

PROPOSED BY: DONOVAN
INTRODUCTION DATE: _____

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE SECTION 16.50.090 (COLLECTION AND ENFORCEMENT) TO INCORPORATE CHANGES TO THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCY (C-PACER) PROGRAM ADOPTED BY THE STATE LEGISLATURE

WHEREAS, in RCW 36.165.005, the State Legislature granted county governments in Washington the authority to establish a commercial property assessed clean energy and resiliency ("C-PACER") program that jurisdictions can voluntarily implement to ensure that free and willing owners of agricultural, commercial, and industrial properties and of multifamily residential properties with five or more dwelling units can obtain low-cost, long term financing; and

WHEREAS, the C-PACER program authorized in RCW 36.165 is consistent with goals and policies of the Whatcom County Comprehensive Plan and the Whatcom County Climate Action Plan; and

WHEREAS, on June 29, 2021, Whatcom County Council adopted Ordinance 2021-041 establishing a Whatcom County Commercial Property Assessed Clean Energy and Resiliency (C-PACER) Program (Whatcom County Code Chapter 16.50); and

WHEREAS, on March 17, 2022, during the 67th Legislature's 2022 Regular Session, Substitute Senate Bill 5862 was signed into law thereby amending RCW 36.165.060; and

WHEREAS, SSB 5862 clarifies responsibilities of capital providers of C-PACER funds to include billing, collections, and enforcement of delinquent C-PACER liens or assessment installments; and

WHEREAS, SSB 5862 also authorizes a C-PACER lien to be foreclosed in the same manner as a mortgage lien rather than in the same manner as delinquent property taxes; and

WHEREAS, SB5862 also specifies the order in which proceeds of the foreclosure sale of the property must be applied; and

WHEREAS, Whatcom County Council wishes to amend Whatcom County Code Section 16.50.090 Collection and Enforcement to bring the county's C-PACER program into compliance with recent state legislation.

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Code Section 16.50.090 (Collection and Enforcement) is hereby amended as shown in Exhibit A to this ordinance.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

() Approved () Denied

Karen Frakes (by phone 3/25/2022)

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date Signed: _____

EXHIBIT A:

16.50.090 Collection and enforcement.

- A. The Assessment and C-PACER Lien shall be assigned by the county to the capital provider at the close of any approved C-PACER financing by the county, as provided in RCW 36.165.050(3). The C-PACER Lien, as assigned to the Capital Provider shall maintain the same precedence and priority and characteristics set forth in section 16.50.060 of this chapter.
- B. Billing, collection and enforcement of delinquent C-PACER Liens or C-PACER Financing installment payments, including foreclosure, shall remain the responsibility of the Capital Provider.
- C. Pursuant to the assessment agreement, the C-PACER lien shall be solely enforced by the capital provider at any time after one year from the date of delinquency, and may be foreclosed in the same manner as a mortgage lien under chapter 61.12 RCW, except that no sale of the property shall discharge or in any manner affect the priority of the C-PACER Lien with respect to installments not yet due and payable at the time of sale, and no deficiency judgment may be sought by the Capital Provider with respect to any unpaid assessment at the time of sale. The participation of the county sheriff in any such foreclosure action shall not be deemed in violation of, or inconsistent with 36.165.110 RCW limiting the role of the county in the enforcement of a C-PACER Lien.
- D. The Capital Provider may also pursue any other enforcement method authorized under RCW 36.165, as it may be amended from time to time.