

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Enacting Section 4.35 of the
Deschutes County Code.

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ORDINANCE NO. 2022-005

WHEREAS, the Deschutes County Code (DCC) contains rules and regulations duly enacted through ordinance by Deschutes County and the Deschutes County Board of Commissioners; and

WHEREAS, from time-to-time the need arises to make amendments, including new enactments to the DCC; and

WHEREAS, County staff has identified ongoing and significant issues concerning financing opportunities for commercial properties within Deschutes County wherein the proposed development seeks to enhance county goals including those associated with increased energy and water conservation and improvement of structures against seismic damage; and

WHEREAS, the Board of County Commissioners of Deschutes County considered this matter at a duly noticed public hearing on April 20, 2022, and concluded that the public will benefit from the proposed enactment of section 4.35 of DCC; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. ENACTMENT. The identified new section 4.35 of the DCC, as fully appearing in Exhibit A is enacted as provided in Section 2.

Section 2. EMERGENCY. This Ordinance being necessary for the preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on _____, 2022.

Dated this _____ of _____, 2022

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ANTHONY DeBONE, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

Date of 1st Reading: _____ day of _____, 2022.

Date of 2nd Reading: _____ day of _____, 2022.

| Commissioner | Record of Adoption Vote | | | |
|--------------|-------------------------|----|-----------|---------|
| | Yes | No | Abstained | Excused |

| | | | | |
|----------------|-------|-------|-------|-------|
| Patti Adair | _____ | _____ | _____ | _____ |
| Phil Chang | _____ | _____ | _____ | _____ |
| Anthony DeBone | _____ | _____ | _____ | _____ |

Effective date: _____ day of _____, 2022.

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WHEREAS, the Board of County Commissioners of Deschutes County considered this matter at a duly noticed public hearing on April 20, 2022, and concluded that the public will benefit from the proposed enactment of section 4.35 of DCC; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. ENACTMENT. The identified new section 4.35 of the DCC, as fully appearing in Exhibit A is enacted as provided in Section 2.

Section 2. EFFECTIVE DATE. This Ordinance takes effect on the 90th day after the date of adoption.

Dated this _____ of _____, 2022

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ANTHONY DeBONE, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

Date of 1st Reading: _____ day of _____, 2022.

Date of 2nd Reading: _____ day of _____, 2022.

| Commissioner | Record of Adoption Vote | | | |
|--------------|-------------------------|----|-----------|---------|
| | Yes | No | Abstained | Excused |

| | | | | |
|----------------|-------|-------|-------|-------|
| Patti Adair | _____ | _____ | _____ | _____ |
| Phil Chang | _____ | _____ | _____ | _____ |
| Anthony DeBone | _____ | _____ | _____ | _____ |

Effective date: _____ day of _____, 2022.

EXHIBIT A (to Ordinance 2022-005)

Chapter 4.35 COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM (CPACE)

4.35.010 Short Title.

4.35.020 Purpose and Scope.

4.35.030 Definitions.

4.35.040 Benefit Assessment Liens.

4.35.050 Enforcement of CPACE Benefit Assessment Liens.

4.35.010 Short Title.

DCC 4.35 shall be known as the Deschutes County CPACE Ordinance and may be so cited and pleaded.
[Ord. 2022-005 § 1, 2022.]

4.35.020 Purpose and Scope.

The purpose and scope of this chapter is to establish lien security and collection procedures for approved CPACE loans.
[Ord. 2022-005 § 1, 2022.]

4.35.030 Definitions.

As used in this section, unless the context requires otherwise, the following terms and their derivations shall be the meanings provided below:

- A. "Acts" means ORS 223.680 and ORS 223.685.
- B. "Benefit Assessment Lien" means the special assessment lien levied against the Qualifying Real Property securing CPACE financing, pursuant to ORS 223.680(7)(a) and ORS 223.685(6)(a).
- C. "Building Resiliency Improvements" means those certain Utility and Seismic Rehabilitation improvements to the Qualifying Real Property that meet the requirements of the Acts and program guide.

D. **Clean Energy:** Clean energy is energy that comes from renewable, zero emission sources that do not pollute the atmosphere when used, as well as energy saved by energy efficiency measures.

E. _____

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E. “Deschutes County CPACE Program” means the program provided for under the Acts for the financing and construction of Building Resiliency Improvements on Qualifying Real Property.

D.F. Pollutants: Pollutants are any substance that contaminates air, soil, or water and that in sufficient concentrations contributes to undermining public health.

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E.G. “Qualifying Real Property” means the real property that qualifies to receive CPACE financing for Building Resiliency Improvements under the Deschutes County CPACE program.

H. “Recorder” means the Deschutes County Clerk.

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F.I. Renewable Energy: clean energy that comes from natural sources or processes that are constantly replenished.

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G.J. “Seismic Rehabilitation” means improvements to Qualifying Real Property that are (a) intended to reduce or prevent harm to persons and property due to the effects of seismic activity on the Qualifying Real property; and (b) authorized by the County or its designee.

H.K. “Treasurer” means the elected position (typically the appointed Chief Financial Officer for Deschutes County), designated pursuant to ORS 223.505(3) to take all steps necessary to enforce delinquent liens and to maintain records pertaining to collection proceedings thereon.

L. “Utilities Improvements” means improvements to Qualifying Real Property for any of the following purposes: (a) energy efficiency; (b) renewable energy; (c) energy storage; (d) smart electric vehicle charging stations; (e) water efficiency.

[Ord. 2022-005 § 1, 2022]

4.35.040 Benefit Assessment Liens.

A. Benefit Assessment Liens shall be entered into the County lien docket.

B. Pursuant to ORS 223.680(7)(a), Benefit Assessment 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. [Ord. 2022-005 § 1, 2022.]

4.35.050 Enforcement of CPACE Benefit Assessment Liens.

A. If any installment on any Benefit Assessment Lien bonded is delinquent for a period of one-year from the time it became due and payable, or at any time after 60-days from the time it became due and payable if not bonded, the recorder may thereafter prepare and transmit to the Treasurer a list in tabular form, made up from the lien docket, describing each Benefit Assessment Lien or installment due on any Benefit Assessment Lien that is so delinquent. The list shall also contain the name of the person to whom assessed, a particular description of the property, the amount of the Benefit Assessment Lien or installment due, and any other facts necessary to be given.

B. The Treasurer or its designee may take all steps necessary to enforce delinquent Benefit Assessment Liens and maintain records pertaining to those enforcement proceedings pursuant to the procedure set forth in ORS 223.505 to ORS 223.650, including collecting unpaid Benefit

Assessment Liens or installments by advertising and selling the Qualifying Real Property in the manner provided in ORS 223.505 to ORS 223.650.

- C. When an individual/entity purchases real property at a foreclosure sale under ORS 223.505 to ORS 223.590, if, with the written preapproval of the Treasurer or its designee, that purchaser incurs costs for maintaining or improving the property during the period allowed for redemption and if the property is subsequently redeemed, the Treasurer or its designee may return up to all of the penalty paid by the person redeeming the property to the purchaser.

[Ord. 2022-005 § 1, 2022.]