

CHAPTER 8

PLANNING AND DEVELOPMENT

SUBCHAPTER I - PLANNING BOARD

SECTION 8-101 ESTABLISHED

The Hallowell Planning Board is hereby established pursuant to 30-A M.R.S.A. Section 3001.

[Derivation: Section 17-1, 1973 Revised Code of Ordinances as amended 8/20/90]

SECTION 8-102 MEMBERSHIP

1. Number of members. The Planning Board shall consist of seven (7) members.
2. Term of members. The term of each member shall be four (4) years, except initially there shall be appointed two (2) members for each of the following terms of two (2), three (3), and four (4) years respectively, and one (1) member for one (1) year. Members shall be City residents.
3. Associate members. The Planning Board shall have two associate members appointed by the Mayor, with the approval of the Council, from time to time, as required. In the event that fewer than seven members of the regular board are present at any given meeting, one or both of the associate members shall be voting members and shall be counted as voting members for the purpose of determining a quorum if required.

The associate members shall be designated first and second associate, and shall move from one office to the next automatically upon appointment of the first associate to the Planning Board. The Mayor shall then appoint a new second associate Member to the Planning Board.

[Derivation: Section 17-2, 1973 Revised Code of Ordinances as amended 8/20/90]

[Derivation: Ordinance No.: 04-05, Effective October 22, 2004; Ord. No. 15-06, eff. 07/23/2015]

SECTION 8-103 APPOINTMENT

1. Appointments to the Planning Board shall be made by the Mayor with the approval of the City Council. The Mayor shall consider the provisions of Section 8-508 when appointing members to the Planning Board.
2. When a permanent vacancy occurs, the Mayor with the approval of the City Council shall appoint a person to serve the unexpired term according to the provisions of Section 8-102(3).

[Derivation: Section 17-3, 1973 Revised Code of Ordinances as amended 8/20/90; Ord. No. 15-06, eff. 07/23/2015]

SECTION 8-104 ORGANIZATION AND RULES

1. The Planning Board shall elect a chairman, a vice chairman and a secretary from among its members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for re-election.
2. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
3. The chairman shall call at least one regular meeting of the Planning Board every two (2) months unless business matters require more.
4. No meeting of the Planning Board shall be held without a quorum consisting of four (4) members or associate members authorized to vote.
5. The Planning Board shall adopt rules for transaction of the business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records of the Planning Board are public and may be inspected at reasonable times. Said records shall be kept in the City Hall.
6. The Planning Board meeting shall be open to the public. Public meetings will be preceded by a public announcement in the local news media at least twenty-four (24) hours prior to the meeting. The right to executive session is retained by the Planning Board as provided by statute.
7. A meeting place will be coordinated and requested through the City Manager.
8. The Planning Board shall, with respect to each decision made by it, compile the record of the proceedings upon which the decision is based. The decision shall be in writing, and must include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented to the Board, with appropriate references to the record. As a minimum, the record of proceedings shall include:
 - A. The application and all supporting plans and other documents.
 - B. The minutes of each meeting, which shall contain the names of all persons who testified at any public hearing, the substance of any testimony that was considered by the Board, and all votes by the Board.
 - C. The audio or video recordings of each meeting.

- D. All written submissions, exhibits, or other documentary evidence submitted by any person relating to the application.
- E. The written decision of the Planning Board.
- 9. The records of each proceeding before the Planning Board shall be maintained in separate files by the Code Enforcement Officer, unless the City Manager designates another custodian for such records.

[Derivation: Section 17-4, 1973 Revised Code of Ordinances as amended 8/20/90; Ord. No. 01-09, Eff. 5/16/01]

SECTION 8-105 DUTIES, POWERS

- 1. The Planning Board shall prepare a Comprehensive Plan as defined by 30-A M.R.S.A. Section 4326. The comprehensive plan that is recommended shall be submitted to the City Council for approval.
- 2. The Planning Board shall perform such duties and exercise such powers as are provided by state statute and this Code, specifically including Subchapter V of this Chapter, and Chapter 9.
- 3. The Planning Board may obtain goods and services necessary for its proper function within the limits of appropriations made for the purpose.

[Derivation: Section 17.5, 1973 Revised Code of Ordinances as amended 8/20/90]

SECTION 8-106 ANNUAL REPORT REQUIRED

It shall be the duty of the Planning Board to make an annual report of its activities during the previous calendar year to the City Manager and City Council no later than the third Monday of January of each year and such interim reports as may be advisable.

[Derivation: Section 17-6, 1973 Revised Code of Ordinances as amended 8/20/90]

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SUBCHAPTER II

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SUBCHAPTER III - CONSERVATION COMMISSION

SECTION 8-301 PURPOSE; ESTABLISHMENT

Whereas, the rapid expansion of residential, commercial and industrial land use has resulted in the urgent need for immediate and continued efforts designed to preserve for the present and future, relatively undisturbed woodland and wetland areas whose beauty and tranquility shall continue to provide places of relaxation, enjoyment and study, in addition to the natural benefits associated with conservation programs.

A Conservation Commission is hereby created for the protection, development, or use of the natural resources located within the City limits pursuant to the provisions of 30-A M.R.S.A. Section 3261, but to exclude from the Conservation Commission the supervision of public shade trees and public parks under 30-A M.R.S.A. Section 3263 and 3264.

[Derivation: Section 17-36, 1973 Revised Code of Ordinances as amended 8/20/90]

SECTION 8-302 MEMBERSHIP

1. The Commission shall be composed of nine members. At least one member, but not more than two members, shall be appointed each year for a term of five years; except that nine members shall be appointed in 2009: two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. A term shall expire on December 31st of the final year of that member's term or when a successor is appointed and takes the oath of office.
2. Appointments to the Commission shall be made by the Mayor with the approval of the City Council.
3. When a vacancy occurs, an appointment to fill the unexpired term shall be made by the Mayor with the approval of the City Council.
4. Any Commissioner may succeed himself.

[Derivation: Section 17-37, 1973 Revised Code of Ordinances as amended 8/20/90]

[Derivation: Ord. No. 09-06, Effective 5/21/2009]

SECTION 8-303 ORGANIZATION AND RULES

1. The Commission shall elect a chairman and a secretary from among its members, and create and fill such other officers as it may determine.
2. The chairman shall call at least one regular meeting of the Commission every two months, more frequent meetings may be held as business requires.

3. No business may be transacted in the absence of a quorum of four (4) Commissioners.
4. The Commission shall adopt rules for transaction of business and the secretary shall keep a record of all transactions, correspondence, findings and determinations. All records of the Commission are public and may be inspected at reasonable times. Said records shall be kept in the City Hall.
5. All Commission meetings shall be open to the public, and shall be publicly announced in the local news media at least twenty-four (24) hours prior to the meeting. The Commission shall have right to executive sessions to the extent permitted by state statute.

[Derivation: Section 17-38, 1973 Revised Code of Ordinances as amended 8/20/90]

**SUBCHAPTER IV
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 a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

SECTION 8-425 ARTICLES 1-5

ARTICLE I PURPOSE AND ENABLING LEGISLATION

§ 1 Purpose

By and through this Chapter, the City of Hallowell 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 of Hallowell. The City of Hallowell declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ 2 Enabling Legislation

The City of Hallowell enacts this Chapter/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

§ 3 Title

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

§ 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 of Hallowell
3. **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.
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

1. **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 administered by the Trust or its agent. 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) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
2. **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

1. **Standards adopted; Rules promulgated; model documents.** If the Trust 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, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V 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 Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. 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 Municipality'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 Municipality, or the Trust or its agent on behalf of the Municipality, 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 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.

C. **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality'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 Municipality**

- A. 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.

- 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, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

[Derivation: Ord. No. 11-01; effective 1/20/2011]

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SUBCHAPTER V - HISTORIC PRESERVATION

SECTION 8-501 INTENT AND PURPOSE

The preservation of structures and/or areas of historic or architectural value is hereby declared to be a public purpose, in order to promote the educational, cultural, economic and general welfare of the people of the City, to protect, preserve and enhance buildings, structures, and areas within the City which possess particular historic and/or architectural significance or value.

The City of Hallowell is faced with the threat of losing a quality which makes it unique - its historic and architectural character. The loss of such character or the erosion of the Cityscape in certain distinctive areas of the City through demolition, alteration, addition, relocation, incompatible new construction or any other activity which would result in a significant exterior change contributes to the destruction of the City's unique character which is important to the well-being of the community.

The heritage and economic well-being of the City will be strengthened by:

1. preserving its architectural and historic setting;
2. conserving property values in such unique areas;
3. fostering civic beauty;
4. strengthening the local economy;
5. promoting the use of historic or architecturally significant buildings for the education, pleasure, and welfare of the citizens of the City;
6. to enhance the potential for securing funds for the City and its citizens and property owners which may become available from public and private sources.

[Derivation: Section 10.1, 1989 Zoning Ordinance]

SECTION 8-502 (Reserved)

SECTION 8-503 (Reserved)

SECTION 8-504 CHANGES TO DESIGNATED HISTORIC DISTRICTS AND HISTORIC LANDMARKS

Changes or additions to the Historic District and Historic Landmarks designated under Section 9-552 may be made by the City Council upon the recommendations of the Planning Board.

[Derivation: Section 10.4, 1989 Zoning Ordinance]

SECTION 8-505 STUDIES BY PLANNING BOARD

Upon initiation of the process by the Planning Board, City Council, a petition signed by six (6) or more residents of the City eighteen (18) years of age or older, or all owners of a specific property being proposed, the City Council after receiving the recommendations of the Planning Board may direct the Planning board to determine whether the proposed Landmark, District, or such proposed change in the boundaries of the District is worthy of designation. The recommendation of the Planning Board to the City Council shall be made on the basis of the criteria set forth in Section 8-506. The determination whether the proposed Landmark, District, or such proposed change in the boundaries of the District is worthy of designation, shall be based upon the history of the proposed area, site, building, or interior space; its architectural type, quality and significance; its current condition, use and occupancy; and other relevant factors. The City Council may make an appropriation of funds for the use of the Planning Board to conduct the necessary study and to prepare its report. The Board shall prepare a draft report describing the study and setting forth its initial findings. Upon completion of the draft report the Planning Board shall conduct a public hearing for the purpose of soliciting public comment on the draft report. Written notice of the hearing shall be given to owners of all property affected or abutting any property proposed for designation in an Historic District or as an Historic Landmark. After the public hearing the Planning Board shall submit a final report with its recommendations to the City Council. This report shall include any proposed changes to this Code.

[Derivation: Section 10.5, 1989 Zoning Ordinance as amended 3/12/90]

SECTION 8-506 CRITERIA FOR DESIGNATION

In order to determine that a site, area, building, structure, or specifically defined district is worthy of designation by the City Council as an Historic Landmark or Historic District, the Planning Board must conclude that the feature in question meets at least one of the following criteria:

1. It is associated with historically significant events, periods or persons.
2. It is architecturally significant in terms of buildings characteristic of one or more periods or styles.
3. It is historically significant by virtue of its unique architectural distinction.
4. It is part of a historically significant street-scape.

[Derivation: Section 10.6, 1989 Zoning Ordinance]

SECTION 8-507 ACTION BY CITY COUNCIL: NOTICE TO AFFECTED PERSONS

After receipt of the Planning Board's final report the Council may take appropriate action in

accordance with the City Charter and laws of the State. In the event of any amendment by the Council to Section 9-552 changing or designating any Historic District or Historic Landmark, the owner of any property so affected shall be given written notice of such change or designation by the City Clerk or City Manager.

[Derivation: Section 10.7, 1989 Zoning Ordinance]

SECTION 8-508 GENERAL POWERS OF THE PLANNING BOARD

1. The Planning Board shall, within the intent of this Chapter and Chapter 10, regulate all construction, alteration, addition, relocation, demolition and any other activity which would result in an exterior architectural change to properties, buildings, structures, public rights of way, and public improvements (including street lighting) which are part of a designated Historic Landmark or located within a designated Historic District. Such regulation is for the purpose of insuring compatibility with the historic or architectural characteristics of designated Historic Landmarks and Historic Districts.
2. To provide for appropriate expertise in the performance of the duties outlined in this Subchapter, appointments to the Planning Board shall reflect demonstrated interest, knowledge, ability, or experience in historic preservation, such as history, architecture, urban design and planning. To the extent available, members shall be professionals in these disciplines. In addition to the regular members of the Planning Board, the City Council may appoint other persons, not necessarily residents of the City, who shall serve in an advisory or consultant basis to assist the members of the Planning Board in the performance of the duties outlined in this Subchapter.
3. The duties of the Planning Board with respect to administration of this Subchapter shall be at a minimum to:
 - A. Make recommendations for establishing historic districts, historic sites, or historic landmarks to the appropriate local governing body, according to the procedures listed in Sections 8-504 through 8-507 of this Subchapter.
 - B. Review all proposed additions, reconstruction, alterations, construction or demolition of the properties within the Historic District under Sections 9-551 through 9-563 of Chapter 9 of this Code.
 - C. Review all proposed National Register nominations for properties within its jurisdiction.
 - D. Serve an advisory role to local government officials regarding local historical and cultural resources, and act as a liaison between local government and those persons and organizations concerned with historic preservation.
 - E. Conduct or cause to be conducted a continuing survey of local historic and

cultural resources, in accordance with Maine Historic Preservation Commission guidelines.

- F. Work to provide continuing education on historic preservation issues to local citizens.

The Planning Board may undertake other duties as it deems necessary or desirable to implement the purposes of this Subchapter, to include advising and assisting owners of designated structures or historic sites on compliance with the requirements of Sections 9-551 through 9-563 of this Code, and administering a historic marker program which would place an informational marker or sign on any designated structure or site.

[Derivation: Section 10.8, 1989 Zoning Ordinance]