

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Administration by the Efficiency Maine Trust

(Adopted by the Town Council on April 11, 2011)

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 Town of Brunswick, 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 Town of Brunswick wishes to establish a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy savings improvements to their property through PACE loans administered by the Trust or its agent; and

WHEREAS, PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) desire and intend to assist and cooperate with the Trust in its administration of the municipality’s PACE program; and

WHEREAS, the Town of Brunswick 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; however, the Trust has indicated that the Town of Brunswick shall be responsible for administration of loans made from those other funding sources; and

NOW THEREFORE, the Town of Brunswick hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

1. Purpose

By and through this Ordinance, and in conformity with applicable federal and State laws, , the Town of Brunswick establishes 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 Town of Brunswick.

2. Enabling Legislation

The Town of Brunswick enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “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” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

1. Title

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

2. 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 the meanings indicated:

A. 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.

B. Town of Brunswick. “Town of Brunswick” shall mean the Town of Brunswick, located in Cumberland County, Maine.

C. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Trust 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.

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

E. 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.

F. 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.

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

H. 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.

I. Qualifying property. “Qualifying property” means real property located in the PACE district of the municipality.

J. 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.

K. 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 – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Town of Brunswick will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Town of Brunswick. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Town of Brunswick's PACE district;
- ii. the Trust, 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;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Town of Brunswick, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

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

C. Assistance and Cooperation. The Town of Brunswick desires and intends to assist and cooperate with the Trust in its administration of the Town of Brunswick's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Town of Brunswick

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors, tax collectors, town councilors and town managers 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.

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