

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 3301., 3302., 3303., 3305., and 3306., Jackson County Code, 1986, relating to property assessed clean energy and enacting, in lieu thereof, eleven new sections relating to the same subject.

ORDINANCE NO. 5494, March 22, 2021

INTRODUCED BY Jeanie Lauer, County Legislator

WHEREAS, the County has participated in property assessed clean energy (PACE) programs since 2014, through the Missouri Clean Energy District as set out in chapter 33 of the County Code; and,

WHEREAS, under PACE, commercial and residential property owners may finance qualifying clean energy projects on their properties with the proceeds of loans that are repaid by means of charges on their real property tax bills; and,

WHEREAS, pursuant to section 3302. of the code, the Greater Kansas City Clean Energy Board (GKCCEB) is also designated as an eligible PACE funding provider within the County; and,

WHEREAS, the Legislature has determined that it is appropriate to revise the procedures contained in section 3305. of the code for the appointment of membership to the GKCCEB; and,

WHEREAS, the Legislature has also determined that it is appropriate to designate the Show Me PACE Clean Energy District as a qualified PACE provider in the County; and,

WHEREAS, the amendments to chapter 33 embodied in this Ordinance provide an appropriate means by which to implement the intent of the Legislature; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause.

Sections 3301., 3302., 3303., 3305., and 3306., Jackson County Code, 1984, are hereby repealed, and seven new sections enacted in lieu thereof, to be known as sections 3301., 3302., 3303., 3305., 3306., 3310., 3311., B, C, D, and E, to read as follows:

3301. Title and Definitions.

3301.1 Title. This chapter shall be known and may be cited as the “Jackson County, Missouri Property Assessed Clean Energy (PACE) Ordinance.”

3301.2 Definitions. Except as specifically defined below, words and phrases used in this chapter shall have their customary meanings. Words and phrases defined in section 67.2800.2 of the Missouri Revised Statutes (2016), as amended, shall have their defined meanings when used in this chapter. As used in this chapter, the following words and phrases shall have the meanings indicated.

“Greater Kansas City Clean Energy Development Board” or “Board” means the Greater Kansas City Clean Energy Development Board.

“Missouri Clean Energy District” or “Missouri District” means the Missouri Clean Energy District.

“PACE Act” means Missouri Property Assessed Clean Energy Act, Sections 67-2800 – 2835, RSMo, as amended.

“PACE Assessment” means a special assessment made against a Qualifying Property in consideration of PACE Funding.

“PACE Funding” means funds provided to the owner(s) of a Qualifying Property by the Board, Missouri District, or Show Me District for an energy efficiency or renewable energy improvement.

“Qualifying Property” means real property located in Jackson County, Missouri, that satisfies the criteria set forth in the PACE Act.

“Show Me PACE Clean Energy District” or “Show Me District” means the Show Me PACE Clean Energy District.

3302. Program Administration.

The Missouri Clean Energy District [shall], the Show Me PACE Clean Energy District, and the Greater Kansas City Clean Energy Development Board shall be empowered to administer the functions of the PACE Program within the County by:

- a. Providing property owners with an application in order to apply for PACE Funding;
- b. Developing standards for the approval of Projects submitted by Qualifying Property owners;
- c. Reviewing applications and select qualified projects;
- d. Entering into assessment contracts with Qualifying Property owners;
- e. Providing a copy of each executed notice of assessment to the Jackson County Director of Assessment and causing a copy of each such notice of assessment to be recorded in the real estate records of the Jackson County Recorder of Deeds;
- f. Authorizing and disbursing the PACE Funding to Qualifying Property owners;
- g. Receiving the PACE Assessment from the County Collector; and
- h. Recording any lien, if needed, due to nonpayment of a PACE Assessment.

- i. Exercising all powers granted by section 67.2810.2, RSMo, as amended, including, but not limited to, the power to levy and collect a PACE Assessment pursuant to an assessment contract with a Qualifying Property owner.

3303. Liability of County Officials; Liability of County.

Notwithstanding any other provision of law to the contrary, officers and other officials of the County, the Board, the Missouri District, the Show Me District, and the County, including, without limitation, tax assessors and tax collectors, shall not be personally liable to any person for claims, of whatever kind or nature, under or related to the County's PACE program, including, without limitation, claims for or related to uncollected PACE Assessments. The County has no liability to a property owner for or related to energy savings improvements funded under the PACE program. The Board, the Missouri District, and the Show Me District shall for all purposes be considered independent entities and shall not be considered subdivisions of the County.

3305. Greater Kansas City Clean Energy Development Board, Established

The Greater Kansas City Clean Energy Development Board is established.

3305.1 Membership. The Board shall consist of five members:

- [a. Chair of the Jackson County Legislature;
- b. The Mayor of the City of Sugar Creek, MO;

c. The Legislative Auditor of Jackson County, MO; and,

d. Two members selected by majority vote of the three permanent members, who shall serve terms of two years.]

a. Two permanent members shall be appointed by the mutual consent of two nominators:

i. The Chair of the County Legislature shall name the two nominators;

ii. Nominators shall be County residents.

b. The third permanent member shall be the Mayor of Sugar Creek, MO;

c. Two members shall be selected by majority vote of the three permanent members.

3305.2 Terms, Vacancies, and Officers. The terms of office for the officials described in subsection 1 of this section are as follows:

a. The two nominators shall begin their terms when named by the Chair of the Jackson County Legislature once they have discharged their duties of appointing two permanent members to the Board, their terms and duties shall end.

b. The two permanent appointed members of the Board shall begin their terms on the day they are appointed by mutual agreement of the nominators. The terms of the two permanent members of the Board shall end on January 1, 2025. Thereafter, the terms of the two permanent appointed members of the Board shall end every fourth year on January 1.

c. Whenever a vacancy occurs in either of the two permanent appointed Board members, the secretary of the Board shall notify the Chair of the County Legislature who shall in turn appoint two nominators. The nominators shall then appoint a new member or members by mutual agreement.

d. The terms of the two non-permanent appointed members shall begin when they are chosen by the majority of the Board. The term of the first two non-permanent Board members shall end on January 1, 2024. Thereafter, the terms of the two non-permanent

appointed members of the Board shall end every fourth year on January 1.

e. Subject to the right of resignation and to the terms described herein, all members shall hold office until their successors are duly elected or appointed and qualified.

3305.[2] 3 Expenses. The Board [shall] may establish reasonable procedures for Board members to be reimbursed for expenses incurred due to their Board service.

3305.4 Proxies. Any Board member may name a proxy, authorized to vote on that member's behalf, by submitting the name of such person in writing to the Board's chair before any meeting during which the proxy is authorized to vote.

3305.5 Officers. The Board shall choose from among its members a chair, a secretary, and any other officers the Board may deem necessary.

3306. Greater Kansas City Clean Energy Development Board, Authority.

The Board is authorized to exercise all powers which may be exercised by similar boards pursuant to the PACE Act, as it may be revised from time to time, and to adopt bylaws addressing its operations as are consistent with the PACE Act and this chapter.

3306.1 Start-Up Phase. The Missouri Clean Energy Authority, LLC (MOCEA) shall serve as Program Administrator for the Board during its initial or start-up phase. Such start-up phase shall extend for a period of one (1) year, and may be extended by vote of the Board for a period up to three (3) years. During the start-up phase, MOCEA shall be responsible for all costs and fees associated with the Board's operations.

3306.2 Cooperative Tax Collection Agreements. The Board shall be authorized to enter into cooperative agreements with the County governing the collection of PACE Assessments.

3308. Consumer Protections.

the Missouri District, the Show Me District, and the Board shall adopt, before any project may be approved [by the Board], consumer protection policies and standards that address, at a minimum, the following areas:

- a. Consumer eligibility;

- b. Minimum required disclosures and documentation to be provided to the consumer;

- c. Maximum rates and fees to be charged to the consumer; and post-funding support for the consumer;
- d. Data and cyber-security standards to protect consumer data and personal information that comply with the Financial Services Modernization Act of 1999, Title V;
- e. The prohibition of PACE program practices that are misleading, deceptive, or violative of federal, state or local laws regarding marketing practices;
- f. Compliance with all federal, state, or local laws regarding protected classes;
- g. Availability of the program to low-income homeowners who are otherwise eligible for the program; and,
- h. Implementation of a reasonable maximum finance amount.

These consumer protections shall either meet or exceed the national PACE standards as outlined in the Residential PACE Nation Consumer Protection Policies, as revised from time to time, viewable at <http://pacenation.us/consumer-protections/>.

3310. Existing Laws Not Superseded.

Any project or improvement to any Qualifying Property which is funded in whole or in part

with PACE Funding shall be subject to all ordinances, rules, and regulations in effect at the time of the initial funding.

3311. County as a Non-Party.

The County shall not be a party to any PACE Funding agreement, loan, or other commitment, however dominated, executed between the Missouri District, the Show Me District, or the Board and the owner(s) (or their representatives, together with any successors and assigns) of any Qualifying Property.

Section B. Severability Clause.

If any section or provision of this Ordinance is determined to be unconstitutional, contrary to state law, or incapable of being enforced, by reason of any law or public policy, all other sections or provisions of this Ordinance shall remain in full force and effect and no section or provision shall be deemed dependent upon any other section or provision unless expressly stated herein.

Section C. Jackson County declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The County enacts this Ordinance pursuant to sections 67.2800 to 67.2835, RSMo, as amended.

Section D. The County does hereby request that the County be approved by the Board of Directors of the Show Me District as a duly authorized participant in the District. The County hereby approves the Show Me PACE Cooperative Agreement among the District

and the participating municipalities in substantially the form attached hereto as Exhibit A (the "Cooperative Agreement"). The County Executive is hereby authorized and directed to execute the Cooperative Agreement on behalf of the County.

Section E. The election of the County to join the Show Me District shall in no way constitute an obligation of the County necessitating any corresponding appropriation.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Jim D. Holden
Chief Deputy County Counselor

Bryan O. Covinsky
County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5494 introduced on March 22, 2021, was duly passed on April 12, 2021 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

VETOED-APRIL 21, 2021

4.12.2021
Date

Mary Jo Spino
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5494.

VETOED BY THE COUNTY EXECUTIVE ON APRIL 21, 2021. (See Attached)

Date

Frank White, Jr., County Executive



FRANK WHITE, JR.
Jackson County Executive

April 20, 2021

Veto Message from the County Executive

Ordinance 5494

TO THE JACKSON COUNTY LEGISLATURE

RECEIVED

APR 21 2021

MARY JO SPINO
COUNTY CLERK

*JKK
8:50am*

I am returning herewith without my approval Ordinance 5494, which, most notably, designates the Show Me PACE Clean Energy District as a qualified PACE provider in the County and makes certain changes to the Greater Kansas City Clean Energy Development Board.

The Property Assessed Clean Energy, or PACE, is a program that was created by the State of Missouri in 2010. PACE allows property owners to borrow money for the purpose of making energy efficient and renewable energy improvements to their homes. Property owners repay the loan over time through a special assessment on their annual property tax bill. The program can be an attractive option for residents who lack the financial resources or adequate credit to secure a loan to invest in such improvements. Counties and municipalities may create or join PACE programs, and importantly, state statute requires that the County collect the special assessments related to the PACE program in the same manner as ad-valorem taxes.

Though the program appears to have been created with good intentions, examples of abuse have been found around the country when inadequate consumer protections are in place. It is not hard to find news stories in which low-income homeowners, often from communities of color, have been subjected to predatory lending practices as part of a PACE program that may cost them their homes. Due to these abuses, some communities, such as Los Angeles County, California, and Hillsborough County, Florida, have chosen to end their PACE programs.

On Tuesday, April 13, 2021, my office was contacted by a reporter from a non-profit national news organization regarding the PACE program in Jackson County. The news organization has been investigating PACE programs across the state and asked for my response to some of their findings. Without going into detail, the investigation has uncovered significant differences between how the program is impacting majority white and majority black areas of Jackson County.

Due to the concerns being raised across the country and the Jackson County specific findings of the news organization, my office reached out to the Legislature and we have agreed that the best course of action to take at this time is to veto Ordinance 5494. By doing so, we will allow ourselves an opportunity to review the news organization's findings, compare our program to those around the country, and analyze the County's current consumer protection requirements to determine if changes need to take place before expanding our current program.

For the foregoing reasons, Ordinance 5494 has earned my veto.

Respectfully submitted,

Frank White, Jr.
Jackson County Executive

