

AMENDING CHAPTER 26 OF THE DANE COUNTY CODE OF ORDINANCES,
CREATING THE PROPERTY ASSESSED CLEAN ENERGY FINANCING
PROGRAM

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Chapter 26, Subchapter I is renumbered to read as follows:

26.01 TITLE. This ordinance may be cited as the *Tax Deeded Lands and Investment Ordinance*.

26.02 AUTHORITY. This chapter is enacted under the authority of sections 59.07(1), 75.35, 75.69 and 75.80 of the Wisconsin Statutes.

26.03 PURPOSES; STATEMENT OF POLICY. (1) This chapter is enacted to establish procedures for the sale of tax deeded lands, create penalties for failure to pay real property taxes in a timely manner and set up an investment policy for the County of Dane.

(2) The treasurer and the committee shall acquire, manage and dispose of tax deeded lands so as to realize as much tax revenue as circumstances may permit, and without speculation as to the possible future sale value of such lands.

26.04 DEFINITIONS. The following words as used in this chapter shall have the meanings indicated:

(1) *Board* means the Dane County Board of Supervisors.

(2) *Committee* means the finance committee of the Dane County Board of Supervisors.

(3) *Former owner* means the person, persons, or business entity last holding title to lands which have been taken by tax deed and includes the heirs and personal representatives of the estate of any such person or entity.

(4) *Tax deeded lands* means lands which have been acquired by Dane County through the process of collecting delinquent real estate taxes by tax deed, foreclosure of tax certificates, deed in lieu of tax deed or other real estate tax collection means.

(5) *Treasurer* means the Dane County Treasurer.

26.05 ADMINISTRATION AND OVERSIGHT RESPONSIBILITIES. (1) The treasurer shall administer this chapter in accordance with its provisions.

(2) The committee shall oversee the administration of this chapter.

46 **26.06 LANDS EXEMPT FROM APPLICATION OF THIS CHAPTER.** Lands
47 which subsequent to acquisition have been improved for or dedicated to a public
48 use by Dane County in accord with section 59.07(1), Wis. Stats., shall not be
49 treated as tax deeded lands and shall not be disposed of under the procedures of
50 this chapter. Such lands shall be disposed of only as the Board shall from time
51 to time direct.

52
53 **26.11 ISSUANCE OF TAX DEEDS. (1)** The treasurer shall take all necessary
54 steps, including the giving of notice to owners of record, occupants, and
55 mortgagees of record, preparatory to the issuance of tax deed to Dane County
56 on any property that is subject to tax certificates held by Dane County and
57 eligible for the taking of tax deed. Upon expiration of the time prescribed by law
58 for the redemption of tax certificates held on a property and a determination by
59 the treasurer that the taking of tax deed is in the financial best interest of Dane
60 County, the treasurer shall proceed to have tax deed to the property issued to
61 Dane County, subject only to the repurchase preference given the former owner
62 under section 26.15 of this ordinance.

63 **(2)** Title to property which is subject to a lien or liens for special assessments
64 under sections 66.60, 66.604, and 66.54(13)(14), Wis. Stats., shall be taken as
65 tax deeded lands subject to special authorization from the committee.

66
67 **26.12 TIMELY ACTION.** The treasurer shall safeguard the interests of Dane
68 County in the taking of tax deeds and insure that proper actions to bar former
69 owners are instituted by timely action within any and all statutes of limitation.

70
71 **26.13 AUTHORITY TO MANAGE AND SELL TAX DEEDED LANDS.** Under
72 the authority of sections 73.35 and 75.69, Wis. Stats., the treasurer under the
73 general oversight of the committee is hereby empowered to manage and sell,
74 subject to the approval of the committee, tax deeded lands.

75
76 **26.14 PROCEDURES FOR SALE.** No tax deeded lands shall be offered for
77 sale unless the procedures of this section shall first have been complied with.

78
79 **26.15 PREFERENCE TO FORMER OWNER. (1)** Pursuant to section
80 75.35(3), Wis. Stats., the treasurer is hereby empowered to sell tax deeded lands
81 to the former owner. In so doing, the treasurer is authorized to give such former
82 owner preference over others in the purchase of said lands.

83 **(2)** Sales made pursuant to this section shall be exempt from the requirements
84 of section 75.69, Wis. Stats., and sections 26.17 and 26.18 of this ordinance.

85 **(3)** The treasurer shall give notice of the privilege to redeem tax deeded lands
86 to the former owner by sending a letter by certified mail, return receipt requested,
87 addressed to the former owner at his or her last known address. The notice shall
88 be deemed delivered as of the earlier of:

89 **(a)** the date the letter is actually received by the former owner;

90 **(b)** the date a receipt is given for the letter by or on behalf of the former owner;

91 or

92 (c) the date the United States Postal Service indicates service by certified
93 mailing cannot be completed.

94 (4) The privilege of repurchasing tax deeded lands under this section shall
95 expire if the former owner does not exercise the privilege within 60 days of
96 delivery of the notice from the treasurer under subsection (3) hereof.

97 (5) The treasurer shall not sell any tax deeded lands to the former owner unless
98 the former owner pays all real estate taxes, including special assessments, then
99 due and owing together with the interest and penalty thereon plus service
100 charges to said lands equal to one percent (1%) of the equalized value of the tax
101 deeded lands. In any event, the service charge shall be not less than \$50.00.

102 (6) Failure to give notice to the proper party as former owner shall not create a
103 right in any person or persons to redeem tax deeded lands. In any event, no
104 former owner shall have any privilege of redemption of tax deeded lands after six
105 (6) months of the date the treasurer first takes tax title to the parcel of the former
106 owners.

107 (7) This section shall not apply to tax deeded lands which have been improved
108 for or dedicated to a public use by Dane County subsequent to acquisition and
109 no sales to the former owner or any other person shall be made of such lands.
110

111 **26.16 SALE OF TAX DEEDED LANDS TO MUNICIPALITY. (1)** In the event a
112 parcel of tax deeded lands is not redeemed by the former owner, the treasurer
113 may offer it to the municipality within which the parcel is located before offering
114 the same to the general public.

115 (2) The sale price of a parcel of tax deeded lands on sale to a municipality shall
116 be in an amount at least equal the sum of all real estate taxes, including special
117 assessments, then due and owing together with a service charge equal to one
118 percent (1%) of the assessed value of the parcel and may include the interest
119 and penalty thereon. In no event shall the service charge be less than \$50.

120 (3) Sale of tax deeded lands to a municipality under this section shall be
121 approved by the committee before a deed is issued by the county clerk.
122

123 **26.17 APPRAISALS REQUIRED. (1)** Where the assessed value of a parcel or
124 contiguous parcels of tax deeded lands is or totals \$25,000 or more, the
125 treasurer may obtain a professional appraisal.

126 (2) Unless a professional appraisal is obtained by the treasurer, the committee,
127 acting by a subcommittee of not less than two of its members, shall appraise the
128 parcel(s) in question.
129

130 **26.18 PUBLIC ADVERTISEMENT OF SALE OF TAX DEEDED LANDS. (1)**
131 The treasurer shall publish a Class 3 notice of the sale of tax deeded lands, in
132 accordance with s. 75.69(1), Wis. Stats., describing each parcel for sale, its
133 appraised value and the date on and after which the parcel will be available for
134 purchase.

135 (2) A parcel once advertised for sale but not sold on the first date of the sale
136 need not be advertised again provided that the appraised value remains
137 unchanged.

138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182

26.19 SALE OF TAX DEEDED LANDS. (1) On the date specified in the publication referred to in s. 26.18 as the first date of sale, the treasurer shall accept offers for each parcel of tax deeded lands available for sale on that date. On such date, the treasurer shall sell each parcel to the bidder whose unconditional bid is most advantageous to the County and equal to or exceeds the advertised appraised value of the parcel. At the same price or within ten percent (10%) of each other, unconditional bids shall be given preference over conditional offers.

(2) Offers which contain conditions, including financing contingencies of a duration of more than 30 days, shall be referred to the committee for review. If it decides not to act, the committee may require that the entire transaction be referred to the board for resolution.

(3) If a parcel is not sold by bid at the first date offered for sale, the treasurer may sell the parcel at anytime thereafter to any person making an offer at or exceeding the appraised value.

(4) The treasurer may engage the services of a licensed real estate broker to sell those parcels not sold on the first date available for sale and may pay a commission not to exceed six percent (6%) of the sale price for any sale arranged by a broker retained by the treasurer. The retention of a broker shall not affect the ability of the treasurer to sell the parcel directly, without incurring an obligation to pay brokerage fees when a sale is arranged without the involvement of the broker.

26.21 RESPONSIBILITIES OF THE FINANCE COMMITTEE. (1) The committee shall have the general oversight responsibilities with respect to the acquisition, management and sale of tax deeded lands.

(2) The committee shall have the duty to view tax deeded lands and to oversee and approve the sale of tax deeded lands and in furtherance of this obligation may request such information from the treasurer as its members may from time to time request.

(3) Each year the treasurer shall furnish a report to the committee containing an itemization of all sales of tax deeded lands detailing the appraised value of each parcel, the various prices offered for each during the course of the year and the actual sale price or other disposition of each parcel during the year. Unless set over by the committee, the report is due to the committee by October 1 of each year.

(4) The committee shall decide requests made by the treasurer relating to the taking of title to real estate on which there are delinquent or unpaid assessments.

26.3422 DEEDS; LAND CONTRACTS. (1) Upon receipt of full payment, the treasurer shall direct the county clerk to issue a quit claim deed to the purchaser of tax deeded lands.

(2) Notwithstanding subsection (1) above, the committee, acting in best interests of the county, may authorize the county clerk to enter into a land

183 contract on behalf of the county with the purchaser. The terms of a land contract
184 purchase shall be approved by the committee.

185
186 **26.3223 REPEAL OF INCONSISTENT ACTS.** All ordinances, resolutions and
187 other official and unofficial acts of the County of Dane which are inconsistent with
188 the provisions of this ordinance are hereby repealed.

189
190 **26.4124 IMPOSING PENALTY ON DELINQUENT REAL ESTATE TAXES AND**
191 **SPECIAL ASSESSMENTS.** (1) Pursuant to the authority of 74.47(2), Wis.
192 Stats., there is hereby imposed a penalty of 0.5 per cent per month or fraction of
193 a month, in addition to the interest provided for in sec. 74.47(1), Wis. Stats., on
194 all general property taxes, special charges, special assessments and special
195 taxes that are overdue or delinquent on and after the effective date of this
196 ordinance amendment.

197 (2) All interest and penalty collected under this section shall be distributed as
198 required under section 74.47(3), Wis. Stats.

199 (3) This ordinance amendment shall be effective upon passage and publication,
200 in the manner provided for in the state statutes.

201
202 **26.4225 DETERMINATION OF TIMELINESS.** The county treasurer is hereby
203 delegated the authority to make a determination under section 74.69(3), Wis.
204 Stats., as to whether or not a late payment was timely made because the sole
205 reason it was not timely was a delay or administrative error on the part of the
206 U.S. Postal Service.

207
208 ARTICLE 4. Chapter 26, Subchapter II is created to read as follows:

209 **SUBCHAPTER II**

210 **Property Assessed Clean Energy Financing**

211
212
213 **26.31 NAME, AND PURPOSE.** (1) Subchapter II consists of sections 26.31 to
214 26.50, inclusive, and shall be known as the Property Assessed Clean Energy
215 Financing (PACE) Ordinance.

216 (2) The County finds that renovations or additions to premises located in the
217 County made to improve energy efficiency, improve water efficiency, and/or use
218 renewable resource applications, increase property values, stimulate local
219 economic activity, provide local and global environmental benefits, and promote
220 the general welfare of County residents. The purpose of this Section is to
221 facilitate loans arranged by property owners or lessees to make such
222 improvements by treating loan principal and interest, fees, and other charges as
223 special charges eligible for inclusion on the tax roll for these properties.

224
225 **26.32 AUTHORITY.** This Ordinance is enacted pursuant to section 66.0627 of
226 the Wisconsin Statutes, as amended, which authorized a County to make a loan
227 or enter into an agreement regarding loan repayments to a 3rd party for owner-
228 arranged or lessee-arranged financing, to an owner or a lessee of a premises

229 located in the County for making or installing an energy efficiency improvement,
230 a water efficiency improvement or a renewable resource application to a
231 premises.

232
233 **26.33 DEFINITIONS.** The following words as used in this subchapter shall have
234 the meanings indicated:

235 **(1)** Annual installment means the portion of the PACE loan that is due and
236 payable for a particular year under the supplemental agreement.

237 **(2)** Borrower means the property owner or lessee of the subject property that
238 borrowes the proceeds of a PACE loan.

239 **(3)** Default loan balance means the outstanding balance, whether or not due,
240 of a PACE loan at the time that the County receives foreclosure proceeds.

241 **(4)** Foreclosure proceeds means the proceeds received by the County from
242 the disposition of a subject property through an in rem property tax foreclosure.

243 **(5)** Loan amount means the principal, interest, administrative fees (including
244 the Program Administrator's fees) and other loan charges to be paid by the
245 borrower under the PACE loan.

246 **(6)** PACE means the acronym for property assessed clean energy.

247 **(7)** PACE default provisions means:

248 **(a)** The delinquent annual installment(s) due when the County initiates the in
249 rem property tax foreclosure on the subject property;

250 **(b)** Any additional annual installment(s) that become due between the time
251 that the County initiates in rem property tax foreclosure on the subject property
252 and the date the County receives the foreclosure proceeds;

253 **(c)** Any default interest charges applied to unpaid annual installments
254 referenced in subs. (a) and (b) above, as provided in the supplemental
255 agreement; and

256 **(d)** Any default loan balance.

257 **(8)** PACE lender means any person that makes a PACE loan, and which may
258 include an affiliate of the borrower.

259 **(9)** PACE loan means a loan made by a PACE lender to a borrower under
260 this section for energy efficiency improvements, water efficiency improvements,
261 or renewable resource applications made to or installed on a subject property.

262 **(10)** Person means any individual, association, firm, corporation, partnership,
263 limited liability company, trust, joint venture or other legal entity, or a political
264 subdivision as defined in section 66.0627 of the Wisconsin Statutes.

265 **(11)** Program Administrator means the person retained by the Wisconsin
266 PACE Commission as provided in section 26.35(2).

267 **(12)** Subject property means any premises located in the County on which any
268 energy efficiency improvements, water efficiency improvements, or renewable
269 resource applications are being or have been made and financed through an
270 outstanding PACE loan.

271 **(13)** Supplemental agreement means a written agreement among a borrower,
272 a PACE lender and the County, as provided for in section 26.37.

273 **(14)** Wisconsin PACE Commission means the Wisconsin PACE Commission
274 formed under Wis. Stat. § 66.0301, as amended, by the County and one or more

275 other political subdivisions as defined in Wis. Stat. § 66.0627, pursuant to a Joint
276 Exercise of Powers Agreement relating to the Wisconsin PACE Commission.

277
278 **26.34 PACE LOANS AS SPECIAL CHARGES; DELINQUENT AMOUNTS AS**
279 **LIENS.** Any PACE loan made and secured pursuant to this Subchapter shall be
280 considered a special charge on the subject property. Any annual installment or
281 portion of a PACE loan made and secured pursuant to the Section that becomes
282 delinquent according to the terms of the PACE loan shall be a lien against the
283 subject property and placed on the tax roll, as permitted pursuant to Wis. Stat. §
284 66.0627 as amended.

285
286 **26.35 WISCONSIN PACE COMMISSION. (1)** Any of the powers and duties of
287 the County under this Subchapter, except for those under section 26.39, may
288 (but are not required to) be delegated to the Wisconsin PACE Commission.

289 **(2)** The Wisconsin PACE Commission is further authorized to retain a
290 Program Administrator to act as its agent and administer the PACE Program,
291 subject to adherence with PACE Program requirements set forth in this
292 Subchapter and in Wis. Stat. § 66.0627 as amended.

293
294 **26.36 LOAN APPROVAL. (1)** A prospective borrower applying for a PACE
295 loan shall comply with the loan application process set forth in the program
296 manual approved by the County.

297 **(2)** The County shall approve the financing arrangements between a borrower
298 and PACE lender.

299
300 **26.37 SUPPLEMENTAL AGREEMENT. (1)** The County, the borrower, and the
301 PACE lender shall execute the supplemental agreement which, without limitation:

302 **(a)** Shall inform the participants that the PACE loan amount shall be imposed
303 as and considered a special charge, and each year's annual installment may be
304 included on the property tax roll of the subject property as a special charge and
305 an annual installment that is delinquent shall be a lien against the subject
306 property pursuant to Wis. Stat. § 66.0627, as amended;

307 **(b)** Shall recite the amount and the term of the PACE loan;

308 **(c)** Shall provide for the amount, or a method for determining the amount, of
309 the annual installment due each year;

310 **(d)** Shall provide whether default interest may be applied to unpaid annual
311 installments;

312 **(e)** Shall require the PACE lender and the borrower to comply with all federal,
313 state, and local lending and disclosure requirements;

314 **(f)** Shall provide for any fees payable to the County and/or Program
315 Administrator;

316 **(g)** Shall recite that the supplemental agreement is a covenant that runs with
317 the land;

318 **(h)** May provide for prepayments of annual installments by the borrower with
319 a resulting reduction in the special charge for the prepayment, subject to any
320 prepayment premium charged by the PACE lender, if any; and

- 321 (i) May allow for amendment by the parties.
- 322 (2) Prior to executing the supplemental agreement, the owner of the subject
- 323 property, if different from the borrower, and any existing mortgage holder(s) on
- 324 the subject property must have executed a separate writing acknowledging the
- 325 borrower's use of PACE financing for the subject property and the special charge
- 326 that will be imposed under this section and its consequences, including the
- 327 remedies for collecting the special charge.
- 328 (3) Each PACE loan shall be amortized over the term of the PACE loan as
- 329 provided in the supplemental agreement.
- 330 (4) The annual payments of a PACE loan may be payable in installments as
- 331 authorized by Wis. Stat. § 66.0627, as amended.
- 332

333 **26.38 ANNUAL INSTALLMENTS ADDED TO TAX ROLLS.** Upon the request

334 of the Program Administrator the County shall place each year's annual

335 installment on the tax roll of the subject property as permitted pursuant to Wis.

336 Stat. § 66.0627, as amended.

337

338 **26.39 REMITTANCE OF SPECIAL CHARGES.** The County shall promptly

339 remit to the Wisconsin PACE Commission any payment(s) for a special charge

340 imposed under this Subchapter, including penalties and charges thereon, it may

341 receive from any taxing district or the County treasurer pursuant to Wis. Stat. Ch.

342 74, as amended.

343

344 **26.40 PROPERTY TAX FORECLOSURE PROCEDURES. (1)** The County

345 elects to utilize the provisions of Wis. Stat. § 75.521, as amended, for the

346 purpose of enforcing tax liens if a subject property owner fails to pay any special

347 charges imposed on the subject property under this subchapter as required.

348

349 **(2)** The County shall begin an in rem property tax foreclosure proceeding on

350 the subject property at the earliest time allowed under Wisconsin Statutes, unless

351 the County determines that subject property is a "brownfield" (as defined in Wis.

352 Stat. § 75.106, as amended) or that in rem property tax foreclosure is not in the

353 best interests of the County due to the condition of the property or for other

354 reasons.

355 **(3)** If the County has determined that it will not commence an in rem property

356 tax foreclosure proceeding, then the PACE lender may request that the County,

357 pursuant to Wis. Stat. § 75.106, as amended, assign the County's right to take

358 judgment against the subject property, provided that the PACE lender and the

359 County fully comply with all provisions of Wis. Stat. § 75.106, as amended,

360 concerning the subject property and the PACE lender agrees to pay the amounts

361 required by Wis. Stat. § 75.36(3)(a)1 and 1m, as amended.

362 **26.41 SALE OF FORECLOSED PROPERTY.** If the County prevails in an in

363 rem property tax foreclosure action against a subject property, the County shall

364 diligently proceed to sell the subject property pursuant to the procedures set forth

365 in Wis. Stat. § 75.69, as amended.

366

367 **26.42 DISTRIBUTION OF FORECLOSURE PROCEEDS.** The County
368 Treasurer shall follow the procedures set forth in Wis. Stat. § 75.36, as amended,
369 to distribute the proceeds from the sale of the subject property.
370

371 ARTICLE 3. Subchapter II is renumbered to be Subchapter III and will read as
372 follows:

373 **26.51 NAME, PURPOSE, SCOPE AND AUTHORITY. (1)** Subchapter III
374 consisting of sections 26.51 to 26.99, inclusive, shall be known as the Dane
375 County Investment Policy Ordinance.

376 **(2)** The purpose of this subchapter is to define the county's cash investment
377 policy and establish the scope, objectives, standards of care and guidelines for
378 safekeeping and custody of the county's investments; create a selection process
379 for investment management and advisory firms; provide definitions of suitable
380 and authorized investments; establish investment parameters and reporting
381 requirements; and articulate policy considerations.

382 **(3)** The county investment policy applies to all investment transactions and
383 related activities of the county.
384
385

386 *[EXPLANATION: This ordinance amendment adopts provisions that authorize*
387 *the County to participate in a PACE financing program as administered by the*
388 *PACE Commission. The proposed ordinance would require the County*
389 *Treasurer to place delinquent annual installments on a PACE financed loan onto*
390 *the property's tax bill as a special charge, and collect that special charge via the*
391 *tax collection process, including possible in rem tax foreclosure.]*