

**ORDINANCE  
ROCK COUNTY BOARD OF SUPERVISORS**

FINANCE COMMITTEE &  
PLANNING & DEVELOPMENT  
COMMITTEE  
INITIATED BY



RICHARD GREENLEE  
DRAFTED BY

AUGUST 28, 2019  
DATE DRAFTED

FINANCE COMMITTEE &  
PLANNING & DEVELOPMENT  
COMMITTEE  
SUBMITTED BY

CREATING SECTION 2.204 OF THE ROCK COUNTY ORDINANCES

1 The Board of Supervisors of the County of Rock, at its regular meeting this 24<sup>th</sup> day of  
2 October, 2019, does ordain as follows:

3  
4 I. Section 2.204 of the Rock County Ordinances is created to read as follows:

5  
6 **2.204 Property Assessed Clean Energy Financing**

7  
8 (1) Purpose. The County finds that renovations or additions to premises located in the County  
9 made to improve energy efficiency, improve water efficiency, and/or use renewable resource applications,  
10 increase property values, stimulate local economic activity, provide local and global environmental  
11 benefits, and promote the general welfare of the County residents. The purpose of this Section is to  
12 facilitate loans arranged by property owners or lessees to make such improvements by treating loan  
13 principal and interest, fees, and other charges as special charges eligible for inclusion on the tax roll of  
14 these properties.

15  
16 (2) Statutory Authority. This ordinance is enacted pursuant to Wis. Stats. § 66.0627, as amended,  
17 which authorizes a County to make a loan or enter into an agreement regarding loan repayments to a third  
18 party for owner-arranged or lessee-arranged financing, to an owner or lessee of a premises located in the  
19 County for making or installing an energy efficiency improvement, a water efficiency improvement or a  
20 renewable resource application to a premises.

21  
22 (3) Definitions. In this section:

23  
24 (A) Annual installment – means the portion of the PACE loan that is due and payable for a  
25 particular year under the supplemental agreement.

26  
27 (B) Borrower - means the property owner or lessee of the subject property that borrows the  
28 proceeds of a PACE loan.

29  
30 (C) Default loan balance – means the outstanding balance, whether or not due, of a PACE  
31 loan at the time that the County receives foreclosure proceeds.

32  
33 (D) Foreclosure proceeds – means the proceeds received by the County from the disposition  
34 of a subject property through an *in rem* property tax foreclosure.

35  
36 (E) Loan amount – means the principal, interest, administrative fees (including the Program  
37 Administrator’s fees) and other loan charges to be paid by the borrower under the PACE loan.

38  
39 (F) PACE – means the acronym for property assessed clean energy.

40  
41 (G) PACE default provisions – means:

42  
43 1. The delinquent annual installment(s) due when the County initiates the *in rem*  
44 property tax foreclosure on the subject property;

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46 2. Any additional annual installment(s) that become due between the time that the  
47 County initiates *in rem* property tax foreclosure on the subject property and the date the  
48 County receives the foreclosure proceeds;

49  
50 3. Any default interest charges applied to unpaid annual installments referenced in subs.  
51 1. and 2. above, as provided in the supplemental agreement; and

52  
53 4. Any default loan balance.

54  
55 (H) PACE lender – means any person that makes a PACE loan, and which may include an  
56 affiliate of the borrower.

57  
58 (I) PACE loan – means a loan made by a PACE lender to a borrower under this Section for  
59 energy efficiency improvements, water efficiency improvements, or renewable resource  
60 applications made to or installed on a subject property.

61  
62 (J) Person – means any individual, association, firm, corporation, partnership, limited liability  
63 company, trust, joint venture or other legal entity, or a political subdivision as defined in Wis.  
64 Stat. § 66.0627.

65  
66 (K) Program Administrator – means the person retained by the Wisconsin PACE Commission  
67 as provided in subsection (5)(B).

68  
69 (L) Subject property – means any premises located in the County on which an energy  
70 efficiency improvements, water efficiency improvements, or renewable resource applications  
71 are being or have been made and financed through an outstanding PACE loan.

72  
73 (M) Supplemental agreement – means a written agreement among a borrower, a PACE lender  
74 and the County, as provided for in subsection (7).

75  
76 (N) Wisconsin PACE Commission – means the Wisconsin PACE Commission formed under  
77 Wis. Stats. § 66.0301, as amended, by the County and one or more other political subdivisions  
78 as defined in Wis. Stats. § 66.0627, pursuant to a Joint Exercise of Powers Agreement relating  
79 to the Wisconsin PACE Commission.

80  
81 (4) Pace Loans as Special Charges; Delinquent Amounts as Liens. Any PACE loan made and  
82 secured pursuant to this Section shall be considered a special charge on the subject property. Any annual  
83 installment or portion of a PACE loan made and secured pursuant to the Section that becomes delinquent  
84 according to the terms of the PACE loan shall be a lien against the subject property and placed on the tax  
85 roll, as permitted pursuant to Wis. Stat. § 66.0627 as amended.

86  
87 (5) Wisconsin Pace Commission.

88  
89 (A) Any of the powers and duties of the County under this Section, except for those under  
90 subsection (9) may (but are not required to) be delegated to the Wisconsin PACE Commission.

91  
92 (B) The Wisconsin PACE Commission is further authorized to retain a Program  
93 Administrator to act as its agent and administer the PACE program, subject to adherence with  
94 PACE program requirements set forth in this Section and in Wis. Stat. § 66.0627 as amended.

95  
96 (6) Loan Approval.

97  
98 (A) A prospective borrower applying for a PACE loan shall comply with the loan  
99 application process set forth in the program manual approved by the County.

100  
101 (B) The County shall approve the financing arrangements between a borrower and PACE  
102 lender.

L04 (7) Supplement Agreement.

L05  
L06 (A) The County, the borrower and the PACE lender shall execute the supplemental agreement  
L07 which, without limitation:

- L08  
L09 1. Shall inform the participants that the PACE loan amount shall be imposed as and  
L10 considered a special charge, and each year's annual installment may be included on the  
L11 property tax roll of the subject property as a special charge and an annual installment that  
L12 is delinquent shall be a lien against the subject property pursuant to Wis. Stat. § 66.0627,  
L13 as amended;
- L14  
L15 2. Shall recite the amount and the term of the PACE loan;
- L16  
L17 3. Shall provide for the amount, or a method for determining the amount, of the annual  
L18 installment due each year;
- L19  
L20 4. Shall provide whether default interest may be applied to unpaid annual installments;
- L21  
L22 5. Shall require the PACE lender and the borrower to comply with all federal, state and  
L23 local lending and disclosure requirements;
- L24  
L25 6. Shall provide for any fees payable to the County and/or Program Administrator;
- L26  
L27 7. Shall recite that the supplemental agreement is a covenant that runs with the land;
- L28  
L29 8. May provide for prepayments of annual installments by the borrower with a resulting  
L30 reduction in the special charge for the prepayment, subject to any prepayment premium  
L31 charged by the PACE lender, if any; and
- L32  
L33 9. May allow for amendment by the parties.

L34  
L35 (B) Prior to executing the supplemental agreement, the owner of the subject property, if  
L36 different from the borrower, and any existing mortgage holder(s) on the subject property  
L37 must have executed a separate writing acknowledging the borrower's use of PACE financing  
L38 for the subject property and the special charge that will be imposed under this Section and  
L39 its consequences, including the remedies for collecting the special charge.

L40  
L41 (C) Each PACE loan shall be amortized over the term of the PACE loan as provided in the  
L42 supplemental agreement.

L43  
L44 (D) The annual payments of a PACE loan may be payable in installments as authorized by  
L45 Wis. Stat. § 66.0627, as amended.

L46  
L47 (8) Annual Installments Added to Tax Rolls. Upon the request of the Program Administrator,  
L48 the County shall place each year's annual installment on the tax roll for the subject property as permitted  
L49 pursuant to Wis. Stat. § 66.0627, as amended.

L50  
L51 (9) Remittance of Special Charges. The County shall promptly remit to the Wisconsin PACE  
L52 Commission any payment(s) for a special charge imposed under this Section, including penalties and  
L53 charges thereon, it may receive from any taxing district or the County treasurer pursuant to Wis. Stat. Ch. 74  
L54 as amended.

L55  
L56 (10) Property Tax Foreclosure Procedures.

L57  
L58 (A) The County elects to utilize the provisions of Wis. Stat. § 75.521, as amended, for the  
L59 purpose of enforcing tax liens if a subject property owner fails to pay any special charges  
L60 imposed on the subject property under this Section as required.

162 (B) The County shall begin an *in rem* property tax foreclosure proceeding on the subject  
163 property at the earliest time allowed under Wisconsin Statutes, unless the County  
164 determines that subject property is a "brownfield" (as defined in Wis. Stat. § 75.106, as  
165 amended) or that *in rem* property tax foreclosure is not in the best interests of the County  
166 due to the condition of the property or for other reasons.

167  
168 (C) If the County has determined that it will not commence an *in rem* property tax  
169 foreclosure proceeding, then the PACE lender may request that the County, pursuant to  
170 Wis. Stat. § 75.106, as amended, assign the County's right to take judgment against the  
171 subject property, provided that the PACE lender and the County fully comply with all  
172 provisions of Wis. Stat. § 75.106, as amended, concerning the subject property and the  
173 PACE lender agrees to pay the amounts required by Wis. Stat. § 75.36(3)(a)1 and 1m, as  
174 amended.

175  
176 (11) Sale of Foreclosed Property. If the County prevails in an *in rem* property tax foreclosure  
177 action against a subject property, the County shall diligently proceed to sell the subject property  
178 pursuant to the procedures set forth in Wis. Stat. § 75.69, as amended.

179  
180 (12) Distribution of Foreclosure Proceeds. The County treasurer shall follow the procedures set  
181 forth in Wis. Stat. § 75.36, as amended, to distribute the proceeds from the sale of a subject property.

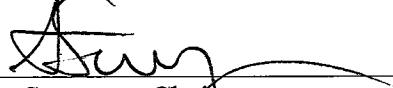
182  
183 II. Section 2.204 shall be effective upon publication.

Respectfully submitted:

FINANCE COMMITTEE

PLANNING & DEVELOPMENT COMMITTEE

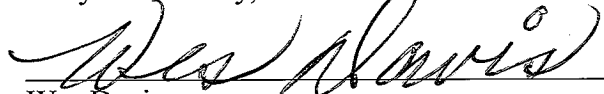
  
Mary Mawhinney, Chair

  
Alan Sweeney, Chair

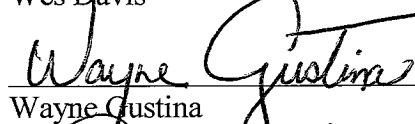
  
Mary Beaver, Vice Chair

  
Mary Mawhinney, Vice Chair

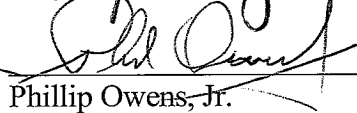
Absent  
Brent Fox

  
Wes Davis

  
J. Russell Podzilni

  
Wayne Gustina

  
Bob Yeomans

  
Phillip Owens, Jr.

LEGAL NOTE:

FISCAL NOTE:

The County Board is authorized to take this action by Wis. Stats. § 59.02(2).

Minimal fiscal impact.

  
Richard Greenlee  
Corporation Counsel

  
Sherry Oja  
Finance Director

ADMINISTRATIVE NOTE:

Recommended.

  
Josh Smith  
County Administrator