners, finds this to be unnecessary to preserve compatibility.
- B. The Planning Board may require that new developments adjacent to areas of active farmland, forestry operations or mineral extraction (such as an operating gravel pit) provide buffers to reduce potential complaints by future residents or operators of their proposed development.

### **7.13 Signs**

7.13.1 No sign shall extend higher than 20 feet above the ground.

7.13.2 Signs may only be illuminated by stationary, shielded, non-flashing light sources, directed solely at the sign and not casting light off the premises. Any sign lighting that creates a safety hazard or glare to pedestrians or motorists must be replaced to address the safety hazard, or removed entirely.

7.13.3 Digital, light-emitting diode (LED), and electronic signs are prohibited. Any sign that in whole or in part uses electronic or digital means to display words, symbols, figures or images, including signs that can be electronically or mechanically changed by remote or automatic means is prohibited.

7.13.4 Signs owned and operated by the Town of Starks or another governmental agency shall be allowed without restriction.

### **7.14 Landscaping**

The Planning Board may require a landscaping plan for Major Developments that are visible from a public road. Landscaping should integrate and enhance the various natural and built elements on the site. Landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. Landscaping may include plant materials such as trees, shrubs, groundcovers, flowering plants, and other materials such as rocks, water, walls, fences, and paving materials.

### **7.15 Common Open Space Areas**

The Planning Board may require that multifamily developments provide areas for open space and recreational purposes that are of a character, configuration and location suitable for the particular use intended. As examples, a site for active recreational purposes, such as a playground or a play field,

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should be relatively level and dry, and sites for passive recreation should have scenic attributes and walking paths for viewing wildlife.

### **7.16 Automobile Graveyards, Automobile Recycling Businesses, and Junkyards**

- 7.16.1 Automobile graveyards, automobile recycling businesses, and junkyards must obtain a permit from the Board of Selectmen in accordance with Title 30-A, sections 3751-3760, as amended.
- 7.16.2 Prior to issuance of a permit from the Planning Board, the applicant must present either a permit from the Department of Environmental Protection (DEP) or a letter from the DEP stating that a DEP permit is not required.
- 7.16.3 The following performance standards are required for all automobile graveyards, automobile recycling businesses, and junkyards:
- A. A visual buffer capable of completely screening from view all portions of the junkyard, automobile graveyard or automobile recycling business must be established and maintained along all property lines. The site must also be adequately screened, as provided by 30-A M.R.S. § 3754-A(1).
  - B. No automobile graveyard, automobile recycling business, or junkyard may be located within 300 feet of a public building, public playground or park, school, church or cemetery.
  - C. No automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste may be located within 300 feet of a well that serves as a public or private water supply, as provided by 30-A M.R.S. §3754-A(4). This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence.
  - D. A vehicle containing fluids may not be stored or dismantled within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S. § 436-A(5)
  - E. A vehicle containing fluids may not be stored or dismantled within the 100-year floodplain as mapped by the National Flood Insurance Program, the Army Corps of Engineers, or the U.S. Department of Agriculture, or on a sand and gravel aquifer or an aquifer recharge area, as mapped by the Maine Geological Survey or by a licensed geologist.
  - F. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, battery acid, engine coolant, gasoline and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water.
  - G. No junk, scrap metal, vehicles or other solid wastes may be placed or deposited, directly or indirectly, into the waterbodies, on the ice of waterbodies, or on the banks of waterbodies in such a manner that they may fall or be washed into these waters.
  - H. Applicants must demonstrate compliance with all federal and state laws, including those regulating solid waste and hazardous waste.
- 7.16.4 Upon receiving a motor vehicle, the battery must be removed, and the engine lubricant, transmission fluid, and engine coolant must be drained into watertight, double containment, covered containers. No discharge of any fluids from any motor vehicle may be permitted into or onto the ground.
- 7.16.5 Bonding Liability Insurance to Cover Environmental Damage

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- A. The applicant must provide evidence of liability insurance for the construction and operation of the automobile graveyard, automobile recycling business or junkyard to provide sufficient liability coverage as determined by the Planning Board. The applicant must also name the Town of Starks as an additionally insured party under its insurance policy(ies). The Planning Board may also require that the applicant provide a bond from a bonding company licensed to do business in Maine to cover environmental damage.
- B. A certificate of the required insurance shall be provided to the CEO on an annual basis.

### **7.17 Commercial Water Extraction**

7.17.1. Submission Requirements: In addition to the submissions required in Section 6 of this Ordinance the following shall also be required:

- A. All applications shall be prepared by or with the assistance of licensed professionals, such as a surveyor, engineer, hydrogeologist, or similar appropriately licensed professional.
- B. All applications for Commercial Water Extraction shall contain the following:
  - 1. A description of the project, including the proposed use for which the water is to be extracted, including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales, or other similar activities are located inside or outside the Town.
  - 2. A statement of the total maximum daily quantity of water to be extracted, from all water extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
  - 3. A description of the method(s) of water extraction and location(s) of all water extraction points.
  - 4. A copy of any application, exhibits, reports, and permit approvals for such water extraction filed or to be filed with any other municipal authority, or any agency of the State of Maine, including, but not limited to, as required by 22 M.R.S. 2660 *et seq.* (transport of water for commercial purposes), or under applicable Department of Health and Human Services rules and regulations, and any agency or department of the United States.
  - 5. A written hydrogeologic investigation conducted and prepared by a licensed professional hydrogeologist, geologist, hydrologist, engineer, or other appropriately licensed professional possessing in the judgment of the Planning Board comparable credentials and qualifications. At a minimum the report must address the following:
    - a. The rates of draw-down and recharge of any aquifer or other groundwater source as may have been established by a pumping, or “stress test”, or other similar testing regime in accordance with accepted professional geologic and engineering standards.
    - b. The characteristics of the aquifer or other groundwater source, including rates of draw down and recharge, sustainable water extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including, but not limited to, ponds, rivers, streams, wetlands, and public and private wells, or other existing water extraction locations within the zone of contribution.
    - c. The possible effects on the aquifer or other groundwater resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.

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6. An environmental monitoring plan for independent long-term monitoring of groundwater and surface water within the zone of contribution, and of background conditions outside that zone if determined to be necessary by the Planning Board. The independent monitoring agency shall be approved by the Planning Board and shall be paid for by the applicant. This plan must include a provision for monthly submission of data to the Code Enforcement Officer, comparison of measured data to predicted values, and a plan to be implemented in the event that monitoring indicates the potential for adverse impact on surface water or groundwater quantity, quality, and classification. If the data indicates adverse impacts, the water extraction activities shall be discontinued. Before resumption of water extraction activity, a hydrogeologic report prepared by a licensed professional, paid for by the applicant, and approved by the Planning Board, shall be submitted to the Code Enforcement Officer. Such report shall determine if the degradation was caused by the water extraction activity and shall also identify any remedial action necessary to restore the water quality or quantity to the conditions recorded in these wells during the test period. Such remedial action must be completed prior to resumption of the water extraction activity.
7. A traffic impact analysis and plan prepared by a Maine registered transportation engineer shall be required where transport of extracted water will utilize, cross, or merge with a state highway, town road, or public easement. The analysis shall include a detailed disclosure of the traffic routes to be employed, the types of vehicles to be utilized, the loaded weight of the vehicles to be used, and the number of daily vehicle trips (both arrivals and departures at any load out station(s)). The Planning Board may also require an assessment of the load capability and volume capacity of the roads to be used, the effect of the project upon the level of service of the roads giving access to the site, and a list of recommended improvements to assure an adequate level of service on the affected roads and to mitigate the physical degradation of roads sooner than the anticipated life span.
8. A decommissioning and site restoration plan that describes the trigger for decommissioning and cost estimates for decommissioning and restoration, and financial assurances acceptable to the Planning Board.
9. A small-scale Site Plan depicting at least all of the following:
  - a. The outside perimeter of the aquifer or other water source cited in the application, and the bounds of the land of the applicant
  - b. The location of all water bodies located within the 3,000-foot wellhead protection zone or other water source
  - c. The location(s) of the proposed water extraction points
  - d. The existing network of public or private roads leading to or by the water extraction point(s)
  - e. Any proposed new roads or driveways to be constructed for access to and egress from the water extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads
  - f. Any existing or proposed utility lines to be utilized in the water extraction operation(s)
  - g. The location and type of test wells or other monitoring methods
  - h. Any existing or proposed pipes, pipelines, aqueducts, or similar conduits that are intended to convey extracted water from the water extraction point(s) towards the

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intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town

10. A large-scale Site Plan depicting at a minimum a detailed plan of the water extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, sheds, paving, vehicular drives, parking and turn around, utility lines, fencing, access roads or driveways, elevation and contour lines
11. Any other relevant and material detail(s) bearing on the proposed water extraction process, the omission of which would tend to hinder the ability of the reviewing authority, affected landowners or the public from developing a full understanding of the scope and impact of the proposal
12. An ongoing complaint protocol

### 7.17.2 Performance Standards

#### A. Geologic and Hydrologic Standards

1. The quantity of water to be extracted will not: a) cause any unreasonable adverse changes in groundwater flow patterns relating to the aquifer, its recharge areas, or other groundwater sources; b) negatively impact, diminish, or alter any surface waters, including during any periods of drought; c) cause any ground subsidence beyond the property lines of applicant's property; d) adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater sources, including during periods of drought; or e) create a health risk or issues such as drinking water turbidity, clarity, or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing monthly testing for this purpose.
2. The applicant shall establish an ongoing monitoring system of recording and documenting water extraction and recharge data, within the zone of contribution. The Planning Board may require that this information be submitted to the Code Enforcement Officer and the Town's independent expert on an at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution. As part of this monitoring process the CEO shall have periodic access to any water extraction facilities to record and confirm pump meter readings.

#### B. Impacts on the General Vicinity

1. Any traffic increase attributable to the project will not result in unreasonable congestion, a reduction in the level of service, or unsafe conditions on a road in the vicinity of the facility. Additional vehicular demand on existing Town roads will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads as determined by the Board of Selectmen or their designee and/or the Maine Department of Transportation.
2. The water extraction and activities incident to such extraction such as increased traffic (volume and type), parking, hours of operation, noise, glare from lights, or similar potential for nuisances shall not cause negative impacts on adjacent properties, and the nearby vicinity as a whole.
3. Any pipelines, aqueducts, or similar installations shall not be constructed in a manner to unduly interrupt public use of any existing road, the public's access to any public facility, and access to private property; or pose the risk of damage to any property along or through

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which installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run-off, or similar conditions.

- C. In determining whether these performance standards have been met, consideration shall be given to any existing water extraction application or permits, under this Ordinance, from the same aquifer or zone of contribution.

### 7.17.3 Conditions of Approval, at a minimum shall specify the following:

- A. The approval is only for the daily water extraction total not exceeding the maximum daily quantity set forth in the application, or not exceeding the specified aggregate annual total calculated thereby. Any increase in such daily totals or aggregate annual totals shall require further application and review by the Planning Board.
- B. Water extraction shall comply with the approved Monitoring Plan and the required permit renewals throughout the life of the project. The applicant shall submit a complaint protocol that provides: 1) a transparent process for reporting complaints to the owner/operator of the project; 2) a consistent approach to documenting complaints and to inform subsequent monitoring efforts; and 3) a process of informing the Town of complaints.
- C. The owner/operator shall implement and maintain the complaint protocol throughout the life of the commercial water extraction. The owner/operator shall submit a report that describes all complaints and how the complaints were addressed to the Code Enforcement Officer on an annual basis. The Code Enforcement Officer may lengthen this timeframe if there are few complaints and the complaints are being addressed in a satisfactory manner by the owner/operator.
- D. Bonding Liability Insurance to Cover Environmental Damage. The applicant must provide evidence of liability insurance for the construction and operation of the water extraction facility that provides sufficient liability coverage as determined by the Planning Board. The applicant must also name the Town of Starks as an additionally insured party under its insurance policy(ies). A certificate of the required insurance shall be provided to the CEO on an annual basis.

### 7.17.4 Permit Renewal Required

- A. Any water extraction authority granted hereunder shall be for an initial period not to exceed three years, but may be renewed subject to the same criteria contained herein.
- B. With respect to an application for a permit renewal if, after notice and hearing, the Planning Board finds the following, a renewal permit for a period of five years shall be issued:
  - 1. There is no increase in water extraction activities in terms of the quantity of water to be extracted, or in the location or configuration of the water extraction facility.
  - 2. There has been no material failure by the permit holder to comply with any conditions of the expiring permit, or to meet the performance standards applicable to the expiring permit.
  - 3. There is no significant, credible evidence that the permit holder's continuing operations would be unable to meet the performance standards of this Ordinance during any renewal period.
- C. Any application for a renewal permit must be filed with the Code Enforcement Officer not less than 90 days prior to the expiration of the existing permit.

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### **7.18 Kennels and Veterinary Hospitals**

- 7.18.1 Structures or pens for housing or containing the animals shall be located not less than 100 feet from the nearest residence other than the owners' residence existing at the time of permit.
- 7.18.2 All pens, runs, or kennels and other facilities shall be designed, constructed, and located on the site to minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- 7.18.3 The owner or operator of a kennel or veterinary clinic shall maintain the premises so that no garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- 7.18.4 Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- 7.18.5 If outdoor dog runs are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- 7.18.6 Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from the nearest residence other than the applicants, and shall have a chimney vent not less than 35 feet above the average ground elevation.

### **7.19 Multifamily Developments**

- 7.19.1 Water Supply
  - A. When a multifamily development is proposed within the service area of public water supply, the applicant shall demonstrate by a signed letter from an authorized representative of the water district that an adequate water supply can be provided to the development - adequate for potable water supply purposes and at an adequate pressure for firefighting purposes. If fire hydrants are required the applicant shall be responsible for locating them within 500 feet from any building, as hose is laid on the road.
  - B. When a multifamily development is proposed outside of the service area of public water supply system, the applicant shall provide a hydrogeologic assessment to demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.
- 7.19.2 Site Maintenance. It shall be the responsibility of the owner of the multifamily development to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height.
- 7.19.3 All multifamily developments containing 15 or more dwelling units may be required by the Planning Board to have more than one driveway access (for emergency and safety purposes). No more than two accesses shall be allowed on any single public way.



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7.19.4 Recreation and Open Space. All multifamily developments of 15 dwelling units or more shall provide a green space no smaller than 1,000 square feet.

## **7.20 Capacity of the Applicant**

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this Ordinance and the approved plan.

## **7.21 Conformance with Other Laws**

Proposed developments and activities shall be in conformance with all other applicable local, state and federal laws and regulations. The applicant shall demonstrate this conformance through copies of all required permits, or other evidence that anticipated permits are pending.

## **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 Post Approval Provisions**

### **9.1 Limitation of Approval**

If construction covered by the Site Plan approval has not been substantially completed within 12 months of the date of the approval, the approval shall become null and void. The applicant may request an extension prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Board may grant up to two, 6-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

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## **9.2 Incorporation of Approved Plan**

One copy of the approved Site Plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

## **9.3 Improvement Guarantees**

### **9.3.1 Application**

- A. Improvement Guarantee. The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 9.3.2 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.
- 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.

9.3.2 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 Planning Board. 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.

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- 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 Planning Board. The Letter 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.

## **9.4 *Submission of As-Built Plans***

Any project involving the construction of more than 5,000 square feet of gross floor area or 2,500 square feet of impervious surface, must provide the Code Enforcement Officer (CEO) with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted within 30 days of the issuance of a certificate of occupancy for the project or occupancy of the building.

## **9.5 *Minor Changes to Approved Plans***

Minor changes to approved Site Plans necessary to address field conditions may be approved by the CEO provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the CEO.

## **9.6 *Amendments to Approved Plans***

Approvals of Site Plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval by the Planning Board.

## **Section 10 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.

## **Section 11 Enforcement and Penalties**

### **11.1 *The Code Enforcement Officer (CEO)***

If the CEO finds that any provision of this Ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this Ordinance.

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## ***11.2 Administrative Consent Agreements***

The Board of Selectmen is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow a violation of this Ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

## ***11.3 Fines***

Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A M.R.S. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

## **Section 12 Amendments to this Ordinance**

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