

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 3**

SUMMARY

This supplement incorporates changes to Volume 3 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

220223 An ordinance relating to clean energy finance.

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove old MEMO (Suppl. #335)					
304-26.5-2-k Index	am	220223	7/12/2022	v-vi 49-50 1549-1550	v-vi 49-50 1549-1550

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Abbreviations:

am=amended
cr=created
corr=correction

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

Revised 6/21/2022
Suppl. #336

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through June 21, 2022.

Revised 6/21/2022
Suppl. #336

2. DEFINITIONS.

- a. "Annual installment" means the portion of the loan amount that is due for a particular year under the loan agreement.
- b. "Default loan balance" means the outstanding balance of a PACE loan at the time the city receives foreclosure proceeds on a property subject to special charges under this section.
- c. "Foreclosure proceeds" means the proceeds resulting from the disposition of a property the city received through an in rem tax foreclosure.
- d. "Foreclosure reconstructive costs" means the sum of a stream of costs equal to the annual city portion of property taxes levied a property in in rem tax foreclosure, from the initiation of an in rem tax foreclosure action by the city until the city prevails in a foreclosure action.
- e. "Incentive" means any reimbursable or non-reimbursable credit enhancement or other grants of funds by or through the city to a PACE lender in connection with a PACE loan.
- f. "Loan agreement" means a written agreement among a borrower, a PACE lender and the city as provided in sub. 7.
- g. "Loan amount" means the amount of principal, interest, administrative fees, incentives and other loan charges under the loan agreement to be paid by the borrower under the PACE loan.
- h. "PACE" means property assessed clean energy.
- i. "PACE default provisions" means the sum of:
 - i-1. Any additional interest charges the loan agreement stipulates shall be applied to unpaid annual installments levied as special charges under this section onto the property tax bill when the city initiates tax foreclosure on the property.
 - i-2. Any additional annual installments stipulated by the loan agreement that become due between the time the city initiates tax foreclosure on the property and the date the city receives proceeds from the disposition of the tax foreclosed property.
 - i-3. Any additional interest charges the loan agreement stipulates shall be applied to annual installments included in paragraph i-2.
 - i-4. Any default loan balance.
- j. "PACE lender" means a lender that makes a PACE loan.
- k. "PACE loan" means a loan made by a PACE lender to a borrower under this section for

brownfield revitalization, electric vehicle infrastructure, energy-efficiency measures, energy reliability improvements, renewable energy projects, resiliency improvements, storm water control measures, water service line replacement and water efficiency improvements made to a commercial property.

L. "Program administrator" means the person retained by the department of administration as provided in sub. 2.5.

m. "Reimbursable incentive" means an incentive that must be paid back to the city pursuant to the loan agreement upon the collection of the annual installments or the foreclosure proceeds.

n. "Subject property" means any property on which energy-efficiency improvements have been made and financed through an outstanding PACE loan.

2.5. PROGRAM ADMINISTRATOR. The department of administration may retain a program administrator to act as its agent to administer the PACE program, subject to adherence with PACE program requirements and pursuant to s. 66.0627, Wis. Stats., as amended.

3. STATE COMPLIANCE. Annual installments shall be considered special charges on the subject property. Annual installments may be levied onto the property tax bill of the subject property as provided in s. 304-26.5-8 or administered by the program administrator, and each year's annual installment may be levied onto the property tax bill of the subject property pursuant to s. 66.0627, Wis. Stats., as amended.

4. INCENTIVES. The city may offer incentives to the PACE lender subject to the availability of funds or grants.

5. AFFILIATE FINANCING. Nothing in this section shall be construed to prohibit an affiliate of the property owner of a commercial property, including without limitation, a single-member limited liability company owned by the property owner, from providing the funds for a PACE loan with respect to the property. In such case, the property owner shall be considered the borrower, and the affiliate shall be considered the PACE lender.

6. LOAN APPROVAL.

a. A prospective borrower applying for a PACE loan shall comply with the loan application process as set forth in the program manual prepared by the department of administration.

b. The department of administration shall approve the financing arrangements between a borrower and a PACE lender.

304-26.5-7 Finance

7. LOAN AGREEMENT.

a. The department of administration, the borrower and the PACE lender shall execute the loan agreement which:

a-1. Shall inform the participants that the loan amount shall be considered a special charge, and each year's annual installment may be levied onto the property tax bill of the subject property or administered by the program administrator as a special charge and be a lien against the subject property pursuant to s. 66.0627, Wis. Stats., as amended.

a-2. Shall set forth the amount of the annual installment due each year.

a-3. Shall stipulate any default interest to be applied to unpaid annual installments.

a-4. May provide for fees to the city to administer the program.

a-5. May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender.

a-6. May allow for amendment by the parties.

b. Each loan shall be amortized over the term of the loan as provided in the loan agreement. The annual installments may be collected in 10 monthly installments pursuant to s. 74.87, Wis. Stats., as amended.

c. The city shall agree in the loan agreement to enforce the special charge under this section and to account for the funds collected as special charges with respect to each subject property.

d. The loan agreement shall require the PACE lender and the borrower to comply with all federal, state and local lending and disclosure requirements and this section.

8. ANNUAL INSTALLMENTS ADDED TO TAX BILLS. a. For a loan agreement executed prior to April 1, 2021, being administered by the department of administration, the department of administration, following the city's customary practices, shall cause each year's annual installment to be levied onto the property tax bill of the subject property as a special charge pursuant to s. 66.0627, Wis. Stats., as amended, and be a lien against the subject property.

b. Following the city's customary practices, the department of administration, at its discretion, shall cause each year's annual installments to be levied onto the property tax bill of the subject property as a special charge pursuant to s. 66.0627, Wis. Stats., as amended, and be a lien against the subject property.

c. Borrowers with PACE loan agreements from before April 1, 2021, shall have the option to transfer the administration of PACE loan agreements from the department of administration to the program administrator.

9. COLLECTION OF SPECIAL CHARGES. a. For any loan agreements executed prior to April 1, 2021, being administered by the department of administration, the department of administration, following the city's customary practices, shall cause each year's annual installments to be levied onto the appropriate property tax bills as special charges. The office of the treasurer shall follow its customary practices to collect special charges under this subsection once placed on the tax rolls, including assessing penalties and charging interest.

b. For any loan agreements executed on or after April 1, 2021, that are not being administered by the department of administration, the program administrator shall be responsible for the collection of annual installments.

c. At the discretion of the department of administration, and following the city's customary practices, the department of administration may cause each year's annual installments to be levied onto the appropriate property tax bills as special charges. The office of the treasurer shall follow its customary practices to collect special charges under this subsection once placed on the tax rolls, including assessing penalties and charging interest.

d. At the request of the program administrator, any outstanding PACE loan balance may be transferred by the department of administration to the property tax bill of the subject property as special charges.

10. REMITTANCE OF SPECIAL CHARGES.

a. The office of the treasurer shall not submit special charges levied onto property tax bills under this section to the city comptroller for remittance, or in any other way cause unpaid special charges under this section to be remitted to the department of administration, the PACE lender or any other party.

b. The department of administration shall regularly monitor the property tax bill accounts of subject properties, keep an accounting of payments received by the city for these special charges and obtain written confirmation of these payments from the office of the treasurer. The department of administration shall establish a procedure, in consultation with the city comptroller and the city treasurer, to authorize the city comptroller to remit payments received for special charges levied onto property tax bills under

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