



Legislation Details (With Text)

**File #:** 22-0178      **Name:** Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE)) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virgi

**Type:** Ordinance      **Status:** Agenda Ready

**File created:** 8/13/2021      **In control:** City Council Legislative Meeting

**On agenda:** 10/11/2022      **Final action:**

**Title:** Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE)) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 22-0178\_Attachment 1\_Alexandria\_CPACEOrdinance-Cover, 2. 22-0178\_Attachment 2\_C-PACE Amended Ordinance, 3. 22-0178\_Attachment 3\_Presentation\_Alexandria\_CPACE\_Ordinance-Revisions\_DocketPresentation

Date	Ver.	Action By	Action	Result
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City of Alexandria, Virginia

MEMORANDUM

**DATE:** OCTOBER 4, 2022

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**THROUGH:** JAMES F. PARAJON, CITY MANAGER /s/

**FROM:** JEREMY MCPIKE, DIRECTOR, DEPARTMENT OF GENERAL SERVICES

**DOCKET TITLE:**  
Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE)) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

**ISSUE:** Consideration of an ordinance to amend the City's Commercial Property Assessed Clean Energy (C-PACE) Financing Program in accordance with the Commonwealth of Virginia's Clean Energy Financing Law, §15.2-958.3 of the Code of Virginia of 1950, as amended.

**RECOMMENDATION:** That City Council approve the proposed C-PACE program ordinance amendments on first reading and schedule it for second reading, public hearing and final passage on Saturday, October 15, 2022.

**BACKGROUND:** In November 2020 the Alexandria City Council adopted an ordinance to establish a Commercial Property Assessed Clean Energy (C-PACE) financing program to support the reduction of greenhouse gas (GHG) emissions associated with community energy consumption in support of the City's GHG emissions reductions goals.

A C-PACE program is an innovative way for the City of Alexandria to support 3<sup>rd</sup>-party capital providers to finance qualified projects which increase energy efficiency or, water efficiency, support clean energy, stormwater improvements, and/or resiliency systems in qualified buildings - existing and new commercial, non-profit, institutional, industrial, and residential multifamily properties excluding residential condominiums and properties with less than 5 residential dwellings. C-PACE facilitates loans made by qualified 3<sup>rd</sup>-party capital providers to property owner borrowers and is intended to make qualified projects more accessible and affordable. A property owner borrower uses a C-PACE loan to modernize and improve the overall condition of their property with no up-front costs.

The C-PACE loans are secured by a property tax lien and designed to be long-term (in some cases up to 20+ years). The C-PACE loan finances evaluation, engineering and design, and installation costs and includes all principal, interest, finance fees, and associated costs of the C-PACE program's administration of the loan. A C-PACE loan is designed to be cash-flow positive over its term and the C-PACE loan's repayment is designed to be less than the overall energy efficiency or water conservation cost savings.

The City launched the Alexandria C-PACE program in September 2021. The program is administered by a 3<sup>rd</sup>-party program administrator whose costs are paid by the borrower through the C-PACE loan's repayment. The City's role is to enable the C-PACE loan to be secured by a tax lien through the passage of the C-PACE ordinance, selection of a C-PACE Program Administrator, guidance of program design, assistance with outreach and marketing efforts, and providing guidance to the C-PACE Program Administrator on C-PACE program performance over time.

C-PACE is available to Virginia local governments in accordance with the Commonwealth of Virginia's Clean Energy Financing Law, §15.2-958.3 of the Code of Virginia of 1950, as amended. In addition to Virginia, twenty-one other states, including the District of Columbia and Maryland in the Metropolitan Washington region, have enabled C-PACE financing and have active C-PACE programs operating by local and state governments. In Virginia, Arlington County, Fairfax County, Fredericksburg, Loudoun County, Louisa County, Norfolk, Petersburg, Roanoke, Winchester, Virginia Beach, and the Town of Dumfries have active C-PACE programs. Moreover, the cities of Lynchburg and Richmond have passed enabling C-PACE ordinances and are actively working to implement programs.

Since the City Council adopted the original C-PACE program ordinance, the Virginia General Assembly has adopted various technical amendments to the enabling Virginia code sections. In addition, since the City launched the C-PACE program in September 2021, various projects have been proposed to leverage C-PACE loan opportunities, to include a proposed \$15 million renovation project.

Unfortunately, none of the projects have been executed thus far. The primary impediment appears to be the enforcement method adopted in the original ordinance in cases of loan default. Under the current ordinance, the City has no role in delinquent collections, although City collection is permissible under State law. Presently, the only recourse for 3<sup>rd</sup>-party Capital Providers is to foreclose on defaulted loans in the same manner as they would on a private mortgage. City staff have been informed this is a very unattractive component of the current program and counter to how enforcement is handled by C-PACE programs around the United States. As such, City staff have consulted with 3<sup>rd</sup>-party C-PACE capital providers, peer C-PACE programs around the United States, and the Virginia Department of Energy to consider enforcement amendments that reflect best practices within context of the enabling Virginia code sections.

**DISCUSSION:** Based on the Virginia General Assembly’s amendments to the enabling Virginia Code sections, City staff recommend the following technical amendments to the City’s C-PACE ordinance:

- 1) Update and clarify definitions.
- 2) Clarification of existing eligible improvements, and inclusion of additional eligible improvements to include resiliency improvements, soil and groundwater remediation improvements, and environmental remediation improvements.
- 3) Removal of a maximum loan amount.
- 4) Allow for eligible improvements completed up to two years prior to a C-PACE loan be eligible for participation in a C-PACE loan.
- 5) Clarification that the C-PACE loan may include all fees and costs, including late fees, penalties, interest, and program fees.
- 6) Flexibility to use a 3<sup>rd</sup>-party program administrator hired through the Virginia Department of Energy in the future.

In addition, City staff recommend an update to the City’s approach to C-PACE lien enforcement in cases of default. Under the proposed ordinance amendment, the City’s Department of Finance will assume the responsibility for collecting C-PACE loan delinquencies in the same manner as it collects delinquent Real Estate taxes, to include the use of the City’s 3<sup>rd</sup>-party collection agent.

**FISCAL IMPACT:** There is no cost to the City for the adoption of the proposed amendments. The C-PACE program is administered by a 3<sup>rd</sup>-party program administrator and costs are paid by the borrower through the C-PACE loan’s repayment, including any costs of enforcement through the City’s contracted collection agent. The enforcement amendment is anticipated to have negligible workload impact on the Department of Finance.

**ATTACHMENTS:**

- Attachment 1 - Ordinance Cover
- Attachment 2 - Ordinance
- Attachment 3 - Presentation

**STAFF:**

- Joanna Anderson, City Attorney
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