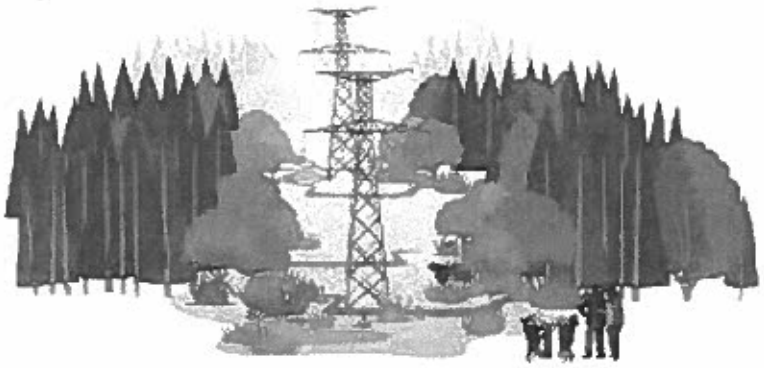
TOWN OF HUDSON

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ELECTRIC TRANSMISSION LINE CORRIDORS AND FACILITIES ORDINANCE



THE ENACTING AUTHORITY FOR THIS ORDINANCE IS THE VOTING MAJORITY OF THE CITIZENS OF THE TOWN OF HUDSON MAINE ON THIS DATE: 10|21|2024

ATTESTED: _____
Town Clerk

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I. Title

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

II. 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.*

III. Purpose

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

1. Minimize the adverse impacts of electrical transmission lines on surrounding land use, including visual impacts, environmental impacts, impacts to historically significant areas, health and safety impacts, and property value impacts.
2. Ensure that the Transmission Corridor does not land-lock any property.
3. Allow the Town to protect public health, safety, and welfare.
4. Support the goals and policies of the Town's Comprehensive Plan.

IV. Applicability

This Ordinance applies to all Electric Transmission Line Corridors and Facilities up to 46 kV in the Town of Hudson proposed to be constructed or expanded after the effective date of this Ordinance.

V. Effective Date

This Ordinance is effective upon adoption at a Town Meeting.

VI. Fee Schedule

A. Application Fees

All applications for Electric Transmission Line Corridors and Facilities shall make payable a non-refundable fee of $2500 to the Town of Hudson.

B. Escrow Fund Fees

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

VII. Enforcement

A. 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 an ordering of 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 notices shall be submitted to the Town Office and maintained as a permanent record.

B. 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, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations 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 Hudson.

1. The CEO shall keep a complete record of all essential transactions, including applications submitted, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. Any violation of this Ordinance shall be deemed a nuisance. Any person, including but not limited to a landowner or easement owner, or their agents or a contractors, who violates any provision or requirement of this Ordinance shall be penalized in accordance with Title 30-A M.R.S. Section 4452 or any other legal regulatory guidance of local, state or federal agencies.

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

3. Development of any kind without Planning Board Approval shall be a violation of law. Development includes, but not limited to, excavation, adding fill, grading or construction of roads, grading land or lots, removal of trees or vegetation within the proposed corridor, or commencement of construction or structures which requires a plan approved as provided in this Ordinance.

4. The Code Enforcement Officer shall conduct on-site inspections at their discretion to ensure compliance with all applicable laws and conditions attached to permit approvals.

VIII. Review Criteria and Compliance Standards for Electric Transmission Line Corridors and

Facilities

An ETLFC shall not adversely affect the general health, safety or welfare of the residents of Hudson, and shall not adversely affect the environment or wildlife, and shall comply with the following criteria:

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

It shall be a violation of this Ordinance to begin construction or operate an ETLCF, as defined herein, without a permit:

1. It shall be a violation of this Ordinance to construct or expand an ETLCF with an operating capacity over 46 kV.

2. It shall be a violation of this Ordinance to construct or erect any infrastructural components for an ETLCF that exceed 70 feet in height.

3. Underground power and transmission lines shall be buried at a depth consistent with state public utility engineering standards to prevent transient ground currents and stray voltage.

4. The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner/Operator of the ETLCF. Approval of a permit by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner/Operator to comply with this Ordinance.

IX. Public Health and Safety Standards

A. Stray Voltage Assessment and Requirements

1. An application for ETLCF shall include reports of stray voltage analysis in accordance with this section. The Applicant shall conduct and include a report of a pre-construction stray voltage test on all occupied structures located within one half (0.5) mile radius 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' property. The Applicant shall not be required to perform testing on property where owners have provided written refusal to grant permission to conduct the testing.

2. Following construction of the ETLCF, and within one year after commencing

operation, the Applicant shall conduct a post construction stray voltage test on all occupied structures located within one half (0.5) mile radius 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' property. The Applicant shall not be required to perform testing on property where owners have provided written refusal to grant permission to conduct the testing.

3. The Applicant or subsequent Owner/Operator shall provide neutral isolation devices to property owners where testing reveals neutral-to-earth voltages more than one half (0.5) volts caused by the ETLF project.

4. The Owner/operator shall be responsible for all costs incurred with the pre- and post- construction tests and repairs.

B. Fire and Extraordinary Events

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

2. The Owner/Operator of any ETLCF shall notify the Town of Hudson Planning Board of any "extraordinary event(s)" within 24 hours of that event. Extraordinary events shall include but not be limited to catastrophic component failure, fire, or injury caused by the ETLCF or any other event that affects the public health and safety of the town or its residents.

C. Maintenance

1. Prior to energizing any ETLCF a written Operations and Maintenance plan shall be submitted to and approved by the Town Planning Board, which shall include a vegetation management plan for all land within the project boundary.

2. Vegetation management for all land within the project boundaries shall be performed by mechanical means and without the use of chemical herbicides and pesticides.

X. Environmental Standards

A. ETLCF projects shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, wells and aquifers. The Planning Board shall require as a condition of issuing a permit for an ETLCF that a pre-construction baseline study of all wells, springs, and other water sources within two hundred fifty (250) feet of the project boundary site be conducted. The study shall be designed and carried out by a water quality professional selected, contracted, and paid for by the Applicant but approved by the Planning Board in writing.

B. Two years after completion of construction of an ETLCF for which the Planning Board has required a pre-construction baseline water quality study as described in Section 11. i. of this Ordinance, a post construction water quality study of all wells, springs and other water sources within two hundred fifty (250) feet of the project boundary site. The study shall be designed and carried out by a water quality professional selected, contracted, and paid for by the Applicant but approved by the Planning Board in writing. If degradation or contamination is found to have occurred, fines and/or permanent remedies as required by the Town of Hudson, or the State of Maine shall be the responsibility of the Owner/Operator.

C. The Owner/Operator of the ETLCF shall not allow or undertake any blasting without notifying the Town of Hudson and submitting a blasting plan in accordance with the latest DEP and MSHA standards. The blasting plan shall be reviewed and approved by the Hudson Planning Board before any blasting takes place. Forty-eight (48) hour notice shall be given to all residents within a two-mile radius of the blasting area (measured horizontally) before blasting can take place.

XI. Financial Standards

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

1. A budget for the construction of the project.
2. Proof of adequate financing for all aspects of the construction.
3. Owner(s)/Operator(s) of the ETLCF shall be held responsible for all liability and expenses related to and incurred or created by the existence of the ETLCF.

B. In reviewing an application and/or ongoing project operations for compliance with this 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. If the Planning Board deems that such services are indeed necessary, they shall inform the Applicant who will then have fourteen (14) days to deposit in a joint escrow account with the Town of Hudson the sum of $50,000 as partial payment towards such expenses.

C. If such a fund is established and the balance of the funds falls below $25,000 the Applicant, upon 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 Operational License shall be considered to have been withdrawn. The escrow account shall remain in service after completion of the transmission corridor to reimburse the town for all expenses incurred from responding to any issues related to the transmission corridor. 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.

XII. Decommissioning Standards

A. The Owner/Operator of an ETLCF shall at their own expense be responsible for the complete decommissioning of the project and site restoration if the ETLCF ceases to transmit electricity for a period of twelve (12) consecutive months. Abandonment will be grounds for immediate decommissioning.

B. Decommissioning shall include timely removal and disposal outside the Town of Hudson of all parts of the project 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. All maintenance and downtime of all ETLCFs, or any other situation leading to the interruption of electricity transmission by the ETLCF shall be promptly reported to the Municipal Officers of the Town of Hudson.

D. A professional engineer shall be selected, contracted, and paid for by the Applicant but approved by the Planning Board in writing 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 Hudson Planning Board has been provided. If a bond is used, such bond shall be issued by an entity listed on the U.S. Treasury Department Circular 570 or successor document.

E. Estimates, as described above, shall be redone annually every five (5) years after 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.

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

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

XIII. Permit Submission Requirement and Procedural Review Standards

A. Initial Application Submission Requirements and Review Process

An initial application for a Permit to construct or expand an ETLCF shall include the following:

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

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

3. Corridor of proposed transmission line. The person filing a petition under this section for approval of a proposed transmission line shall submit a map to the Planning Board with its application. The map must:

   a. Be available to the public at the offices of the commission and at the local town office where any portion of the proposed transmission line is to be located; [PL 1991, c. 640, §3 (AMD).]

   b. Indicate the proposed corridor or corridors of the transmission line and a description of any planned equipment and facilities to be placed there; and [PL 1991, c.) 640, §3 (AMD).] c. and be prepared in cooperation with the appropriate natural resource protection agencies and the affected municipalities. [PL 1991, c. 640, §3 (NEW).] [1999, c. 398, Pt. A, §46 (amd); §§104, 105 (aff).] [PL 2007, c. 148, §4 (AMD).]

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

5. Evidence that the project as proposed has been presented to and approved by the following agencies: Maine Natural Areas Program, Maine Department of Inland Fisheries and Wildlife, Maine Historic Preservation Commission, the Maine Department of Transportation, Maine Department of Agriculture, Conservation & Forestry, Maine Department of Environmental Protection and Maine Public Utilities Commission.

6. A written summary prepared by a qualified engineer detailing all required

permits for the construction of an ETLCF.

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

8. Evidence that the Applicant has identified the location of all underground utilities and will conduct all construction operations in accordance with M.R.S. Title 23, §3360-A Protection of Underground Facilities.

9. Payment for the initial application fee is payable to the Town of Hudson.

10. Within ninety (90) days of receipt of an initial application for a permit, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, will notify the Applicant in writing that the application is complete, or if the application is incomplete, and shall inform the Applicant of the specific additional material needed to complete the application. The Planning Board may extend this ninety (90) day period at its discretion.

11. After the Planning Board determines that an initial application for a permit is complete, the Planning Board shall determine whether the initial application meets the requirements of this Ordinance. In determining whether the application meets the requirements of this Ordinance, the Planning Board may obtain services from such staff and consultants as it deems appropriate which will be paid for by the Applicant.

12. Within ninety (90) days of determining that an initial application for a permit meets the requirements, the planning board shall approve the application for a permit with conditions or disapprove the application for a permit. The time limit for review may be extended by mutual agreement between the planning board and applicant.

13. The Planning Board shall make findings of facts and conclusions relative to the standards in this Ordinance. If the Planning Board finds that all standards have been met, they shall approve the application for a permit. If the Planning Board finds that any of the standards of this Ordinance have not been met, the Planning Board shall either approve or deny the application with conditions to ensure the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

B. Final Application

The final application for a permit to construct and operate an ETLCF shall include the following:

1. Updates to information provided in the initial application.

2. Any and all relevant updates, changes or modifications to the project that may impact the Planning Boards ability to make a sound decision to approve or deny an application.

3. 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. Failure of the Applicant to make such payments renders the application void.

4. Payment of the final application is payable to the Town of Hudson within ninety (90) days of receipt of a final 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 not and shall inform the Applicant of the specific additional material needed to complete the application. The Planning Board may extend this ninety (90) day period at its discretion.

   After the Planning Board determines that a final application for a permit is complete, the Planning Board shall determine whether the final application meets the requirements of this Ordinance. In determining whether the application meets the requirements of this Ordinance, the Planning Board may obtain services from such staff and consultants as it deems appropriate which will be paid for by the Applicant.

5. Within ninety (90) days of determining that a final application for a permit meets the requirements, the Planning Board shall approve the application for a permit with conditions or disapprove the application for a permit. The time limit for review may be extended by mutual agreement between the Planning Board and Applicant.

6. The Planning Board shall make findings of facts and conclusions relative to the standards in this Ordinance. If the Planning Board finds that all standards have been met, they shall approve the final application for a permit. If the Planning Board finds that any of the standards of this Ordinance have not been met, the Planning Board shall either deny the Application or approve the application with conditions to ensure the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

7. If construction or operation of the activity has not begun within two (2) years, this 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.

XIV. Conflict and Severability

A. 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.

B. Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

XV. Amendments

The Planning Board of the Town of Hudson, Maine 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 the purpose and intent of this Ordinance, and will not have a significant, adverse effect upon public safety and the environment. Any Planning Board proposed amendment shall then be forwarded to the Select Board to determine if the proposal should be presented to the voters. All proposed amendments must be adopted by a majority vote from the Town of Hudson voters at a Town Meeting.

XVI. Definitions

Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and give this ordinance its most reasonable application. Words in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary. When a particular publication or standard is referenced, it shall include any revised or replacement publication or standard. When a particular agency or organization is referenced, it shall include any successor agency or organization responsible for the same matters.

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

CEO: Town of Hudson Code Enforcement Officer

Electric Transmission Line Corridors and Facility (ETLCF): Any project, whose main purpose is the transmission or distribution of electricity, and all its affiliated improvements, buildings or facilities that contain or support electrical transmission or distribution systems with an operating voltage of 46 kV or greater.

ETLCF: Electric Transmission Line Corridors and Facility

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 ETLCF including successors and assigns, and any person or entity that has the authority or responsibility to operate the ETLCF on a day-to-day basis. An Owner/Operator must have the legal authority to represent and make binding representations and decisions on behalf of the ETLCF.

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

Project Boundary: The boundaries of the ETLCF to which 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 ETLCF will be constructed.

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