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DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
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April 23, 2026

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Public Hearing and First Reading of an Ordinance Adopting Clackamas County Code Chapter 8.11, Commercial Property Assessed Clean Energy (CPACE) Program. No fiscal impact. No County General Funds are involved.

Previous Board Action/Review: Policy Sessions – January 13 and March 17, 2026

Performance Clackamas: Vibrant Economy

Counsel Review: Yes

Procurement Review: No

Contact Person: Laura Edmonds (503) 742-4366

EXECUTIVE SUMMARY: The attached ordinance adopting Clackamas County Code Chapter 8.11 would authorize the Department of Transportation and Development's (DTD's) Office of Economic Development and its Property Disposition program to implement and administer a Commercial Property Assessed Clean Energy (CPACE) program under ORS 223.680 and ORS 223.685, which authorize local governments to establish programs to assist owners of qualifying real property in financing cost-effective efficiency improvements and seismic rehabilitation.

CPACE loans are funded and offered by private capital providers to commercial property owners. The County's role would be ensuring that the loan application process is followed, that required documentation is completed to record a lien on the property in favor of the County, and that mortgage holders consent to the senior position of the County's lien.

The capital provider is responsible for billing and collecting loan payments, not the County. If the property owner does not repay the CPACE loan, the capital provider can ask the County to collect the debt following the collection process for Local Improvement District assessments. In the rare situation this becomes necessary, all costs of collection will be the responsibility of the capital provider. DTD's Property Disposition program will follow statutory foreclosure procedures to enforce the County's lien.

This ordinance is necessary to meet an emergency due to current economic conditions limiting the ready availability of capital, which is constraining the development of critical multi-family housing, industrial, and commercial facilities needed for a vibrant and resilient economy. If the Board votes unanimously, it may adopt this ordinance without a second reading. If the Board does not vote unanimously, a second reading will be required. Notification was sent to all electric, natural gas, and water utilities in the County, as required by ORS 223.680 and ORS 223.685, along with a courtesy notification to all the incorporated cities in the County.

For Filing Use Only

RECOMMENDATION: Staff recommends that the Board hold this public hearing, read the attached ordinance by title only, and adopt the attached ordinance.

Respectfully submitted,

Dan Johnson

Dan Johnson, Director
Department of Transportation and Development

ATTACHMENTS:
Ordinance with Exhibit

**An Ordinance Adopting Clackamas County Code Chapter 8.11,
Commercial Property Assessed Clean Energy (CPACE) Program**

WHEREAS, ORS 223.680 and ORS 223.685 authorize local governments to establish programs to assist owners of qualifying real property in financing cost-effective utilities improvements and seismic rehabilitation, known as Commercial Property Assessed Clean Energy (CPACE) programs; and

WHEREAS, such utilities improvements and seismic rehabilitation will strengthen the County's economic infrastructure by improving property values, building performance, and the marketability of qualifying real property within Clackamas County; and

WHEREAS, a CPACE program can be successfully implemented by the Office of Economic Development and Property Disposition, in consultation with County Counsel, so as to minimize local administrative burden and cost while ensuring that the County is protected financially and legally; and

WHEREAS, notice to utilities that distribute electric energy, natural gas, or water within Clackamas County has been provided in accordance with ORS 223.680(3), and such notice has also been provided to cities within Clackamas County;

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

- Section 1:** Clackamas County Code Chapter 8.11, Commercial Property Assessed Clean Energy (CPACE) Program, as shown on Exhibit "A," attached hereto and by this reference incorporated herein, is hereby adopted.
- Section 2:** This ordinance is necessary to meet an emergency because current economic conditions limit the ready availability of capital, which is constraining the development of critically needed multi-family housing industrial and commercial facilities needed for a vibrant and resilient economy.
- Section 3:** This ordinance shall take effect immediately upon the date of its adoption.

ADOPTED this ____ day of _____ 2026.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Chapter 8.11

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (CPACE) PROGRAM

8.11.010 Definitions

As used in this chapter, unless the context requires otherwise, the following terms and their derivations shall have the following meanings:

- A. “Qualifying Real Property” means multifamily residential dwellings or commercial or industrial buildings that the County has determined can be benefited by Utilities Improvements or Seismic Rehabilitation.
- B. “Seismic Rehabilitation” means improvements to Qualifying Real Property that are authorized by the County and that are intended to reduce or prevent harm to persons and property due to the effects of seismic activity on the Qualifying Real Property.
- C. “Utilities Improvements” means improvements to Qualifying Real Property that are authorized by the County and that are for any of the following purposes:
 - a. Energy efficiency.
 - b. Renewable energy.
 - c. Energy storage.
 - d. Smart electric vehicle charging stations.
 - e. Water efficiency.

[Codified by Ord. __-2026, __/__/2026]

8.11.020 CPACE Program

- A. There is established a Commercial Property Assessed Clean Energy (CPACE) Program to assist owners of record of Qualifying Real Property in financing cost-effective Utilities Improvements to and Seismic Rehabilitation of the Qualifying Real Property.
- B. If the owner of record of Qualifying Real Property requests financing pursuant to the CPACE Program, the County may facilitate a financing agreement for the owner of the Qualifying Real Property and any other person benefited by the financing.
- C. In facilitating a financing agreement, the County may:
 - a. Impose requirements intended to ensure that the costs of any Utilities Improvements do not exceed the cumulative cost savings of the Utilities Improvements over the useful life of the Utilities Improvements;
 - b. Impose requirements intended to ensure that the financing is consistent with the purposes of the CPACE Program;
 - c. Impose requirements and conditions on financing agreements that are designed to ensure timely repayment; and
 - d. Charge periodic fees to pay for CPACE Program costs.
- D. The County may not facilitate a financing agreement unless the owner of the Qualifying Real Property has:
 - a. Provided written notice to all mortgagees of the Qualifying Real Property that the owner intends to enter into a financing agreement; and

- b. Received written consent from the mortgagees stating that the financing agreement does not constitute an event of default or give rise to any remedies under the terms of the mortgage loan agreements.

[Codified by Ord. __-2026, __/__/2026]

8.11.030 CPACE Liens

- A. The County may secure financing facilitated under the CPACE Program or amounts due under a financing agreement with a lien on the benefited Qualifying Real Property (CPACE Lien).
- B. CPACE Liens shall be recorded in the County Clerk Lien Record.
- C. CPACE Liens shall have the same priority, as determined under ORS 223.230(3), as a lien for assessments for local improvements arising under ORS 223.393.

[Codified by Ord. __-2026, __/__/2026]

8.11.040 Enforcement

- A. If any CPACE Lien is delinquent at any time after 60 days from the time it became due and payable, the County may proceed to collect the unpaid CPACE Liens by advertising and selling the Qualifying Real Property in the manner provided in ORS 223.505 to 223.650.
- B. When an individual or entity purchases Qualifying Real Property at a foreclosure sale under ORS 223.505 to 223.590, if, with the written preapproval of the County, that purchaser incurs costs for maintaining or improving the Qualifying Real Property during the period allowed for redemption, and if the Qualifying Real Property is subsequently redeemed, the County may return all or part of the penalty paid by the person redeeming the Qualifying Real Property to the purchaser.

[Codified by Ord. __-2026, __/__/2026]