

Whatcom County Planning & Development Services Staff Report

Amendments to WCC Chapter 16.50 (C-PACER Program)

I. Application Information

File # PLN2023-00003

File Name: Modifications to the C-PACER Program

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: Proposed amendments to WCC Chapter 16.50 (C-PACER Program).

Location: Countywide.

Recommendation: Planning and Development Services recommends that the Council approve the proposed amendments to WCC Chapter 16.50.

II. Background:

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, industrial, and multifamily residential properties with five or more dwelling units can obtain low-cost, long term financing. The C-PACER program is an alternative loan program that allows owners of eligible commercial properties to seek long-term financing from a private capital provider for qualified improvements related to energy & building resiliency. It is used in at least 15 states. In Washington the counties of Clark, King, Pierce, Snohomish, Spokane, Thurston, and Whatcom have programs (as well as the cities within).

It can be used for financing such projects as:

Energy Efficiency:

- HVAC System
- Replacement Lighting Fixtures
- Building Insulation Upgrades
- Energy Efficient Appliances

Water Conservation:

- Replacement of lead water pipes, install of low-flow fixtures & repair for leaking system
- Water-smart landscaping, sprinkler & irrigation systems

Renewable Energy:

- Solar Panels
- Geothermal heating system

Resiliency:

- Seismic retrofits
- Wet & Dry flood proofing
- Fire suppression systems
- Energy storage system

III. Code Amendments

Council adopted the C-PACER Program for Whatcom County in 2021 via ORD 2021-041. In adopting a new, untested program, Council included a sunset clause in case. We have had one application and have identified a few code items to improve the process.

These proposed changes include (see Exhibit A):

- An amendment to the definition of “eligible property” (§16.50.020(G));
- Addition of a definition for “Project Valuation” (§16.50.020(M));
- Clarifying the use of electronic signatures (§16.50.070(D));

Additionally, staff is proposing to delete the sunset clause, WCC 16.50.140, which reads:

The commercial property assessed clean energy and resiliency (C-PACER) program shall be dissolved 24 months after the effective date of this chapter, unless specifically extended by ordinance. The County Council shall review the need to continue the C-PACER program four months prior to the sunset date.”

This means that if Council wants to continue this program, an ordinance would need to be introduced no later than March 21, 2023, and Council action would need to be taken on or before July 11, 2023.

IV. Comprehensive Plan Evaluation

The proposed amendments are consistent with the following Comprehensive Plan polices:

1. Chapter 10 of the Whatcom County Comprehensive Plan recognizes that climate change is a global phenomenon that has the potential for significant local impacts to natural resources, ecosystem functions, as well as human health, infrastructure, and the economy; and
2. Policy 10B-1 of the Whatcom County Comprehensive Plan is to develop environmental programs, involving non -regulatory measures that include voluntary activity, education, and incentives; and
3. Policy 10D-7 of the Whatcom County Comprehensive Plan encourages sustainability by developing strategies and practices to increase the use of renewable energy; and
4. Policy 7G-4 of the Whatcom County Comprehensive Plan encourages sustainability by supporting renewable energy and energy resiliency.

V. Proposed Findings of Fact and Reasons for Action

It is recommended the County Council base their decision on the following findings of fact and reasons for action:

1. 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
2. The State Legislature found that this financing can be used for qualifying improvements, including energy efficiency, water conservation, renewable energy, and resiliency projects; and

3. The C-PACER program authorized in chapter 36.165 RCW promotes voluntary energy efficiency programs, energy conservation, and resiliency; and
4. Commercial and multi-family buildings are major sources of energy use, and major sources of greenhouse gas emissions; and
5. Permanent improvements to those buildings in the form of efficiency technologies, products, or activities to reduce or support the reduction of energy consumption, or support the production of clean, renewable energy, can save building owners money, and reduce greenhouse gas emissions known to drive climate change; and
6. In 2007, Whatcom County completed a Climate Protection and Energy Conservation Action Plan that laid out specific actions and targets for reducing greenhouse gas emissions and increasing energy conservation efforts in response to potential climate change; and
7. The establishment and operation of a C-PACER program serves important public health and safety interests; and
8. A qualified improvement as defined in RCW 36.165.010 provides benefits to the public, either in the form of energy or water resource conservation, reduced public health risk, or reduced public emergency response risk; and
9. The C-PACER program authorized in chapter 36.165 RCW is consistent with goals and policies of the Whatcom County Comprehensive Plan and the Whatcom County Climate Protection and Energy Conservation Action Plan; and
10. On October 27, 2020 and November 10, 2020, Whatcom County Council discussed the C-PACER program, program administration, and costs; and
11. On March 7, 2023, Whatcom County Council discussed the proposed amendments to the C-PACER program and introduced an ordinance to amend WCC Chapter 16.50; and,
12. On March 21, 2023, the County Council held a duly noticed public hearing on the proposed amendments.

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendation

Planning and Development Services recommends that the County Council approve the amendments.

Attachments

1. Exhibit A – Proposed Code Amendments