

MODEL PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

[Municipal Administration – 35-A MRSA §10154 2 A (1)]

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish and to administer the functions of a PACE program;

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose.

By and through this Chapter, the City of/Town of _____ declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town. The City/Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation.

The City/Town enacts this Chapter/Ordinance pursuant to 35-A M.R.S.A. § 10151, *et seq.*

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title.

This Chapter/Ordinance shall be known and may be cited as “the City/Town of _____ Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

§ XX-4 Definitions.

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. Municipality. “Municipality” shall mean the City/Town of _____.

3. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Municipality that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. PACE district. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

§ XX-5 Establishment; funding.

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans. PACE loan funds may come from a variety of sources. To the extent that PACE loan funds are made available from the Trust, these are made available in municipalities that: 1) adopt a PACE Ordinance; 2) adopt and implement a local public outreach and education plan; 3) administer the functions of a PACE program including, but not limited to, entering into PACE agreements with owners of qualifying property and collecting PACE assessments, all in accordance with the PACE Act and the Trust’s rules and regulations; and 4) require that participants in the PACE program comply with requirements for the Home Energy Savings Program administered by the Trust.

§ XX-6 Amendment to PACE program.

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

§ XX-7 Standards adopted; Rules promulgated; model documents.

If the Trust or other State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance and/or with the Municipality's manner of participation in the PACE program, the Municipality shall take necessary steps to conform this Ordinance and/or its manner of participation in the PACE program to those standards, rules, or model documents.

ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

§ XX-8 Program Administration.

1. PACE Administration. The Municipality will administer its PACE program pursuant to and consistent with the PACE Act, 35-A M.R.S.A. §10151, *et seq.* The Municipality's administration of its PACE program shall include the following:

- A. the Municipality will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- B. the Municipality, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- C. the Municipality, or its agent, will disburse the PACE loan to the property owner;
- D. the Municipality, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- E. the Municipality, or its agent, will be responsible for collection of the PACE assessments;
- F. the Municipality, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;
- G. the Municipality, or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

2. PACE Program.

- A. The Municipality's PACE program shall be consistent with any terms and conditions the Trust may establish by rule under 35-A M.R.S.A. § 10154(4).

B As required by 35-A M.R.S.A. §10155(3), federal laws and regulations regarding the privacy of consumer information apply to all consumer financial information obtained by the Trust or Municipality in implementing its PACE program.

3. PACE Agreement

A. As required by 35-A M.R.S.A. §10155(1), a PACE agreement entered into by the Municipality pursuant to its PACE program must comply with underwriting requirements established by rule by the Trust.

B. As required by 35-A M.R.S.A. §10155(2), a PACE agreement entered into by the Municipality pursuant to its PACE program must provide consumer disclosure consistent with the principles of truth in lending as specified in rules adopted by the Trust.

C. As required by 35-A M.R.S.A. §10157(2), a PACE agreement entered into by the Municipality pursuant to its PACE program shall provide that all rights related to carbon emissions reductions resulting from those improvements are deemed to be assigned by the property owner to the Trust and are held by the Trust.

4. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

5. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Municipality in any manner allowed under the PACE program and consistent with applicable law.

6. PACE mortgages and PACE Assessments. PACE mortgages shall be recorded and PACE Assessments shall be assessed and collected as provided in 35-A M.R.S.A. §10156.

§ XX-9 Liability of Municipal Officials; Liability of Municipality.

1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

2. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.