

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Mark McCauley, County Administrator

FROM: Brent Butler, DCD Director, AICP
Stacie Prada Jefferson County Treasurer
Jeff Chapman, Jefferson County Assessor

DATE: April 17, 2023

SUBJECT: Commercial Property Assessed Clean Energy + Resiliency (C-PACER)

STATEMENT OF ISSUE:

As part of the Board of County Commissioners (“BoCC”) regular agenda on April 11, 2022, the Department of Community Development (DCD) shared that the Jefferson County Assessor had received two separate requests from commercial property owners to consider enactment of the C-PACER program. This program is authorized in accordance with Revised Code of Washington (RCW) Chapter 36.165. After discussion and consideration of public comment, the Board authorized DCD to move ahead with the creation of a C-PACER program so long as the DCD had sufficient capacity. After recruitment of a C-PACER program Specialist (clerk hire), DCD has completed its due diligence by reviewing program details, creating a webpage with program documents modeled after other county’s documents and establishing a Jefferson County C-PACER Guidebook (see, Attachment 1 – Guidebook). DCD anticipates scheduling the required public hearing in July 2023 after public notice in June 2023; in advance, we have prepared all of the required documents. They are available online by going to: <https://www.co.jefferson.wa.us/1655/C-PACER>.

C-PACER is a voluntary statewide program that counties in Washington may choose to participate in to finance a range of projects, including energy and water efficiency (1) Electrification improvement (eliminates fossil fuel combustion), (2) Renewable energy, (3) Electric vehicle charging, (4) Seismic hardening, (5) Fire detection and suppression, (6) Flood readiness, (7) Stormwater management, and (8) Energy storage among others. Alternatively, counties may establish a separate voluntary countywide C-PACER program in conformance to the requirements of RCW 36.165.

ANALYSIS:

The C-PACER program would be in conformance with the Jefferson County Comprehensive Plan (“CP”). Specifically, this program encourages the adoption of programs, policies and procedures that increase energy efficiency in publicly funded infrastructure (see CP page 149), partnerships with other stakeholders such as the Public Utility District #1 (see CP page 331), and resource consuming facilities (CP page 356), among other areas. Through discussions with the program administrators of Pierce and Whatcom counties, the county has identified several critical decision points that the Board needs to consider in advance of a final drafting of the Ordinance.

Question 1 – Program Administration

Would the Board authorize the issuance of a Request for Proposals (RFP) to determine if there are non-profits or local for-profit title companies interested in administering the program on behalf of DCD?

The program guide states that “DCD is responsible for the Program’s administration”. In accordance with the C-PACER Act, DCD may retain the services of a third-party contractor to perform this function (“Program Administrator”). At this point, DCD recognizes several third parties that may be able to administer the program on behalf of the county, which include among others, the Economic Development Council of Jefferson County (“Team EDC”), the Climate Action Committee, the Jefferson Land Trust, Jefferson Title Company, and All About Escrow. As envisioned, the administration fees would be paid to the successful “Proposer” and DCD would request the appropriate budget appropriation for these pass-through funds.

Question 2 – Building Size & Ground Lease

Does the Board approve a program that does not envision a minimum building size for C-PACER financing and authorize ground leases?

Given the small size of many of the local businesses in Jefferson County, it is assumed that creating limitations would be a disservice to community businesses. Therefore, DCD recommends retaining no minimums other than those required by the C-PACER Act (Act). This Act requires that multifamily housing have a minimum of five units. Additionally, DCD recognizes the community land trust model and Tribes, separate ownership of land from improvements such as buildings and utilities thereon. For this reason, DCD strongly encourages permitting ground leases.

Question 3 – Approval Timelines

Would the Board authorize a longer approval timeline so long as it would meet community expectations?

As currently drafted under the C-PACER Program Guideline’s application process on page 9, the Program Administrator has 15 business days to review and approve, and may additionally request another 15 days because of some force majeure event. DCD recognizes that it may be difficult to meet this 15-day expectation when balancing this need against DCD’s current planning work load. For this reason, we have elected for an outside program administrator as identified in question one, as there are nearly 800 other permits, inspections and plan reviews in various stages of completion.

Question 4 –Authorized Fee

Would the Board authorize a fee structure that envisions three fees, as more fully set forth below? Does the Board consider that the \$2,500 fee may be a disincentive for small users or businesses?

The Jefferson County Assessor joined DCD in conversation with other governments which covered among other things the sufficiency of the fees. Through this process, we learned that it would be best to include three fees in this program: 1) an application fee of \$500, which allows for two reviews, 2) a supplemental

application fee of \$250 if a third review is required, and 3) an overall program fee of 1%. The program fee would be neither less than \$2,500 nor more than \$15,000. Since all of the other counties are larger in both population and diversity of business sizes, there is some question about whether one size fits all.

Question 5 – Assigned Assigner

In discussions with other counties, DCD learned that someone is assigned the final approval of these documents. For example, in Whatcom County, the County Executive signs the final closing documents. Should the County Administrator, County Auditor or County Treasurer assume these responsibilities?

FISCAL IMPACT:

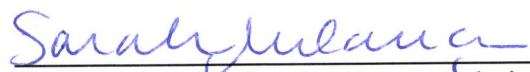
County staff has eliminated fiscal impacts by incorporating fees, which were develop through consultation with Pierce and Whatcom counties. A draft copy of the model ordinance, program guide, and several administrative forms including lien, sample agreement, certification of energy efficiency and consent are accessible online by going to: <https://www.co.jefferson.wa.us/1655/C-PACER> . These documents will decrease the overall staff time necessary to establish the program. Nonetheless, there will be some administrative costs incurred related to creating and preparing a Request for Proposals to retain a qualified program administrator.

The attached Frequently Asked Question (FAQ) factsheet highlights that a C-PACER lender in Washington would handle nearly all the work associated with collecting payments, so a county has little administrative role. (see Attachment 2- FAQ)

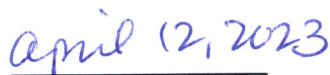
RECOMMENDATION:

Authorize the County Administrator to move forward with a Request for Proposals to retain a Program Administrator and prepare an ordinance to adopt the program and amend the Fee Appendix.

REVIEWED BY:



Sarah Melancon, Interim County Administrator



Date

Attachment 1 – Guidebook

Commercial Property Assessed Clean Energy + Resilience (C-PACER) Program Guidebook

Jefferson County, Washington

August 2023

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Introduction

JEFFERSON COUNTY / CITY OF PORT TOWNSEND CLIMATE ACTION PLAN (2011)



The Climate Action Committee formed to guide actions enabling our county to lower greenhouse gas emissions by 80% relative to 1990 levels unanimously endorsed Jefferson County's participation in the C-PACER program at its December 2022 regular meeting. According to the Climate Action Plan adopted by Jefferson County and the City of Port Townsend, the stationary sector which includes buildings and equipment are the top source of Jefferson County greenhouse gas emissions.

To reach this ambitious target, pollution generated by buildings must be aggressively curtailed. New investments are needed in the built environment, and C-PACER financing will serve as an important tool that will allow property owners to amortize the cost of upgrades across the weighted average useful life of the proposed upgrades, instead of paying all up front.

ABOUT C – PACER

What is C-PACER? Short for Commercial Property Assessed Clean Energy and Resiliency, the C-PACER Program allows owners of eligible commercial, industrial, agricultural properties and multifamily residential property to obtain long-term financing from private capital providers for certain qualifying energy efficiency, renewable energy, water conservation, and resiliency investments. Improvements made to reduce lead in drinking water also qualify.

Similar to a traditional loan, a capital provider provides the building owner with financing to build a new property or renovate an existing property. The property owner repays the loan to the capital provider over time. What is different is that C-PACER financing allows Jefferson County to record a senior lien on the improved property. Tax liens and other government assessments remain superior to the C-PACER lien. The lien stays with the property, and the repayment obligation transfers automatically to the next owner if the property is sold. This mechanism provides more security to the capital provider, allowing for longer loan terms and potentially lower interest rates, resulting in lower debt service.

Like other assessments, C-PACER financing is non-accelerating, which means only current or past due payments can be collected, while future payments are the responsibility of whoever owns the property at the time. In the event of default, only the payments in arrears are due. This arrangement spreads

the cost of qualifying improvements – such as energy-efficient HVAC equipment, upgraded insulation, new windows, solar installations, or seismic upgrades – over the useful life of the measures. This approach to financing has been used by programs like C-PACER on thousands of properties in more than 24 states and the District of Columbia.

LEGAL AUTHORITY

Jefferson County (the “County”) administers a C-PACER program (the “C-PACER Program” or the “Program”) in accordance with [Revised Code of Washington \(“RCW”\) chapter 36.165](#) (the “C-PACER Act”). The C-PACER Act was established after the passage of E2SHB 2405 by the Washington State Legislature in 2020.

The County’s Program exists as a function of the C-PACER Act and shall be administered in accordance with the guidelines established by the County. No change in the Program or in Washington’s C-PACER legislation will affect a property owner’s obligations to pay C-PACER assessments incurred under the Program prior to such changes.

The responsibility of the County is limited to a) adoption of an ordinance and guidelines that govern how its C-PACER program works, b) review of the lien application for compliance with the C-PACER state law, and then recording a unique agreement that includes the acknowledgment of a special property assessment by the County and c) the administration of the Program, either by the County or a third-party contractor. The repayment of the C-PACER financing is between a private lender, referred to as capital provider in the C-PACER Act, and a property owner, with no obligation on the part of the County

The C-PACER program is NOT a free government program. The property owner must pay back all financed costs. Failure to do so may result in the foreclosure of the property.

C-PACER transactions involve complex legal and financial transactions between and capital provider and a commercial property owner. Jefferson County does not the review or approve the financial merits of a proposed transaction, nor does it supervise or review the quality of any work performed by contractors.

Property owners are advised to consult with legal and financial advisors prior to engaging in a CPACER transaction.

Jefferson County C-PACER Program Guidelines

The C-PACER Program enables financing for commercial property owners (“Property Owners”) to make certain energy efficiency, renewable energy, water conservation, and resiliency improvements (each, a “Qualified Improvement”) as described in the C-PACER Act and further clarified in this Guidebook. The purpose of this Program Guidebook is to provide clarity on the guidelines of the Jefferson County C-PACER program.

This Program Guidebook (the “Guidebook”) is prepared as required by the C-PACER Act, at the direction of the County, and is approved in connection with, and as an attachment to, the enabling ordinance for this program (the “C-PACER Ordinance”) effective on **August 31, 2023**.

Qualified Improvements, including all eligible costs that are to be financed as described in a project application (the “Project Application”) approved by the Program Administrator, constitute a “Qualified Project.” Property Owners may receive funding for their Qualified Improvements only from qualified private investors (“Capital Providers”) pursuant to a separate Financing Agreement negotiated between the Property Owner and Capital Provider (a “Financing Agreement”).

In the following numbered subsections, a reader can find information about:

- Statutory and programmatic eligibility requirements for C-PACER project financing in Washington State, and
- The appropriate steps and forms for application to Jefferson County for a C-PACER project lien.

1. C-PACER PROGRAM BOUNDARIES

In accordance with the C-PACER Act and as set forth in the C-PACER Ordinance, privately owned commercial, industrial, or agricultural real property or multifamily residential real property with five or more dwelling units located within the boundaries of Jefferson County, including both incorporated and unincorporated territory (the “Region”) are eligible for the Program. Eligible property may be owned by any type of business, corporation, individual, or nonprofit organization permitted by state law.

2. ADMINISTRATION OF PROGRAM; AUTHORIZED OFFICIALS

The Department of Community Development is responsible for the Program’s administration; but in accordance with the C-PACER Act, the Department may retain the services of a third-party contractor to perform this function (“Program Administrator”). The Program Administrator shall review each Project Application to confirm that it is complete and contains no errors on its face, comports with these Guidelines and the project is qualified. The Program Administrator is then authorized to approve the Assessment Agreement and C-PACER Lien documents on behalf of the County and have the County execute the documents and cause those to be recorded with the County’s Recorder’s Office.

As part of the Program, the Program Administrator will:

- Accept Project Applications from Property Owners and Capital Providers for prospective C-PACER projects.
- Review the Project Application to determine conformance with the Application Checklist (See Attachment 1).
- Approve/conditionally approve/disapprove the Project Application and communicate to applicant.
- Cause the Execution of the Assessment Agreement, Notice of Assessment Interest and C-PACER Lien (“Notice of Assessment Interest”) and Assignment of Notice of Assessment Interest and Assessment Agreement (“Assignment”).
- Cause the recordation of the Notice of Assessment Interest and Assignment.

3. ELIGIBILITY REQUIREMENTS

Eligible Property means any privately-owned commercial (including multi-use), agricultural, industrial, or multi-family real property of five (5) or more dwelling units located within the boundaries of the Region. Eligible properties include those owned by a not-for-profit organization.

THERE IS NO MINIMUM BUILDING SIZE REQUIREMENT TO BE ELIGIBLE FOR C-PACER FINANCING

Ground leases on Eligible Property are permitted, so long as all requirements of the C-PACER Ordinance are met, including requiring the Property Owner and Capital Provider to enter into an Assessment Agreement. On ground-leased property, therefore, the assessment and C-PACER Lien encumber the fee interest in the property, not the ground leasehold.

Property Owner means an owner of qualifying eligible property, which is the record owner of title to the Eligible Property. The Property Owner may be any type of business, corporation, individual, or non-profit organization.

Qualified Improvement means a permanent improvement affixed to the real property “Qualified improvement includes at least one of the following:

- 1. An energy efficient improvement, which means it decreases electricity consumption or demand or reduces greenhouse gas emissions through the use of efficiency technologies, products or activities that reduce or support the reduction of electricity consumption, or that it allows for the reduction in electricity demand. Energy efficiency improvements shall not include the installation, maintenance, or repair of equipment that burns fossil fuels;
- 2. An electrification improvement, which means it eliminates the combustion of fossil fuels by the use of electricity for space or water heating
- 3. Electrical vehicle charging infrastructure, which means it supports the electrification of the transportation sector and the reduction of greenhouse gas emissions;
- 4. A renewable energy improvement, which means it supports the production of a clean, renewable resource as defined in the [Clean Energy Transformation Act](#) at RCW 19.405.020(34), including but not limited to a product, device, or interacting group of products or devices on the customer's side of the meter that generates electricity, provides thermal energy, or regulates temperature (“Renewable Energy Improvement”);
- 5. A water conservation improvement, which means it decreases water consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the

reduction of water consumption, allow for the reduction in demand, or reduces or eliminates lead from water that might be used for drinking or cooling through the use of technologies, products, or activities that address safe drinking water (“Water Conservation Improvement”); and

- 6. A resilience improvement, which mean it increases building or community resilience, including but not limited to seismic retrofits, flood mitigation, stormwater management, fire detection and suppression, wildfire and wind resistance, energy storage, and microgrids that reduce public risk and emergency response. (“Resiliency Improvement”).

Qualified Projects include the following:

- Includes new buildings or existing buildings that involve the installation or modification of Qualified Improvements. As determined between the Capital Provider and the Property Owner, the C-PACER financing may include fees or costs incurred by the Property Owner incident to the installation or modification of a qualified improvement, including those more fully set out in Qualifying Costs and Fees below.
- Renewable Energy Improvements that are subject to a power purchase agreement or lease between the Property Owner/applicant and the owner of the renewable energy system, if the power purchase agreement or lease contains all of the following provisions:
 - a) The Renewable Energy Improvement relates to a Renewable Resource, defined in [RCW 19.405.020\(34\)](#) as follows: (a) water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first-growth forests; or (i) biomass energy.
 - b) The term of the power purchase agreement or lease is at least as long as the term of the related Assessment Agreement.
 - c) The owner of the Renewable Energy Improvement agrees to install, maintain, and monitor the system for the entire term of the Assessment Agreement.
 - d) Neither the owner of the Renewable Energy Improvement, nor the Property Owner, nor any successors in interest are permitted to remove the system prior to completion of the full repayment of the C-PACER Lien.
 - e) After installation, the power purchase agreement or lease is paid, either partially or in full, using the funds from the C-PACER financing.
 - f) The power purchase agreement or lease specifies the holder of the C-PACER Lien is a third-party beneficiary of the power purchase agreement or lease until the C-PACER Lien has been fully repaid.
- Qualified Projects include the refinancing of existing Qualified Improvements if such installation or modification of the Qualified Improvements was completed no more than three (3) years prior to the date of Project Application, as established by a municipality’s final inspection report, certificate of occupancy or other government-issued document establishing the authorization to use the Qualified Improvement.

Qualifying criteria for Significant Public Benefit for Existing Buildings (must meet one of the following):

- Meets or exceeds the Washington State Energy Code.
- Meets or exceeds energy performance standards in *Chapter 194-50 WAC* if the structure is a building covered by that chapter.
- Is reasonably expected to reduce by 20 percent the annual amount of energy purchased from a utility or the amount of greenhouse gas emitted, including through on-site production and use of clean, renewable energy.
- Replaces existing fossil-fuel burning space or water-heating equipment with efficient electric options, which may include the replacement of related system elements.
- Meets or exceeds the requirements for water efficiency under Washington State building codes.
- Meets or exceeds safe drinking water standards set by the Washington State Department of Health for lead contamination.
- Meets or exceeds seismic, flood, or other building resiliency requirements under Washington State building codes.

Qualifying criteria for Significant Public Benefit for New Construction (must meet one of the following):

- Exceeds the requirements of the Washington State Energy Code.
- Is reasonably expected to reduce by 30 percent the annual amount of energy that would otherwise be used or purchased from a utility, or the amount of greenhouse gas emitted, including on-site production and use of clean, renewable energy.
- Exceeds the requirements for water efficiency under Washington State building codes.
- Exceeds safe drinking water standards set by the Washington State Department of Health for lead contamination.
- Exceeds seismic, flood, or other building resiliency requirements under Washington State building codes.

Qualifying Capital Provider may be any of the following:

- A corporation, partnership, or other legal entity that provides proof that it is currently registered as a C-PACER Capital Provider in two different states with C-PACE programs;
- A federal or state-chartered bank, Community Development Financial Institution, or credit union; or
- A private entity, whose principal place of business is located in Washington state, provided it is licensed or permitted to do business within the state and can produce its most recent audited financial statement or regulatory business filing.

Qualifying costs and fees that can be C-PACER financed include:

- Materials and labor necessary for installation or modification of a Qualified Improvement;
- Permit fees;
- Inspection fees;
- Financing or origination fees;
- Program application and administrative fees;
- Project development, architectural and engineering fees;

- Third-party review fees, including verification review fees;
- Capitalized interest;
- Interest reserves;
- Escrow for prepaid property taxes and insurance;
- Any other fees or costs that may be incurred by the Property Owner incident to the installation, modification, or improvement on a specific or pro rata basis.
- See also the definition of Total Eligible Construction Costs in Section 5(5)(D).

4. APPLICATION PROCESS

The C-PACER Act intends to reduce the administrative burden on participating counties as much as possible. Thus, the Program Administrator will review the Application for proof of compliance with the requirements of the C-PACER Act that are necessary for the County to approve the application and execute the applicable documents for the proposed C-PACER transaction. All applicants are encouraged to review the Project Application Checklist accompanying the Application to ensure that the types of information that the County will rely upon to verify compliance with the C-PACER Act are present in the completed Application.

The process of obtaining financing under the Program starts when a Property Owner approaches a Capital Provider. The Capital Provider will work with the Property Owner to collect a number of application and due diligence items. Once all the items have been received, reviewed, and approved by the Capital Provider, the Parties should settle on the loan terms.

The general flow of the C-PACER Application process will be as follows:

- (1) The Property Owner and the Capital Provider prepare the Project Application, consisting of the Project Application Checklist and all supporting documents (described below).
- (2) The Program Administrator will have 15 business days to review and approve the Project Application. If the Program Administrator has received an unusually high number of applications, or if review is delayed because of some force majeure event, the Program Administrator may notify the applicant that the application review and approval will be delayed by no more than 15 additional business days.
- (3) The County application review process is confined to confirming that the Project Application is complete, and all attachments conform to these guidelines. ***County approval does not constitute endorsement of any representations that may be made with regard to the operation and any savings associated with the Qualified Improvements.*** The Program Administrator will review the Project Application for proof of compliance with the requirements of the C-PACER Act and C-PACER Ordinance that are necessary for the County to approve the Project Application and execute the applicable documents for the proposed C-PACER transaction. Incomplete Project Applications will be returned to the applicant, and the Program Administrator will notify the applicant about which items from the Project Application Checklist were not provided or are insufficient or inaccurate on their face. If the Project Application and supporting documents comply with the Project Application Checklist, the Project Application will be approved, and the approval communicated in writing to the applicant.

- (4) The Project Application may be conditionally approved if the application is complete but the attachment regarding lender consent is not yet available. Conditional approval will be treated the same as an approval, with exceptions noted below.
- (5) Upon receipt of approval, the Capital Provider will draft the following “Closing Documents”: The Assessment Agreement, the Notice of Assessment Interest and C-PACER Lien, and the Assignment of the Notice of Assessment and Assessment Agreement. At or before closing, at the request of the applicant, the designated and authorized County official will execute Closing Documents.
- (6) If the Project Application received conditional approval, the Closing Documents executed by the County may not be released from escrow unless and until all lender consents have been received and executed in accordance with the C-PACER Act and C-PACER Ordinance.
- (7) If the Project Application is denied, the Property Owner may file an appeal with the Jefferson County Hearing Examiner in accordance with the provisions of the C-PACER Ordinance.
- (8) At closing, the County will cause to be recorded with the Jefferson County Recorder’s Office the Assessment Agreement, the Notice of Assessment Interest and C-PACER Lien, and the Assignment of the Notice of Assessment Interest and C-PACER Lien. At the election of the applicant, the County may delegate the recording of the Closing Documents to the applicant or their designee(s).
- (9) Upon confirmation of recordation, the Capital Provider will disburse funds in accordance with the Financing Agreement.
- (10) The Property Owner begins on the Qualified Improvements or reimburses qualified expenses already incurred.
- (11) The Property Owner begins assessment payments per the Assessment Agreement and in accordance with the Financing Agreement.

5. APPLICATION DOCUMENTS

The Project Application must be submitted with the following documents appended:

- Project Application Checklist (Attachment 1)
- Lienholder(s) Consent (Attachment 2)
- Certificate of Qualified Improvements (Attachment 3):
 - (1) For Renewable Energy Improvements, Energy Efficiency Improvements, or Electrification Improvements on an existing building: A certification stating that (a) the proposed Qualified Improvements will either result in more efficient use or conservation of electricity or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water; or (b) the subject property as a whole prior to the installation of the Qualified Improvements does not conform to the meeting the current

building energy or water code for the County, but will do so after the Qualified Improvements are installed.

The certification must be performed by a licensed professional engineer or accredited individual or firm from the following list:

- American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)
 - Building Energy Assessment Professional (BEAP)
 - Building Energy Modeling Professional (BEMP)
 - Operations & Performance Management Professional Certification (OPMP)
 - High-Performance Building Design Professional Certification (HBDP)
- Association of Energy Engineers (AEE)
 - Certified Energy Manager (CEM)
 - Certified Measurement and Verification Professional (CMVP)
 - Certified Energy Auditor (CEA)
- Building Performance Institute
 - Energy Auditor
- Investor Confidence Project
 - ICP Quality Assurance Assessor

Other professional entities may be accepted by the Program Administrator at its discretion.

- (2) For Renewable Energy Improvements that are solar photovoltaics, a North American Board of Certified Energy Practitioners (NABCEP) PV design specialist certification is acceptable, or a licensed Electrical Engineer, Building Energy Assessment Professional (BEAP), Building Energy Modeling Professional (BEMP), Certified Energy Manager (CEM), Certified Measurement and Verification Professional (CMVP), or Certified Energy Auditor (CEA). Other professional entities may be accepted by the Program Administrator at its discretion.
- (3) For lead reduction in water improvements: a Water Quality Association Professional Certification.
- (4) For Resiliency Improvements on an existing building: Certification by a licensed professional engineer or other qualified entity stating that the Qualified Improvements will result in improved resiliency, and reduce public risk and emergency response needs, including but not limited to seismic improvements, flood mitigation, stormwater management, fire detection and suppression, wildfire and wind resistance, energy storage and microgrids.
- (5) For substantial building retrofits, which are defined as any repair, reconstruction, rehabilitation, alteration, addition, or other improvement to the building, the cost of which over any 5-year period equals or exceeds 50 percent of the market value of the structure before the improvement, rehabilitation, or repair began, and new construction:

The lien amount cannot exceed 30 percent of the “after completed” property value.
For new construction projects and substantial retrofits, C-PACER can cover 30 percent

of total eligible construction costs. For non-substantial retrofits, C-PACER can cover up to 100 percent of eligible costs so long as the total lien amount does not exceed 30 percent of the “after completed” property value.

- (6) For all Qualified Improvements, the licensed engineer, individual or firm providing the certification of eligibility of the Qualified Improvements must attest that the proposed term of the financing does not exceed the weighted average effective useful life of the proposed Qualified Improvements and that the Qualified Improvements are permanently affixed, as described in this Guidebook.

- Certificate of Capital Provider Qualification (Attachment 4)

6. CLOSING DOCUMENTS

The following documents require the signature of the County and shall be part of the closing of any C-PACER transaction. Each document must be in the same form as provided, although it is expected that Property Owners and Capital Providers will negotiate variations tailored to their specific projects.

- Assessment Agreement (Attachment 5)
- Notice of Assessment Interest and C-PACER Lien (Attachment 6)
- Assignment of Notice of Assessment Interest and C-PACER Lien and Assessment Agreement (Attachment 7)

7. INTEREST RATES

Interest rates are negotiated in a Financing Agreement between the Property Owner and the Capital Provider. Jefferson County has no role in reviewing, setting, or opining on such interest rates or other aspects of the Financing Agreement. Market forces – such as competition, the intended use of the property, potential risk – will affect the terms negotiated by the Property Owners and Capital Providers.

8. BILLING AND COLLECTION OF ASSESSMENTS

Billing, collection and enforcement of delinquent C-PACER Liens or C-PACER financing installment payments, including foreclosure, remain the responsibility of the Capital Provider, and the terms are negotiated within the Financing Agreement.

9. ENFORCEMENT OF C-PACER LIEN

The C-PACER Lien may be enforced by the Capital Provider at any time after one year from the date of delinquency in the same manner that a county collects delinquent real property under chapter 84.64 RCW et seq., including the provisions of RCW 84.64.040, excepting that a sworn declaration by the Capital Provider or assignee attesting to the assessment delinquency of at least one year will be used in lieu of the certificate of delinquency required under RCW 84.64.050. The sworn declaration has the same legal standing as a certificate of delinquency enumerated in RCW 84.64.050. Under the C-PACER Act, such enforcement may not occur until at least one year after delinquency.

By accepting a C-PACER Lien, the Capital Provider or its assignee, as applicable, agrees to assume responsibility for prosecution of said action of foreclosure pursuant to RCW 84.64.040, independent of and without assistance or consent from the prosecuting attorney, in accordance with the terms of the Financing Agreement.

10. PROGRAM FEE

Jefferson County, as compensation for time and costs incurred, adopts three fees in this program: 1) Application Fee equal to \$500, which allows for two reviews and is paid upon initial submittal, 2) Supplemental Application Fee of \$250 if a third review is required and is payable prior to this review, and 3) Program Fee of 1% payable upon closing.

The Program Fee shall equal 1% of the amount financed by the Property Owner capped at a total of no more than \$15,000. It shall not be less than \$2,500. As mentioned above, the Property Owner must pay the Program fee to the County at the closing of the transaction between the Property Owner and the Capital Provider, and such payment is a condition precedent to recording. In the case that Jefferson County delegates administration of the program to a third party, the fee may adjust with no less than 90 days' notice and will apply only to Project Applications received after the date of enactment of the new fee.

11. TERM OF AN ASSESSMENT; CALCULATION OF USEFUL LIFE OF QUALIFIED IMPROVEMENTS

The maximum term of an assessment may not exceed the useful life of the Qualified Improvement, or weighted average life if more than one Qualified Improvement is included in the Qualified Project.

12. FORM OF CLOSING DOCUMENTS

The Program has adopted form Closing Documents: The Assessment Agreements, Notice of Assessment Interest and C-PACER Lien, and Assignment of Notice of Assessments Interest and Assessment Agreement. A Property Owner and Capital Provider may not modify or omit any material substantive terms contained in the forms.

The forms are attached as Attachments 5, 6 and 7 and respectively incorporated herein as referenced.

13. WRITTEN CONSENT FROM LIENHOLDER(S) REQUIRED

Before entering into an Assessment Agreement with the County, the Capital Provider must obtain, and the Project Application must show proof of, written consent for the placement of the assessment and C-PACER Lien from any holder of a lien, mortgage, or security interest in the real property.

For qualifying multifamily projects (residential projects of 5 or more dwelling units), the Capital Provider must obtain written consent from any holder of affordable housing covenants, restrictions, or regulatory

agreements encumbering the real property as a condition precedent to the participation in the Program by the property.

If the consents are executed at closing, the signatures of the County to the Closing Documents will be held in escrow and will not be released until the consents are obtained. After closing, at the election of the Program Administrator, an amended Project Application with the consents attached must be sent to the Program Administrator. Capital Providers are responsible for providing their own form of consent that conforms to the C-PACER Ordinance and C-PACER Act.

14. PROVISIONS FOR MARKETING AND PARTICIPANT EDUCATION

This Guidebook is available to the public on the Jefferson County C-PACER website, <https://www.co.jefferson.wa.us/1655/C-PACER>. Jefferson County may, at its discretion, engage in workshops, webinars, or other public and stakeholder forums, or provide written materials to increase awareness about the C-PACER program. Jefferson County encourages other stakeholders to develop and share materials to promote the education about and use of the Jefferson County C-PACER program to serve the public benefit of health and safety.

15. COUNTY HAS NO LIABILITY OR FINANCIAL RESPONSIBILITY

Neither Jefferson County, its governing body, executives, nor employees are personally liable as a result of exercising any rights or responsibilities granted under this Program.

The County shall not pledge, offer, or encumber its full faith and credit for any lien amount under the C-PACER program. No public funds may be used to repay any C-PACER financing obligation.

16. LIMITATIONS OF JEFFERSON COUNTY'S AUTHORITY

Jefferson County may not enforce any privately financed debt under this Program. Neither the State of Washington nor Jefferson County may use public funds to fund or repay any loan between a capital provider and property owner. No provisions of this Program shall be interpreted to pledge, offer, or encumber the full faith and credit of Jefferson County, nor shall Jefferson County pledge, offer, or encumber its full faith and credit for any lien amount through this Program.

[FOR ATTACHMENTS GO TO:
<https://www.co.jefferson.wa.us/1655/C-PACER>]

FAQ: C-PACER Financing - Implementation in Washington

C-PACER / [HB 2405](#) passed in Washington State during the 2020 Legislative Session, authorizing counties to establish C-PACER financing programs. The bill is effective as of June 11, 2020, and is codified in [Chapter 36.165 RCW](#).

Members of the Shift Zero C-PACER task force, in coordination with national and local C-PACE experts and legal counsel, have **developed model guidelines for counties to set up C-PACER financing programs**. These are vetted guidelines, forms, and documents that a county can use and adopt for their own purposes. These model documents include a model county ordinance, a program guidebook that describes how the program works, and template forms, including a checklist, which should make administration straightforward for any county staff person.

You can find these documents [here](#). ***Note, 2/1/22: The Washington legislature is currently considering a [small technical change to the C-PACER statute](#), which would change these model documents. Please reach out for any questions to pacer@shiftzero.org and, if the legislation passes, we will update these model documents***

Top Questions

1. How does a county implement a C-PACER program?

A county must first pass an ordinance that sets up a C-PACER program and develop program documents. A model ordinance is available at the link above, as are model program documents. *For more questions for County staff on how to implement C-PACER in a county, please see this [FAQ](#).*

2. When will programs be up and running?

The new enabling Washington legislation became effective on June 11th, 2020. Counties can set up programs whenever they are ready to do so. So far, Clark, King, Thurston, and Whatcom have all passed ordinances to enable C-PACER, and Snohomish has passed an ordinance to direct staff to develop the program.

3. How can someone advocate for their county to establish a program?

Reach out to your county executive's office to see if this is something they are pursuing. Also, contact your county council member; a county council must pass a county ordinance to establish a C-PACER program.

4. How is C-PACER program administration handled?

A C-PACER lender in Washington would handle nearly all the work associated with collecting payments, so a county has little administrative role. The program administrator would be responsible for overseeing the C-PACER lien filing process and the associated paperwork filing requirements. A county may hire an outside third party as the administrator, or do this oversight themselves in a designated county office.

5. I'm a lender - what should I do now?

Let a County know of your financing interest, and request that they inform you if/when they launch a local C-PACER program. Some counties may set up websites with lists of potential lenders.

General C-PACER FAQ

1. [What is C-PACER?](#)
2. [What public problem is C-PACER trying to address?](#)
3. [What kind of projects can use C-PACER financing?](#)
4. [Who finances C-PACER loans?](#)
5. [How is the C-PACER lien collected?](#)
6. [What happens to the C-PACER lien in the event of a building sale?](#)
7. [What happens to the C-PACER lien in the event of a building foreclosure?](#)
8. [What is the role of existing mortgage holders in the C-PACER program?](#)
9. [Are C-PACER programs risky for consumers?](#)
10. [Has this been done before?](#)
11. [What benefits does C-PACER provide?](#)
12. [Are nonprofits eligible for C-PACER?](#)
13. [Are public buildings \(e.g., schools and municipal buildings\) eligible for C-PACER?](#)
14. [Are single-family residential homes eligible for C-PACER?](#)
15. [Is a county required to develop a C-PACER program?](#)
16. [What are the county's responsibilities under Washington C-PACER?](#)
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1. What is C-PACER?

Property Assessed Clean Energy (PACE) is a financing mechanism that enables low-cost, long-term funding for qualified improvements, including energy efficiency, renewable energy, and water conservation projects. **C-PACE** is specific to commercial, large multifamily, industrial, and nonprofit properties. More than 25 states have active C-PACE programs. (Only a few states have residential pace (R-PACE) programs that cover single family and small multi family homes.) The Washington C-PACER bill (HB 2405) includes resiliency measures, including seismic improvements and fire/flood protection in the definition of a "qualified improvement", adding an "R" to the popular acronym.

Property owners can use C-PACER financing to cover 100% of the costs of projects for energy efficiency, water conservation, renewable energy generation, and resiliency upgrades. C-PACER financing includes all equipment, materials, and labor costs, as well as indirect services and fees. No public dollars or taxpayer funds are used in C-PACER financing. Like traditional special assessments that finance street lighting or sewers, property owners repay the financing through a special assessment that is added to their property tax bill. C-PACER assessments are totally voluntary. If the property owner sells the property, the

balance of the assessment remains with the property and seamlessly transfers to the new owner without any need to approve the new owner.

2. What public problem is C-PACER trying to address?

On average, buildings could be improved to save half of the energy that they use. However, because most building owners are uncertain about how long they will own a building, they often choose to make only efficiency improvements that produce a quick payback – often in less than 4 years. Such quick payback improvements often only save ten to fifteen percent on energy consumption. This kind of inaction is also true for resilience measures such as seismic and fire protection improvements, which may not have any immediate economic payback but do improve the health and safety of building occupants, reduce insurance premiums, and increase a building's life, thereby raising the property value.

C-PACER addresses a gap in the credit market for these kind of projects. Investing in commercial properties to use renewable energy sources, to be energy efficient, to save water, and to be more resilient and sustainable makes economic sense and generates environmental benefits. C-PACER solves these issues by providing long term, fixed-rate credit that allows the cost savings to equal or exceed the debt service.

3. What kind of projects can use C-PACER financing?

Property owners can use C-PACER to finance 100% of project costs related to energy efficiency, renewable energy, water conservation, and eligible resiliency. Items such as HVAC, efficient windows and doors, control systems, roofing, elevators, and solar panels can be paid with C-PACER. On an existing building retrofit, C-PACER can often cover 100% of the cost of a project. On new construction, C-PACER financing usually represents 20-25% of total project costs. Examples of projects that can use C-PACER:

- Completely modernizing a vacant Art Deco office building;
- Redeveloping an abandoned factory as a business incubator;
- Installing solar on an indoor soccer and recreational park; and
- Constructing a new hotel with high-efficiency windows and water conserving systems that are above code.

4. Who finances C-PACER loans?

In this program model, no public funds would be used to finance loans. Any financial institution could finance these loans, from local credit unions to nationwide C-PACE-focused institutions.

5. How is the C-PACER lien collected?

The C-PACER legislation allows counties to show private lender C-PACER loan obligations on regular property tax billings. The Washington law requires that actual loan payments and debt collection be handled by the C-PACER lender, not the county government.

6. What happens to the C-PACER lien in the event of a building sale?

The C-PACER lien stays with the building, rather than the owner, so the next property owner will continue paying the C-PACER financing.

7. What happens to the C-PACER lien in the event of a building foreclosure?

The C-PACER lien stays with the building, rather than the owner, and the C-PACER lien would not extinguish in the rare event of a foreclosure. This particular feature is important for the structure of a C-PACER program, because it is what allows for the longer term financing. Since C-PACE programs began in 2008, there have been *no* foreclosed properties of the 2,000+ buildings that have participated in a C-PACE deal.

8. What is the role of existing mortgage holders in the C-PACER program?

The C-PACER lien would move into first (superior) position ahead of any other lien on the property, excepting state and local taxes, but only after consent is given by all other mortgage holders. More information on how this can work is available [here](#).

9. Are C-PACER programs risky for consumers?

No, these are very secure transactions. Of the 2,000+ buildings and \$1 billion+ of investment in C-PACE programs nationwide, there have been no foreclosures. There have been some early well-publicized incidents of consumer fraud with residential PACE (R-PACE) programs in the few states that have such programs, but C-PACE programs are very different. California and other states which have ongoing R-PACE programs, have been amending them to require tighter administrative oversight with greater consumer protections. The much more widespread C-PACE programs have not experienced the sort of fraud publicity associated with R-PACE programs.

For added protection, the new Washington law requires that for any improvement to be qualified for a C-PACER lien, it must be reviewed by a licensed or certified professional. Finally, the consent required by other mortgage holders adds yet another screen to ensure that the transaction is prudent.

10. Has this been done before?

Yes, 37 other states and territories have passed similar C-PACE enabling legislation and there are 25 active programs. To date, C-PACER financing exceeds \$1.5 billion in 2,100+ properties.

11. What benefits does C-PACER provide?

For building owners: With C-PACER financing, there is little cash outlay and the debt lien is filed against the property, not the owner. That debt obligation stays with the property whenever ownership transfers. The debt doesn't appear on the owner's balance sheet, and it does not encumber the owners' credit capacity. Hence, owners find these kinds of loans attractive for long-term efficiency and resilience improvements.

For tenants: Building tenants are the ones typically paying the utility bills (either directly or through rent), occupying uncomfortable spaces, and facing any health and safety risks. Giving the building owners an easier way to pay for these kinds of improvements is a benefit to tenants.

For the public: C-PACER financing programs are a type of public-private partnership that make it attractive for building owners to pursue deep efficiency and resilience improvements that are in the public interest. Highly energy and water efficient buildings reduce environmental impacts, including greenhouse gas emissions. Lower energy and water consumption also reduces the need for production and delivery infrastructure, the costs for which are ultimately borne by ratepayers. Further, seismic, fire protection, and other safety-related resilience improvements increase public safety and ultimately mitigate publicly funded emergency response expenses.

12. Are nonprofits eligible for C-PACER?

Yes. Even though many nonprofits do not pay property tax, the tax assessor still has a property number for every parcel and that facilitates nonprofits voluntarily opting in to this program.

13. Are public buildings (e.g., schools and municipal buildings) eligible for C-PACER?

No, generally, public buildings are not eligible for C-PACER. Public entities generally have access to other types of capital that are more attractive. In addition, in Washington, public entities can also make use of the state Department of Enterprise Services [Energy Savings Performance Contracting program](#), which is a very cost-effective way to complete energy upgrades.

14. Are single-family residential homes eligible for C-PACER?

No. This legislation is focused on commercial, institutional, nonprofit, and multifamily (five units and more) buildings. Fewer states have active R-PACE programs, and we want to learn from their challenges and successes before pursuing a program that would cover residential properties in Washington.

15. Is a county required to develop a C-PACER program?

No. The C-PACER legislation enables, but does not require, a county to establish a C-PACER program.

16. What are the county's responsibilities under Washington C-PACER?

County responsibilities are limited to:

- Enacting C-PACER by ordinance
- Designating an office or individual to review C-PACER applications according to a Program Application Checklist
- Signing and recording the assessment agreement and associated forms

All other responsibilities are performed by the Property Owner and the Capital Provider.

17. Does the County incur any liabilities from enacting a C-PACER program?

No. By statute, county funds or credit are prohibited from being utilized to back any assessment or C-PACER lien.