

WARRANT FOR SPECIAL TOWN MEETING

January 20, 2011
7:25PM

GREETING: You are hereby required in the name of the State of Maine to notify and warn the Inhabitants of the Town of Topsham, qualified to vote on Town Affairs, to assemble at Mt. Ararat High School on the 16th day of February, 2011 A.D. at 7:00 o'clock p.m. Eastern Standard Time, and then and there to act on Articles 1 thru 5 to wit:

ARTICLE 1. To elect a *Moderator* to provide at said meeting. Rick Hornbeck

ARTICLE 2. Shall the voters vote to accept Paxton Lane as a Public Road?

Planning Board Recommendation: Ought to Pass Passed

ARTICLE 3. Shall the voters approve an Ordinance entitled "An Ordinance to regulate the development of Medical Marijuana Dispensaries"?

225-6 Definitions

Medical Marijuana Dispensary - a not for-profit entity registered under MRSA Title 22, Section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and education materials to cardholders.

225-60.16 Medical Marijuana Dispensaries

Any Medical Marijuana Dispensary shall meet the following standards:

- A. No such facility shall be located such that the entrance to the facility is no closer than 500', measured in a straight line, without regard to intervening structures or objects, to the nearest boundary of a lot being used for residential purposes, playground, church, school, or park.
- B. No Medical Marijuana Dispensary shall be located such that the entrance to the facility is any closer than 1,000', measured in a straight line, without regard to intervening structures or objects, to the nearest property boundary of a lot being used for another Medical Marijuana Dispensary.
- C. No Medical Marijuana Dispensary shall open earlier than 8:00a.m., nor close later than 8:00 p.m. This shall exclude the hours of operation for the cultivation of medicinal marijuana.

225-17 Table of Land Uses

Zone	R1	R2	R3	CC	RCU	MUL	MUC	MUC-1	BP	CC196	LV	MV I	BP2	R4	LI	VC
Use																
Medical Marijuana Dispensary	X	X	X	X	X	X	C	X	C	X	X	X	X	X	X	X

Planning Board Recommendation Ought to Pass Passed

ARTICLE 4. Shall the voters adopt an Ordinance entitled "An Ordinance to adopt THE TOWN OF TOPSHAM PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE"

Passed

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, chapter 591, "An Act to Increase the Affordability of Clean Energy for the Homeowners and Businesses," also known as "the Property Assessed 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 savings improvements to their properties located in the Town of Topsham (Topsham), 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 the purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, Topsham wishes to establish a PACE program;

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

Chapter 158 Property Assessed Clean Energy (PACE) Program

§ 158-1 Purpose

By and through this Ordinance, Topsham 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 Topsham. Topsham declares its purpose and in the provisions of this Ordinance to be in conformity with the federal and State laws.

§ 158-2 Enabling Legislation

Topsham 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.).

§ 158-3 Title

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

§ 158-4 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:

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. PACE agreement. “Pace agreement” means an agreement between the owner of a 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.
3. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
4. PACE district. “Pace district” means the entire area of Topsham.
5. 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.
6. PACE mortgage. “PACE” mortgage means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
7. PACE program. “PACE program” means a program established under State statute by the Trust or the Town Topsham under which property owners can finance energy savings improvements on qualifying property.
8. Qualifying property. “Qualifying property” means real property located in the Topsham PACE district.
9. 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 a 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.
10. Trust. “Trust” means the efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/ or its agent(s), if any.

§ 158-5

PACE PROGRAM

1. Establishment; funding. Topsham hereby establishes a PACE program allowing owners of qualifying property located in the Topsham PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in Topsham, if Topsham: 1) adopts a Pace Ordinance, 2) adopts and implements a local public outreach education plan, 3) enters into a PACE administration contract with the Trust to establish the terms and condition of the Trust's administration of Topsham's PACE program, and 4) agrees to assist and cooperate with the Trust in its administration of Topsham's PACE program.
2. Amendment to PACE program. In addition , Topsham 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 Topsham shall be responsible for administration of loans made from those other funding sources.

§158-6

CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to Topsham's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, Topsham shall take necessary steps to conform this Ordinance and its PACE program to those standards , rules, or model documents.

§158-7

PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

Program Administration

- A. PACE Administration Contract. Pursuant to 35- A M.R.S.A. 10154(2)(A)(2) and (B), Topsham will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for Topsham. 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 the owners of qualify property in Topsham'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 the payment deadlines to the property owner;
 - v. the Trust, or its agent, will be responsible for the 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 Topsham, promptly shall record the discharge of PACE mortgages upon full payment of the PACE loan.
 - A. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, Topsham shall implement an education and outreach program so that citizens of Topsham are made aware of home energy saving opportunity to finance energy savings improvements with a PACE loan.
 - B. Assistance and Cooperation. Topsham will assist and cooperate with the Trust in its administration of the PACE program.
 - C. Assessment 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 Municipality
 - A. Notwithstanding any other provision of the law to the contrary, all Topsham municipal officers, officials and appointees, including, but not limited to, and without limitation, elected officials, tax assessors and tax collectors, are not personally liable to the trust or 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 VI, §1(A) above, Topsham has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

ARTICLE 5. Shall the voters approve an Ordinance entitled “An Ordinance to regulate the development of Addiction Treatment Facilities”?

225-6 Definitions

Addiction Treatment Facility: A facility for outpatient detoxification and treatment of narcotic-dependent persons which administer or dispenses drugs used to alleviate adverse physiological or psychological effects incident to withdrawal from continuous or sustained use of a narcotic drug, including but not limited to clinics that dispense methadone in such a treatment regimen.

225-60.15 Standards for Addiction Treatment Facilities

A. Addiction Treatment facilities shall conform to the following standards:

1. Any such facility shall be licensed by the State of Maine for specific treatment programs offered, and for the number of customers served.
2. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 500 feet, measured in a straight line without regard to intervening structures or objects, to the nearest boundary of any property which is occupied by a residence, school, playground, park, church, daycare center or nursery school.
3. No addiction treatment facility shall be located where patient entrance to the treatment facility would be closer than 500 feet, measured in a straight line without regard to intervening structures or objects, to the nearest boundary of any property which is located in a residential zone.
4. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,500 feet, measured in a straight line without regard to intervening structures or objects to the nearest point on any property which is occupied by an addiction treatment facility.
5. The applicant shall demonstrate compliance with all state or federal laws, rules or regulations regarding its opioid treatment program.
6. The applicant, and the proposed property, is in compliance with Town codes and ordinances.
7. Any such facility shall open no earlier than 8:00a.m., and shall remain open no later than 8:00p.m.

225-17 Table of Land Uses

Zone	R1	R2	R3	CC	RUC	MUL	MUC	MUC-1	BP	CC196	LV	MV	I	BP2	R4	LI	VC
Use																	
Addiction Treatment Facility	X	X	X	X	X	X	C	X	<u>C</u>	X	X	X	X	X	X	X	X

Planning Board Recommendation Ought to Pass Passed

GIVEN UNDER OUR HANDS THIS 20TH DAY OF JANUARY, 2011 BY THE BOARD OF SELECTMEN

Board of Selectmen

Ronald Riendeau, Chair

Donald Russell

James Trusiani, Vice –Chair

Marie Brilliant

Andrew Mason