TOWN OF ALBION

ELECTRIC TRANSMISSION FACILITIES AND CORRIDORS ORDINANCE

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Section 1. Title

This Ordinance shall be known and cited as the Town of Albion "Electric Transmission Facilities and Corridors Ordinance" (hereinafter referred to as "Ordinance")

Section 2. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S. Section 3001, and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S. Section 4312 *et seq.*

Section 3. Purpose

The purpose of this Ordinance is to provide a set of standards for the construction and expansion of Electric Transmission Facilities and Corridors in the town of Albion, and to ensure that Albion can continue to fairly and responsibly encourage orderly growth and development while protecting the Town's rural character; and to safeguard agricultural, forest and scenic resources from development which threatens those resources. These standards are also intended to:

i. Minimize the adverse impacts of electrical transmission lines on surrounding land use, including: visual, environmental, historically significant areas, health and safety, and property value impacts;

ii. Allow the Town to protect the public health, safety, and welfare;

iii. Support the goals and policies of the Town's Comprehensive Plan

Section 4. Applicability

This Ordinance applies to all Electric Transmission Facilities and Corridors in the Town of Albion proposed to be constructed or expanded after the effective date of this Ordinance.

Section 5. Effective Date

This Ordinance is effective upon adoption at Town Meeting.

Section 6. Fee Schedule

A. Application Fees

All applications for Electric Transmission Facilities and Corridor development shall be accompanied by a nonrefundable fee payable to the Town of Albion, according to the fee schedule adopted by the Select Board of Albion.

B. Escrow Fund Fees

See Section 12: Financial Standards for any applicable escrow fees.

Section 7. Enforcement

i. It is the Code Enforcement Officer's duty to enforce the provisions of this Ordinance. If the Code Enforcement Officer ("CEO") shall find that any provision of this Ordinance is being 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, including the discontinuance of illegal structures, illegal work being done and abatement of nuisance conditions. A copy of such notice shall be submitted to the Town Office and maintained as a permanent record.

ii. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Town Select Board, upon notice from the Code Enforcement Officer, is hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Albion.

iii. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected.

iv. Any violation of this Ordinance shall be deemed a nuisance. Any person, including but not limited to a landowner or easement owner, a landowner's or easement owner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in a accordance with Title 30-A M.R.S. Section 4452.

v. The Code Enforcement Officer shall investigate all complaints of alleged violations of this Ordinance.

vi. Development of any kind without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading land or lots, or construction of structures which require a plan approved as provided in this Ordinance.

vii. The Code Enforcement Officer shall conduct on-site inspections at the CEO's discretion to ensure compliance with all applicable laws and conditions attached to permit approvals.

Section 8. Definitions

Applicant: Person, or persons, or entity applying for a permit or license to the Town of Albion, pursuant to this Ordinance.

CEO: Town of Albion Code Enforcement Officer

Electric Transmission Facility or Corridor (ETFC): Any project whose main purpose is the transmission or distribution or electricity, and all its affiliated building and facilities that contain electrical transmission or distribution systems with an operating voltage of 35 kV or greater.

Kilovolt (kV). Unit of electrical potential equal to 1,000 volts.

Occupied Structure: A building in which people live, work or frequent including seasonal/recreational uses, or building in which animals are housed.

Owner/Operator: The person or entity that is the legal owner of the ETFC including successors and assigns, and that has the authority and responsibility to operate the ETFC on a day-to-day basis. An Owner/Operator must have the legal authority to represent and bind the ETFC.

Permit: Written approval issued by the Town of Albion, empowering the holder thereof to construct a facility in accordance with this Ordinance.

Person: A natural person or legal entity.

Project Boundary: The boundaries of the ETFC wherein the Owner/Operator has legal right, title or interest, or the option to acquire the same, and as shown on the site plan submitted to and approved by the Planning Board in accordance with this Ordinance.

Project Parcel: Any parcel of real estate on which all or any part of the ETFC will be constructed.

Property Line: The imaginary line along the ground surface and the vertical extension of that line which constitutes a legally enforceable boundary which separates real property owned or controlled by owner(s) from contiguous real property owned or controlled by another person.

Section 9. Review and Compliance Standards for Electric Transmission Facilities and Corridors

i. This Ordinance applies to all ETFCs, as defined herein, proposed to be constructed and operated after the effective date of this Ordinance.

ii. It shall be a violation of this Ordinance to begin construction or operate an ETFC, as defined herein, without a Permit.

iii. All ETFC transmission lines shall be buried underground. They shall be buried at a depth consistent with state public utility engineering standards to prevent transient ground currents and stray voltage.

Section 10. Public Health and Safety Standards

A. Stray Voltage

i. An Application for ETFC shall be required by the Planning Board to include a stray voltage analysis report in accordance with this section. The Applicant shall conduct and include a report of pre-construction stray voltage tests on all Occupied Structures located within a radius, as determined by the Planning Board, of up to .5 miles of the Project Parcels. The tests shall be performed by a Planning Board approved investigator, using a protocol which is also approved by the Planning Board and paid for by the Applicant. A report of the tests shall be provided with the Permit Application and shall be provided to the owners of all property included in the study area. The Applicant shall seek written permission from property owners prior to conducting testing on such owners' properties. The Applicant shall not be required to perform testing on properties where owners have refused to grant permission to conduct the testing.

ii. Following construction of the ETFC, and within one year after commencing operation, the Applicant shall conduct a post-construction stray voltage test on all Occupied Structures located within the radius of the Project Parcels determined by the Planning Board in Section 10A.i above. The tests shall be performed by a Planning Board approved investigator, using a protocol which is also approved by the Planning Board and paid for by the Applicant. A report of the tests shall be provided with the Permit Application and shall be provided to the owners of all property included in the study area. The Applicant shall seek written permission from property owners prior to conducting testing on such owners' property. The Applicant shall not be required to perform testing on property where owners have refused to grant permission to conduct the testing.

B. Fire and Extraordinary Events

i. Fire Prevention: An Application for a permit to construct an ETFC shall include a Fire Prevention and Fire Fighting Plan that has been approved by the Town of Albion Fire Chief. The plan shall include a list of hazardous materials that may be encountered.

The Owner/Operator of any ETFC shall notify the Town of Albion Select Board of any "extraordinary event" within 24 hours of that event. Extraordinary events shall include but

not be limited to catastrophic component failure, fire, injury caused by the ETFC or any other event that affects the public health and safety of the town or its residents.

C. Maintenance

i. Prior to energizing any ETFC a written Operations and Maintenance plan shall be submitted to the Town Office with shall include a vegetation maintenance plan for all land within the Project Boundary.

ii. Vegetation Maintenance for all land within the Project Boundaries shall be performed by mechanical means and without the use of chemical herbicides or pesticides.

Section 11. Environmental Standards

i. ETFC projects shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, wells and aquifers. The Planning Board may require as condition of issuing a permit for an ETFC that a pre-construction baseline study of all wells, springs, and other water sources within the watershed of the project site be conducted. The study shall be designed and carried out by a water quality professional chosen by the Applicant from a list provided and contracted by the Planning Board and paid for by the Applicant.

ii. Within two years after completion of construction of an ETFC for which the Planning Board has required a pre-construction baseline water quality study as described in Section 11, part i of this Ordinance, a post-construction water quality study of all wells, springs and other water sources within the watershed of the project site shall be designed and carried out by a water quality professional chosen by the Owner/Operator from a list provided by the Planning Board and paid for by the Owner/Operator. If degradation or contamination is found to have occurred, fines may be imposed and remediation required by the Town of Albion or the State of Maine.

iii. Owner/Operator of ETFC shall not undertake any blasting without notifying the Town of Albion and submitting a blasting plan in accordance with the latest DEP and MSHA Standards. The blasting plan shall be reviewed and approved by the Albion Planning Board before any blasting takes place. Notice to all residents within one-thousand (1000) feet of the blasting area (measured horizontally) shall be provided by certified mail, return receipt, at the Applicant's expense a minimum of 7 days before blasting can take place.

Section 12. Financial Standards

An Applicant for development of an ETFC shall provide evidence satisfactory to the Town of Albion Planning Board that the project is financially viable. Evidence of financial viability shall include:

i. A budget for the construction of the project.

ii. Proof of adequate financing for all aspects of the construction and maintenance.

In reviewing an application and/or ongoing project operations for compliance with his Ordinance, The Planning Board and/or CEO may, at their discretion, retain professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer, biologist, land use planner or other professional. The Planning Board may also hire a Project Manager to provide assistance and oversight of the application submissions, reviewing and approval processes. If the Planning Board deems that such services are indeed necessary they shall inform the Applicant in writing who will then have fourteen (14) days to deposit in a joint escrow account with the Town of Albion the sum of $50,000 as partial payment towards such expenses.

If such a fund is established and the balance of the funds falls below $25,000 the Applicant, upon written notice shall submit an additional $25,000 to replenish the fund. If, at any time after such notification, the balance of this fund stays below $25,000 for a period of 30 days, the Application or Permit shall be considered to have been withdrawn. The balance of the escrow account shall be returned to the Owner/Operator after all expenses have been paid. If any delay in replenishing the fund generates a delay in reviewing the application or operations, then the deadline for completing the review is extended accordingly.

Section 13. Decommissioning Standards

A. The Owner/Operator of an EFTC shall, at their expense, be responsible for complete decommissioning of the project and site restoration within twelve months after it ceases to transmit electricity, or after its operational license has been revoked. Abandonment will be grounds for immediate revocation of the permit.

B. Decommissioning shall include removal and disposal outside the Town of Albion of all parts of the project (including foundations) in accordance with local, state and federal laws and regulations. Areas of disturbed earth shall be graded, seeded, or otherwise re-vegetated following guidelines provided by the CEO.

C. A Professional Engineer shall be chosen by the Applicant from a list provided by the Planning Board and paid for by the Applicant to estimate the total cost of decommissioning without consideration of the salvage value of the equipment. No permit for a Project shall

be issued until decommissioning funds in the form of a performance or surety bond, letter of credit or other form of financial assurance approved by the Town of Albion Planning Board has been provided.

D. Estimates, as described above, shall be redone annually on the anniversary of the granting of a project permit and the Owner/Operator of the project shall be required to maintain decommissioning funds that are at least equal to the most recent estimate.

E. If the Owner/Operator of the project does not complete decommissioning within the time prescribed in this Ordinance, the Town of Albion may take such action as necessary (including court action) to secure the posted decommissioning funds and to ensure completion of the decommissioning.

F. Decommissioning funds shall not be released except upon written approval of the Town of Albion Select Board.

Section 14. Permit Submission Requirement and Procedural Review Standards

A. An Application for a Permit to construct or expand an ETFC shall include the following:

i. Applicant's name, address and contact information.

ii. A complete and detailed site plan including all characteristics of the proposed project.

iii. Evidence that the Applicant owns the subject land or has a satisfactory land easement for all the land associated with the ETFC project.

iv. A written summary prepared by a qualified engineer detailing all required permits for the construction of an ETFC.

v. For all required permits listed in the preceding sub-paragraph, the Applicant shall submit all required permits issued by all local, state and federal agencies for both the construction and operation of the proposed ETFC.

vi. Payment of the Application Fee to the Town of Albion.

vii. Within ninety (90) days of receipt of an Application for a Permit, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, notify the Applicant in writing that the application is complete, or if the application is incomplete, shall inform the Applicant of the specific additional material needed to complete the application. The Planning Board may extend this ninety (90) day period if resources do not allow for completion of the review in the allotted time.

B. Application Review Process

i. The Applicant shall pay for the services of all consultants that the Planning Board deems necessary to evaluate the Application. Such consultants shall be chosen by the Planning Board. The failure of the Applicant to make such payments when required renders the Application void.

ii. Within 90 days of determining an Application is complete the Planning Board will hold an initial hearing to determine if the Application meets the requirements of this Ordinance. The initial hearing will be a public hearing with Notice being mailed to abutters by certified mail, at the Applicant's expense, a minimum of 15 days prior to the hearing.

iii. Within 15 days of the conclusion of hearings the Planning Board will issue a written decision either granting the permit, which may include conditions, or denying the permit. The decision will include findings of fact and conclusions of law necessary to support the decision made.

iv. If construction of the ETFC does not begin within 2 years, the permit shall lapse and the Applicant shall reapply to the Planning Board for a new permit. The Applicant may not begin construction until a new permit is granted.

Section 15. Conflict and Severability

i. Conflict. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

ii. Severability. The invalidity or any part of this Ordinance shall not invalidate any other part of this ordinance.

Section 16. Amendments

The Planning Board of the Town of Albion shall have the authority to initiate amendments to this Ordinance. The Planning Board shall first determine that such an amendment is in the public interest, is consistent with purpose and intent of this Section, and will not have a significant, adverse effect upon public safety and the environment. All proposed amendments shall be adopted only by a majority vote of the Town of Albion voters at a Town Meeting.