

TOWN OF HAMPDEN, MAINE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Property Assessed Clean Energy (PACE) Ordinance

Adopted: Hampden Town Council, August 16, 2010
Effective: September 15, 2010

CERTIFIED BY:

Denise Hodsdon, Town Clerk

Town Clerk
Affix Seal

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TOWN OF HAMPDEN

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

ARTICLE I GENERAL

1.1 Title - This Chapter shall be known and may be cited as “Town of Hampden Property Assessed Clean Energy (PACE) Ordinance.”

1.2 Purpose - By and through this Ordinance, the Town of Hampden (“Town” or “Hampden”) 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 property owners can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.

1.3 Enabling Legislation - The Town enacts this Ordinance pursuant to State law. Specific enabling legislation is found in Public Law 2009, Chapter 591, 124th Maine State Legislature—“An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses.”

1.4 Reserved

ARTICLE II DEFINITIONS

2.1 Definitions - Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have meanings indicated.

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

1. Will result in increased energy efficiency and substantially reduced energy use and:
 - a. 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
 - b. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
2. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

2.1.2. *Municipality* - “Municipality” shall mean the Town of Hampden.

2.1.3. *PACE agreement* - “Pace agreement” means an agreement entered into by an owner or owners of a qualifying property and the Trust, or an agent authorized by the Trust, that authorizes a PACE loan and 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.

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

2.1.5. *PACE district*. “PACE district” means the district in which the PACE program may operate and which is defined geographically to include the entire municipality as determined by municipal boundary lines.

2.1.6. *PACE loan*. “PACE loan” means a loan made to the owner(s) of a qualified property for an energy saving improvement.

2.1.7. *PACE mortgage*. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

2.1.8. *PACE program*. “PACE program” means a program established under State statute by the Trust and a municipality under which property owners can finance energy savings improvements on qualifying property.

2.1.9. *Qualifying property*. “Qualifying property” means real property located in the Town of Hampden.

2.1.10. *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.

2.1.11. *Trust*. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103.

ARTICLE III PACE PROGRAM

3.1 Establishment; funding - The Town of Hampden hereby establishes a PACE program allowing property owners in the Town of Hampden who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust, or its agent. The PACE loan funds are available from the Trust through grant money awarded to the State of Maine under the federal Energy Efficiency and Conservation Block Grant Program. These loan funds are available to citizens who reside in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, and 3) require that participants in the program conform to the requirements of the Home Energy Savings Program administered by the Efficiency Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds. The Town may, from time to time, use

any other funding sources made available to it, or appropriated by it, for the express purpose of its PACE program. The Town shall be entitled to, and shall avail itself of, recoupment of administrative or other costs incurred by the Town in conjunction with its PACE program to the fullest extent permissible by the Trust or governing law.

3.2 PACE District - The Town hereby establishes a PACE district in which the PACE program may operate and which is defined geographically as being the entire municipality as determined by municipal boundary lines.

3.3 Reserved -

ARTICLE IV CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1. Property Owners; Home Energy Savings Program - In order to access PACE loans for home energy savings improvements, participating property owners must conform to the requirements of the Home Energy Savings Program administered by the Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds.

4.2. Standards adopted; Rules promulgated; model documents - If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to Town's adoption of this Property Assessed Clean Energy ("PACE") Ordinance and those standards, rules or model documents substantially conflict with Town's PACE Ordinance, the Town, should it desire to remain eligible to participate with the Trust in this program, will be required to take necessary steps to conform this PACE Ordinance and its PACE program to those standards, rules, or model documents.

4.3. Rights to carbon emissions reductions - PACE agreements entered into pursuant to this PACE Ordinance shall specify that all rights of participating property owners related to carbon emissions reductions from energy saving improvements are deemed to be assigned by the property owner(s) to the Trust and are held by the Trust for the purpose of quantifying, monetizing and/or marketing aggregated carbon emission reductions in the State of Maine.

4.4. Reserved -

ARTICLE V PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1. Program Administration

5.1.1. Pursuant to §10154(2)(A)(2) and (B) of the State enabling legislation, the Town will enter into a contract with the Trust to administer the functions of the PACE program for the municipality. The contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust, or its agent, will be the entity to enter into PACE agreements with property owners;
2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the Penobscot County Registry of Deeds;

3. the Trust, or its agent, will disburse the PACE loan to the property owner;
4. the Trust, or its agent, will send assessment statements with payment deadlines to the property owner;
5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment; and
7. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support energy savings improvements; and

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

5.3. *PACE Assessments* - PACE assessments do not constitute a municipal tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.4. *Liability of Municipal Officials; Liability of Municipality*

5.4.1. 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.

5.4.2. Other than the fulfillment of its obligations specified in a 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.