

Model Ordinance establishing a Municipal PACE program in New Jersey:

CITY, TOWNSHIP, OR BOROUGH OF _____
ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING
A PROPERTY ASSESSED CLEAN ENERGY ("PACE") PROGRAM

PREAMBLE:

WHEREAS, the State of New Jersey has approved legislation (P.L.2011, c.187, 40:56-1.4 et seq.), permitting municipalities to establish special assessment programs for the purposes of financing voluntary conservation, clean energy, and resiliency improvements for private property owners; and

WHEREAS, the New Jersey State Legislature has stated that PACE is consistent with state policy and is in the public interest; and

WHEREAS, the establishment of a municipal PACE program will allow the municipality to process and approve conservation, clean energy, and resiliency projects within its jurisdiction; and

WHEREAS, the establishment of a municipal PACE program will provide direct benefits to private property owners, create local jobs, reduce energy consumption, pollution, and carbon emissions, conserve water, and strengthen buildings against extreme weather events; and

WHEREAS, the establishment of a municipal PACE program is in the interests of the welfare of the residents and business owners and operators of the municipality; and

WHEREAS, the municipality hereby finds that it is in the best interests of residential and non-residential property owners for the municipality to create the opportunity for them to enter into PACE programs in order to seek substantial savings in energy consumption; and

WHEREAS, a municipality may adopt an ordinance pursuant to R.S.40:49-2 to establish a PACE program without complying with the publication, notice, and other requirements applicable to ordinances providing for local improvements otherwise required pursuant to R.S.40:49-6.

NOW, THEREFORE BE IT ORDAINED, by the [municipality] in the County of [county] and the State of New Jersey, duly assembled in public session, as follows:

1. The allegations of the Preamble above are hereby incorporated herein by reference as if set forth at length and adopted as the finding of fact of the municipality.
2. The municipality publicly declares its intent to become a participant in a PACE program pursuant to the New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program (P.L.2011, c.187, 40:56-1.4 et seq.) and the Act “concerning the implementation of renewable energy and energy efficiency systems and water conservation, storm shelter construction, and flood and hurricane resistance projects, amending P.L.1960, c.183 and P.L.2011, c.187 and supplementing chapter 56 of Title 40 of the Revised Statutes,” pending as bill A2579/S1510 and passed by the Legislature on June 25, 2015.
3. In lieu of establishing a form of special assessment agreement to be entered into with PACE program participants, and identifying whether the PACE program will be implemented, financed, and managed by the municipality, county, or by a county improvement authority, or by another public entity or private entity, one or more of such items may be established through subsequent municipal resolution as needed.
4. The municipality’s PACE program shall include the following minimum criteria as required by law:
 - (a) That PACE financing recipients are either the legal owners of the underlying property or provide the written consent of the legal owners of the underlying property, are current on mortgage and property tax payments with respect to the underlying property, and are not the subject of a default or in bankruptcy proceedings,
 - (b) That in no circumstance may the combination of a PACE financing and the existing loan-to-value ratio on a property exceed 100 percent, and
 - (c) That the maximum duration of a PACE special assessment shall not exceed 30 years.
5. The municipality will accept projects from the nonprofit **New Jersey PACE Program** and/or any other authorized administrators of PACE programs in NJ for inclusion in its special assessment process, and will work with the operators of such programs to establish appropriate administrative mechanisms for the municipality, using private funding, self-liquidating bonds, or other means as permitted by law.
6. The Mayor and Clerk are hereby authorized and directed to execute any documents necessary to carry out the purposes of this ordinance.

7. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

8. If any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remainder shall survive in full force and effect.

9. This ordinance shall be effective immediately upon adoption and publication in accordance with law.

Introduced:

Approved:

Attested to by: