TOWN OF ALBION

UTILITY SCALE SOLAR ENERGY FACILITY ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish a municipal review procedure and siting standards for Utility Scale Solar Facilities (USSF's). These standards are intended to:

a. Establish clear guidelines and standards to regulate utility scale solar energy facilities;

b. Permit the Town to fairly and responsibly protect public health, safety, welfare and agricultural lands;

c. Support the development of utility scale solar energy facilities in a manner that minimizes any potential adverse effects on the scenic, cultural, and natural resource character of the Town;

d. Provide for the removal of panels and associated utility structures that are no longer being used for energy generation and transmission purpose; and

e. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural and scenic resources.

Section 2. Authority

This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (Home Rule), and the provisions of Title 30-A §4312 et. seq. (Comprehensive Planning and Site Plan Review Regulation, or "Growth Management" Act).

Section 3. Applicability

a. No Utility Scale Solar Energy Facility shall be located within the Town of Albion without a Permit issued by the Town of Albion Planning Board, unless specifically exempted from the permit requirements of this Ordinance. Any physical expansion, reconfiguration, or increase in the Rated Nameplate Capacity of an existing Solar Energy Facility shall also require approval from the same permitting authority as required for a new Utility Scale Solar Energy Facility under this Ordinance. Routine maintenance or replacements do not require a permit.

b. Exemption. Roof mounted or ground mounted unit Solar Energy Facilities smaller than USSF arrays are exempted from this Ordinance but must meet state electrical codes and applicable requirements of any other Ordinance of the Town of Albion.

c. Location Restriction: Installation of Utility Scale Solar Facilities (USSF) are not permitted within the Town of Albion "Village" areas.

d. Any Solar Facilities of any size or electrical capacity that are fully operational before the adoption date of this ordinance are not subject to this ordinance.

e. As determined by the Planning Board, an applicant may be requested to evaluate other potential suitable area(s) for development on the lot(s) under consideration in order to better meet the ordinance standards, the LUO standards, and the objectives of the town's Comprehensive Plan.

Section 4. Definitions

As used in this Ordinance, unless the context otherwise indicates, the terms referenced below have the following meanings:

a. **Financial capacity:** Means the demonstration of current and future financial capacity, which must be unaffected by the owner's or operator's future financial condition, to fully fund decommissioning in accordance with an approved decommissioning plan under this ordinance.

b. **Rated Nameplate Capacity:** means the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC)

c. **Residential Dwelling Structure:** means any structure that includes a room or group of rooms with a bathroom, cooking, and sleeping facilities designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwellings.

d. **Transfer of ownership**: means a change in the legal entity that owns or operates a solar energy development. A sale or exchange of stock or membership interests or a merger is not a transfer of ownership as long as the legal entity that owns or operates the solar energy development remains the same.

e. **Utility Scale Solar Facility (USSF):** is any solar facility, project, or installation which is intended to and/or in fact does generate solar power and feeds said power into the electric grid supplying the local utility with power. This shall include, but is not limited to, any ground mounted photovoltaic (PV) project that is larger than 0.10 M.W. (ac) in capacity. Residential/commercial solar arrays smaller than 0.10 M.W. (ac) are not included in this definition.

Section 5. Administration and Enforcement

a. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or Code of the Town existing on the effective date of this Ordinance or State or Federal regulation, the provision which establishes the higher standard for the promotion and protection of health and safety shall prevail.

b. Permit Required. An approvad Permit from the Planning Board is required prior to the installation, construction, or expansion of a Utility Scale Solar Facility (USSF). USSF's must meet the requirements of this Ordinance and the Site Review Ordinance. All USSF's must also meet all federal and state electrical codes and permitting requirements.

c. Utility Scale Solar Facility (USSF) permit review will be conducted under the Albion Ordinance pertaining to Subdivision and Commercial Development Review regulations.

Section 6. Specific Application Requirements

An application for a USSF Permit must include the following:

a. A permit / technical review fee to be set by the Board of Selectmen shall be payable at the time of application.

b. A description of the owner of the facility, the operator if different, and detail of qualifications and track record to run the USSF;

c. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party with regard to the USSF and the life of the agreement;

d. A description of the energy to be produced and to whom it will be sold;

e. A copy of the agreement and schematic details of the connection arrangement with the transmission facility, clearly indicating which party is responsible for various requirements and how they will be operated and maintained;

f. A description of the panels to be installed, their make and model and applicable material safety data sheets, as well as a description of associated major facility components.

g. A construction plan and timeline, identifying known contractors, site control, and anticipated on-line date;

h. A full official land survey of the proposed site. Must include any Rights of way and Easements on the property and be sealed and/or stamped by a Maine licensed professional surveyor.

i. An operations and maintenance plan, including site control, the projected operating life of the facility and the decommissioning plans.

j. An emergency management plan for all anticipated hazards;

k. Proof of financial capacity to construct and operate the proposed USSF; and

l. A Visual Impact Assessment

An analysis to determine potential visual effect of the USSF must be undertaken.
In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures.

A visual impact assessment must also include written narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

The Visual Impact Assessment must include the following elements:

i. A visual and cartographic analysis (Viewshed Analysis)

A geographical representation of all the areas of where the USSF, from its highest points is visible from the surrounding (impact) area should be presented. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the impact area from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape.

ii. Site inventory and photographic review.

This should provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the USSF and its associated elements.

iii. Visual Simulations - Visual simulations should be provided to show a photo-realistic perspective view of proposed USSF elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure.

The visual impact assessment must be prepared by a design professional trained in visual assessment procedures, or as otherwise directed by the Planning Board.

m. A decommissioning plan, including:

i. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned Any restart plan must have the approval of the Planning Board.

ii. A description of the work required to physically remove all solar panels, associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded and completed within one year unless the landowner of the affected land requests otherwise one year in writing.

[Note: At the time of decommissioning, the Applicant may provide written evidence of plans for continued beneficial use of any or all of the components of the Solar Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]

iii. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken

to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.

iv. Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the USSF the Applicant will have the necessary financial assurance in place for 150 % of the total cost of decommissioning, less salvage value. The Planning Board may consider allowing the applicant to secure the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the USSF. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the USSF is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.

v. Transfer of ownership. Upon a transfer of ownership of a solar energy development subject to a decommissioning plan approved under this ordinance, a person or entity that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator. It is the obligation of the owner or entity to notify the Town of Albion, Planning Board and Code Enforcement Officer of a transfer of ownership. Failure to notify the above officials will result in revocation of the permit to operate the USSF and trigger decommissioning.

Section 7. Standards for Approval

The following standards must be met for a USSF to be approved for development:

a) Legal Responsibilities: The Applicant must provide proof of authorization to construct, use, and maintain the property and any access drive for the life of the USSF and including the decommissioning of the USSF. The roles and responsibilities of the facility owner, operator, landowner and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.

Setbacks: Structures in the "Rural" areas that are part of a USSF shall be setback a minimum of **300 feet** from any existing residential dwelling structure and nearest edge of adjacent roadway. Structures in the "Growth" areas that are part of a USSF shall be setback a minimum of 500 feet from any existing residential dwelling structure and nearest edge of adjacent roadway.

b) Height, Installation and Maintenance: The USSF shall be no more than 15 feet high at its tallest point of any equipment, installed with pile driven or ballast block footing and subject to the provisions of a vegetative management plan approved by the Planning Board.

c) Utility Notification: No USSF shall be installed until written evidence has been given to the Planning Board that the applicant has an agreement with the local utility to accept the power.

d) Fencing: The Planning Board shall require that a USSF be enclosed by fencing to prevent unauthorized access and may also require landscaping to avoid adverse aesthetic and visual impacts of installed fencing to adjacent properties.

e) Signage: Signage shall be required to identify the owner of the USSF and provide a 24-hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the USSF. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the USSF, informing individuals of potential voltage hazards, including stating the output of power (AC or DC).

   Signage indicating the official e911 address of the Facility shall also be required to clearly be visible, from both directions of travel, from the public road or roads from which the USSF is accessed.

f) Visual Impact: Any USSF should minimize any detrimental effect on the scenic resources of the town or the scenic value from abutters properties. In order determine the visual impact of any USSF, the Planning Board will, using the information provided in the Visual Impact Assessment study (See above), consider the following:
   i. The significance of the potentially affected scenic resources;
   ii. The existing character of the surrounding area;
   iii. The expectations of the typical viewer;
   iv. The project purpose and the context of the proposed activity;
   v. The extent, nature and duration of the potential effect of the USSF's presence on the public's continued use and enjoyment of the towns scenic resources.

g) Emergency Services: The USSF owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town of Albion Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A Knox-Box access system shall be provided and installed by the operator to be used to allow emergency service personnel emergency access. The Fire Chief shall approve the installation, location and model of the Knox-Box. All means of shutting down the USSF shall be clearly marked. The owner or operator shall identify a officer or principal for public inquiries throughout the life of the installation.

   Access roads to the USSF shall be of sufficient quality and dimensions to satisfy the fire chief and road commissioner that any emergency response vehicles be able to easily and safely gain access to and around the site.

h) Maintenance Conditions: The USSF owner or operator shall maintain the USSF and all associated fencing and landscaping elements in good functional condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security and visual barrier measures. The USSF must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Town of Albion Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the USSF and any access road(s).

i) Modifications: Any material modifications to a USSF made after issuance of the required Town permit(s) shall require approval by the Code Enforcement Officer and the Planning Board.

j) Satisfaction with All Aspects of Capacity and Plans Submitted: The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the USSF.