



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 15, 2017

Honorable Ken Burke
Clerk of the Board of County Commissioners
Pinellas County Courthouse
315 Court Street, 5th Floor
Clearwater, Florida 33756

Attention: James Bachteler, Deputy Clerk

Dear Mr. Burke:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Pinellas County Ordinance No. 17-37, which was filed in this office on December 15, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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Bachteler, James J

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Friday, December 15, 2017 11:43 AM
To: Bachteler, James J
Cc: County Ordinances
Subject: Pinellas20171215_Ordinance2017_17_37_Ack.pdf
Attachments: Pinellas20171215_Ordinance2017_17_37_Ack.pdf

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COUNTY CLERK
PINELLAS COUNTY FLORIDA

1 **ORDINANCE NO. 17-37**

2 **AN ORDINANCE OF THE COUNTY OF PINELLAS, FLORIDA,**
3 **CREATING A PROPERTY ASSESSED CLEAN ENERGY (PACE)**
4 **PROGRAM FOR PINELLAS COUNTY, TO BE CODIFIED AS**
5 **ARTICLE XIII OF CHAPTER 42 OF THE PINELLAS COUNTY**
6 **CODE; PROVIDING FINDINGS OF FACT; PROVIDING A**
7 **SHORT TITLE; PROVIDING A PURPOSE; PROVIDING**
8 **DEFINITIONS; PROVIDING PACE PROGRAM BOUNDARIES;**
9 **PROVIDING FOR PACE LOCAL GOVERNMENTS;**
10 **PROVIDING FOR PACE PROGRAM STANDARDS;**
11 **PROVIDING FOR ELIGIBLE PARTICIPANTS; PROVIDING**
12 **FOR NON-AD VALOREM ASSESSMENTS; PROVIDING FOR**
13 **PACE PROGRAM ADMINISTRATION; PROVIDING FOR**
14 **RECORDATION; PROVIDING FOR NOTICE TO PURCHASER;**
15 **PROVIDING FOR SUSPENSION OR TERMINATION;**
16 **PROVIDING FOR ENFORCEMENT; PROVIDING A**
17 **SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN**
18 **THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**
19

20 **WHEREAS**, §163.08, Florida Statutes, provides that certain improvements to real
21 properties for energy conservation and efficiency, renewable energy improvements, or wind
22 resistance improvements, may qualify for funding through governmental programs, which allow
23 for the collection of such funding financed by the local government to be voluntarily collected
24 through the non-ad valorem assessment process;
25

26 **WHEREAS**, the Pinellas County Charter provides for the exercise of countywide powers
27 by ordinance to the extent they are not inconsistent with municipal ordinances;
28

29 **WHEREAS**, §§163.01 and 163.08, Florida Statutes, allow for and contemplate the
30 creation of separate legal entities to act as a local government for the purposes of providing such
31 PACE Program funding sources;
32

33 **WHEREAS**, several entities have been created within the state which have sought to
34 provide both the sources of such funding to property owners within Pinellas County and all
35 administrative services in providing and collecting such funding;
36

37 **WHEREAS**, the Pinellas County Board of County Commissioners is receptive to allowing
38 such special purpose local government entities to operate within Pinellas County provided that
39 certain guidelines are followed for the protection of the property owners and citizens of Pinellas
40 County;
41

42 **WHEREAS**, while these special purpose local governments may be permitted to operate
43 a PACE Program within Pinellas County by interlocal agreement with the Board, the Board intends
44 to as fully as practicable protect the County and its citizens from potential liabilities associated
45 with operation of a PACE Program by such separate special purpose local governments; and

46 **WHEREAS**, this ordinance will provide minimum standards and limitations for the
47 operation of any PACE Program within Pinellas County.
48

49 **NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY
50 COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, at its regular meeting assembled this
51 12th day of December, 2017, that:

52 **SECTION 1.** There is hereby created a new Article XIII of Chapter 42 of the Pinellas County
53 Code (the “Code), entitled “Property Assessed Clean Energy (PACE) Program”.

54 **SECTION 2.** Article XIII of Chapter 42 of the Code is hereby created to read as follows:

55 **ARTICLE XIV. PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM**

56 **Sec. 42-440. Definitions.** For the purposes of this Article, the following definitions
57 shall apply:

- 58 (a) *Board* shall mean the Pinellas County Board of County
59 Commissioners.
- 60 (b) *County* shall mean Pinellas County, Florida.
- 61 (c) *Eligible Participant* shall mean any non-residential Property owner
62 who voluntarily participates in the PACE Program and satisfies the
63 eligibility requirements set forth in Section 42-447.
- 64 (d) *PACE Act* shall mean Section 163.08, Florida Statutes, as it may be
65 amended from time to time.
- 66 (e) *PACE Administrator* shall mean a for-profit or not-for-profit
67 organization responsible for administering a PACE Program on
68 behalf of and at the discretion of a PACE Local Government
69 consistent with Section 163.08(6), Florida Statutes.
- 70 (f) *PACE Assessment* shall mean the non-ad valorem assessment placed
71 on a property owner’s tax bill as a result of financing obtained
72 pursuant to the PACE Financing Agreement.
- 73 (g) *PACE Contractor* shall mean a contractor authorized by the PACE
74 Local Government to sell, construct or install Qualifying
75 Improvements funded through the PACE Program.
- 76 (h) *PACE Financing Agreement* shall mean the agreement entered into
77 between the Eligible Participant and the PACE Local Government
78 specifying the Qualifying Improvements to be installed at the
79 Property and the terms and conditions for financing those
80 improvements through non-ad valorem assessments levied on the
81 Property.

- 82 (i) *PACE Interlocal* shall mean an agreement entered into between
83 Pinellas County and a PACE Local Government authorizing the
84 PACE Local Government to administer a PACE Program within
85 Pinellas County in accordance with Section 163.01, Florida Statutes,
86 and this Article.
- 87 (j) *PACE Local Government* shall mean a separate legal entity, other
88 than a county or municipality, created pursuant to Section 163.01(7),
89 Florida Statutes. To the extent that a PACE Local Government
90 operates a PACE Program within Pinellas County through a
91 contracted PACE Administrator, the PACE Local Government is
92 responsible for the actions or inactions of the PACE Administrator
93 acting within Pinellas County in furtherance of the PACE Program
94 as if it had taken such action, or failed to take such action, itself.
- 95 (k) *PACE Program or Program* shall mean the Property Assessed
96 Clean Energy program (authorized by Section 163.08, Florida
97 Statutes) within the boundaries of Pinellas County, excepting any
98 municipality that has opted out of the Pinellas County PACE
99 Program, operated by a PACE Local Government pursuant to the
100 terms of this Article.
- 101 (l) *Property* means a non-residential property, located within the
102 jurisdictional boundaries of Pinellas County excepting any
103 municipality that has opted out of the Pinellas County PACE
104 Program.
- 105 (m) *Qualifying Improvements* shall mean those improvements to real
106 property provided for in Section 163.08, Florida Statutes, including,
107 but not limited to, energy conservation and efficiency, renewable
108 energy and wind-resistance improvements.

109 **Sec. 42-441. Findings of Fact.**

- 110 (a) Section 163.08, Florida Statutes, authorizes local governments
111 defined as a county, a municipality, a dependent special district as
112 defined in Section 189.012, Florida Statutes, or a separate legal entity
113 created pursuant to Section 163.01(7), Florida Statutes, to establish
114 and administer PACE financing programs pursuant to which owners
115 of real property may obtain funding for Qualifying Improvements.
- 116 (b) Several PACE Local Governments have been created and the
117 availability of the voluntary, non-exclusive PACE program offered
118 by the separate PACE Local Governments is able to be utilized by
119 Pinellas County through interlocal agreement without cost,
120 assumption of liability by, or demand upon the credit of Pinellas
121 County.

- 122 (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local
123 Government to levy non-ad valorem assessments to fund Qualifying
124 Improvements.
- 125 (d) It is in the best interests of the citizens of Pinellas County to create
126 a PACE Program through the adoption of an ordinance that sets
127 uniform consumer protections that apply to all PACE Local
128 Governments who implement and manage PACE Programs in
129 Pinellas County excepting any municipality that has opted out of the
130 Pinellas County PACE Program.
- 131 (e) PACE Local Governments shall be authorized to implement the
132 PACE Program through individual PACE Interlocal agreements.
- 133 (f) The installation and operation of Qualifying Improvements not only
134 benefits the affected properties for which the improvements are
135 made, but also provides a public benefit by assisting in fulfilling the
136 goals of the State’s and County’s energy and hurricane mitigation
137 policies.
- 138 (g) The voluntary participation in the PACE Program by property
139 owners will provide an alternative financing option to finance and
140 repay the costs to provide and install Qualifying Improvements to
141 property located within Pinellas County.
- 142 (h) It is within the best interests of the citizens of Pinellas County to
143 have uniform consumer protection regulations that apply to all
144 PACE Local Governments and PACE Administrators who
145 implement and manage PACE Programs in Pinellas County
146 excepting any municipality that has opted out of the Pinellas County
147 PACE Program.

148 **Sec. 42-442. Short Title.**

149 This article shall be known as the “Pinellas County Property Assessed Clean
150 Energy (PACE) Program.”

151 **Sec. 42-443. Purpose.**

152 PACE Programs have been developed to allow a property owner to voluntarily
153 finance Qualifying Improvements through a non-ad valorem assessment
154 implemented and managed by a PACE Local Government and repaid through
155 collection on the annual property tax bill.

156 The purpose of this Ordinance is to provide uniform consumer protection
157 regulations for all PACE Local Governments that are authorized to operate within
158 Pinellas County to ensure that:

- 159 (i) the citizens of Pinellas County are fully apprised of the Program;

- 160 (ii) PACE Local Governments have developed a responsive complaint
- 161 process;
- 162 (iii) Qualifying Improvements meet the statutory goals set forth in
- 163 Section 163.08, Florida Statutes; and
- 164 (iv) PACE Contractors meet certain standards of conduct.

165 This Article is intended to add requirements to the provisions of §163.08, Florida
166 Statutes (2017), and other applicable law as it currently exists and should be
167 construed consistently with the PACE Act and any such other applicable law. To
168 the extent that the PACE Act provides for additional or more restrictive
169 requirements not otherwise found in this Article or applicable law, the provisions
170 of the PACE Act must be met. To the extent that this Article provides for more
171 restrictive or additional requirements not found in the PACE Act or any such other
172 applicable law, the provisions of this Article are intended to apply.

173 **Sec. 42-444. PACE Program Boundaries.**

174
175 The PACE Program shall be available to Eligible Participants within
176 unincorporated Pinellas County upon the effective date of this Article, and within
177 Pinellas County municipalities one hundred and twenty (120) days after the
178 effective date of this Article, excepting any municipality that has opted out of the
179 Pinellas County PACE Program by the passing of an ordinance in conflict with this
180 Article.

181
182 **Sec. 42-445. PACE Local Governments.**

183
184 Upon entering into a PACE Interlocal with Pinellas County, a PACE Local
185 Government shall be authorized to administer a PACE Program pursuant to Section
186 163.08, Florida Statutes, the terms of this Article, as may be amended from time to
187 time, the PACE Interlocal and other regulations adopted by the Board within
188 unincorporated Pinellas County and those municipalities that have not opted out of
189 the Pinellas County PACE Program.

190
191 **Sec. 42-446. PACE Program standards.** At a minimum, PACE Local
192 Governments shall comply with each of the following standards and include the
193 following requirements:

- 194
- 195 (a) Qualifying Improvements: All Qualifying Improvements shall be
- 196 properly permitted (where applicable) and must comply with Florida
- 197 and local codes. PACE Local Governments shall finance only
- 198 Qualifying Improvements that are permanently affixed to the
- 199 Property.
- 200
- 201 (b) Licensed Contractors: Any contractor constructing or installing a
- 202 Qualifying Improvement shall be properly licensed and insured, and
- 203 authorized by the PACE Local Government as a PACE Contractor.
- 204

- 205 (c) Materials and Improvements: PACE Local Governments shall
206 fund, and PACE Contractors shall construct or install, only
207 Qualifying Improvements. PACE Local Governments shall
208 establish an “Eligible Measures List” that identifies the types and
209 specifications of Qualifying Improvements, using efficiency
210 standards for materials and installation established by the U.S.
211 Department of Energy, the U.S. Environmental Protection Agency,
212 or Florida state agencies, or independent third-party expert rating
213 entities, as applicable. Any solar photovoltaic system financed under
214 a PACE Program must have an online monitoring system for
215 maintenance and production monitoring purposes unless the
216 property owner declines the monitoring system in writing. The
217 Eligible Measures List shall be regularly updated and made publicly
218 available. The County shall have the right to review and approve
219 that list annually.
220
- 221 (d) Data Security and Consumer Privacy: PACE Local Governments
222 shall take security measures to protect the security and
223 confidentiality of consumer records and information to the extent
224 permitted or mandated by law. In addition, a privacy policy must be
225 in place that complies with state and federal law and, in particular,
226 shall provide a property owner the ability to opt-out of having the
227 property owner’s information shared with third parties, except
228 where expressly permitted or required by state or federal law.
229
- 230 (e) Contractor Pricing: Within six months of entering into a PACE
231 Interlocal agreement, PACE Local Governments shall have in place
232 pricing rules and enforcement mechanisms to ensure property
233 owners are protected from excessive or unjustified prices and
234 charges of PACE Contractors.
235
- 236 (f) Estimated Energy Savings Disclosure: PACE Local Governments
237 shall require that PACE Contractors inform Eligible Participants of
238 the following:
239
- 240 1) Where applicable, an estimate of energy and/ or insurance cost
241 savings, including the range of efficiency options if appropriate,
242 to the best of the PACE Contractors’ knowledge and using
243 industry best practices;
 - 244 2) Available rebates or incentives;
 - 245 3) The benefits of installing energy efficiency improvements
246 before renewable energy to reduce costs overall;
 - 247 4) The benefits of a full Energy Audit of their property, names or
248 websites of energy audit professionals qualified through the
249 Building Performance Institute, Association of Energy

- 250 Engineers, or other comparable program, and any available
251 incentive programs associated with a Qualifying Improvement;
252 5) That the actual potential energy savings and/ or insurance cost
253 savings will depend on usage patterns, seasonal variation and
254 weather, insurance or utility rates and trends and product
255 specifications;
256 6) That any tax incentives, credits or rebates should be confirmed
257 and discussed with an independent tax professional of the
258 Eligible Participant's choosing if there are any tax questions;
259 and
260 7) Costs of the Energy Audit are eligible for financing as part of
261 the assessment. This Estimated Energy Savings Disclosure
262 requirement shall be included in the "Code of Conduct" and in
263 training for PACE Contractors.

264
265 (g) Notice to Property Owner: Prior to or contemporaneously with
266 entering into a PACE Financing Agreement, PACE Local
267 Governments shall provide the property owner with a written notice
268 disclosing the following items:

- 269
270 1) The total amount of the debt, including interest;
271 2) The maximum annual PACE Assessment and payment term that
272 does not exceed the useful life of the improvements;
273 3) The three-day right to cancel the PACE Financing Agreement;
274 4) That the PACE Assessment will appear on the property owner's
275 tax bill;
276 5) That the PACE Assessment will be collected in the same manner
277 as real estate taxes, that failure to pay the PACE Assessment
278 may cause a tax certificate to be issued against the property, and
279 that failure to pay may result in the loss of property subject to
280 the PACE Assessment, including homestead property, in the
281 same manner as failure to pay property taxes;
282 6) That the installation of Qualifying Improvements and PACE
283 Assessment may or may not affect the overall market value of
284 the Property or energy cost savings;
285 7) That all applicable warranties or guarantees terms are set forth
286 in writing, and what materials or labor are not warrantied or
287 guaranteed for each Qualifying Improvement;
288 8) That the PACE Assessment may affect the sale or refinance of
289 the property;
290 9) That the property owner may be required to pay any PACE
291 assessment in full at the time of refinance or sale of the property;
292 and
293 10) That if the property owner is using an escrow or impound
294 account to pay their property taxes, they should contact their
295 lender immediately to ensure that the escrow payments are

296 adjusted correctly and the property owner is aware of and
297 prepared for the increased payment amount.
298

299 The notice shall be signed and dated by the property owner to acknowledge
300 that they understand these conditions. The PACE Local Government shall
301 record, or cause to be recorded, the Notice in the public records as an
302 attachment to the PACE Financing Agreement. The signature page must
303 clearly designate that it relates to the PACE Financing Agreement and
304 Notice to Property Owner acknowledgement. In the alternative, the
305 foregoing notice provisions may be incorporated into the recorded financing
306 agreement or summary memorandum of financing agreement relating to the
307 PACE Assessment.
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309 (h) PACE Financing Agreement. After achieving compliance with all
310 other mandated steps provided for by law, including but not limited
311 to receiving a verified copy or other proof of such notice required
312 by §163.08(13), Florida Statutes (2016), the PACE Local
313 Government shall enter into a voluntary written agreement with
314 each Eligible Participant. Such agreement, or supporting
315 documentation referenced within such agreement and attached
316 thereto, must include, at a minimum, the following:
317

- 318 1) The full legal description of the property subject to the PACE
319 Assessment.
- 320 2) The amount of funding to be provided to the Eligible Participant.
- 321 3) Express voluntary consent by the Eligible Participant to accept
322 the non-ad valorem assessment collection process, set forth in
323 Section 197.3632, Florida Statutes.
- 324 4) The length of time for the Eligible Participant to pay the non-ad
325 valorem assessment, which shall not exceed the expected life of
326 the most costly Qualifying Improvement(s) funded by the PACE
327 Program, or 30 years, whichever is less.
- 328 5) The Eligible Participant shall be responsible for verifying that
329 the Qualifying Improvements are completed as reflected in the
330 approved application documents. The Eligible Participant also
331 consents to providing access to the PACE Local Government or
332 its agent to the Property to verify that the Qualifying
333 Improvements have been completed as proposed in the
334 application.
- 335 6) At or before the execution of a contract for the sale and purchase
336 of any Property for which a non-ad valorem assessment for the
337 PACE Program has been levied and has an unpaid balance due,
338 the seller shall give the prospective purchaser a notice of the lien
339 in accordance with 163.08(14), Florida Statutes.
- 340 7) The risks associated with participating in the PACE Program
341 shall be clearly disclosed in plain language in the written

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agreement with the Eligible Participant, including risks related to the failure of the Eligible Participant to make payments, the risk that they may not be able to refinance the property or sell the property unless the PACE Assessment is paid off in full first, and the risk of issuance of a tax certificate and loss of the Property pursuant to Chapter 197, Florida Statutes.

- 8) Description of the Qualifying Improvements, their cost, and estimated completion date.
- 9) Notice of the non-ad valorem assessment shall be recorded in the public records for the Property.
- 10) The PACE Financing Agreement shall clearly disclose, in plain language, the interest rate to be charged, including points, as well as any and all fees or penalties that may be separately charged to the Eligible Participant, including potential late fees. The subsequent charging or collecting any additional fees that were not specifically disclosed in the written agreement with the property owner shall be prohibited.

- (i) The PACE Local Government shall record, or cause to be recorded, the following notice in the public records within five (5) days after execution of the PACE Financing Agreement, along with appropriate PACE Local Government contact information for property owner inquiries:

QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, OR WIND RESISTANCE. This property is located within the jurisdiction of a PACE Local Government that has placed an assessment on the property pursuant to Section 163.08, Florida Statutes. The assessment is for a Qualifying Improvement to the property relating to energy efficiency, renewable energy or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

- (j) Financing. The PACE Local Government may offer only fixed simple interest rates and payments that fully amortize the obligation. Variable or negative amortization financing terms are not permitted. Capitalized interest included in the original balance of PACE financing does not constitute negative amortization.

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- (k) Project Completion. The PACE Local Government shall require compliance with each of the following conditions prior to the issuance of any payment to a PACE Contractor for which a property will be assessed:
- 1) PACE Contractor and Property owner has certified in writing that any necessary permits have been obtained and any necessary inspections have been completed to close out any such permits;
 - 2) Verification that the Qualifying Improvements have been constructed or installed; and
 - 3) The property owner and the PACE Contractor have signed a certificate of completion that all improvements have been installed to the property owner’s satisfaction.
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- (l) Lender notification. The PACE Local Government shall ensure that the property owner provides notice to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property of the owner’s intent to enter into a PACE Assessment that, at a minimum satisfies the requirements of Section 163.08(13), Florida Statutes (2017).
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- (m) PACE Contractor Management. Each PACE Local Governments shall:
- 1) To the extent possible, conduct outreach to and enroll local contractors as PACE Contractors;
 - 2) Establish a “Code of Conduct” that sets standards for PACE Contractors such as licensing, advertising and marketing, accurate representation of the program, and consumer protections.
 - 3) Have and shall strictly enforce anti-kickback policies and procedures that prohibit direct or indirect financial or other monetary incentives to PACE Contractors in exchange for or related to such PACE Contractor being awarded work under a PACE Program, excepting payment for the PACE Contractor’s construction or installation of eligible improvements.
 - 4) Train all PACE Contractors on the regulations related to the PACE program and the Code of Conduct;
 - 5) Ensure that all PACE Contractors hold necessary licenses and insurance;
 - 6) Confirm PACE Contractor qualifications at least annually and as necessary based upon consumer complaints or other indications of lack of compliance; and
 - 7) Remove PACE Contractors from the PACE Program who no longer meet program criteria; have not met program requirements, or fail to resolve consumer complaints.
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(n) Customer Service: PACE Local Governments or their PACE Administrators shall provide customer service, including:

- 1) Access to customer service representatives by email and phone during normal business hours (not less than 9 a.m. to 5 p.m. Monday through Friday excluding holidays);
- 2) A detailed website with specific reference to the Pinellas County PACE Program;
- 3) A transparent customer feedback and complaint process with quick response and resolution by both the PACE Contractor and the PACE Local Government or PACE Administrator as applicable.
 - a) A document outlining complaint process shall be clearly available on the PACE Local Government or PACE Administrator’s website and provided to customers.
 - b) The document shall make clear that Pinellas County is not operating or administering the PACE Program in any way and that all concerns about the Program should be addressed directly to the PACE Local Government, with clear contact information provided.
 - c) All complaints and resolutions shall be logged, with the following information at a minimum: date and time of complaint, customer and PACE Contractor information, details of complaint, when and what actions were taken by both the PACE Local Government or PACE Administrator, and the PACE Contractor, and final resolution.
 - d) All disputes and complaints shall be investigated, and resolved in a timely manner. Reports of the number of complaints received, time until resolution of each complaint, and method of resolution of each complaint shall be provided to Pinellas County annually.

(o) Marketing and Communications:

- 1) Marketing practices for a PACE Local Government that are or could appear to be unfair, deceptive, abusive, or misleading, or that violate applicable laws or regulations, that are inappropriate, incomplete or are inconsistent with the PACE Local Government’s purpose are prohibited.
- 2) Neither PACE Local Governments nor their PACE Administrators or PACE Contractors, shall use facsimiles of the County, city, Property Appraiser, or Tax Collector logos in their

478 marketing materials. Marketing materials shall NOT state that
479 PACE:

- 480
- 481 a) is a free program;
- 482 b) is a county or city program;
- 483 c) does not involve a financial obligation by the property
- 484 owner; or
- 485 d) is a form of public assistance.
- 486

487 (p) Protected Classes. No PACE Local Government, PACE
488 Administrator, nor PACE Contractor shall discriminate against
489 individuals on the basis of race, color, ancestry, disability, national
490 origin, religion, age, familial status, marital status, sex, gender,
491 sexual orientation, gender identity and expression, or genetic
492 information.

493

494 (q) Metrics Reporting: After not more than one year from the date of
495 adoption of this ordinance, PACE Local Governments shall track
496 Program metrics and report those metrics to Pinellas County and any
497 participating municipalities, by jurisdiction and in total, at least
498 quarterly, in spreadsheet format or another electronic format agreed
499 upon by Pinellas County. Those metrics shall include, at a
500 minimum:

- 501 1. Dates of the reporting period;
- 502 2. List of PACE projects (including municipal jurisdiction,
503 financed amount, interest rate, assessment duration, and
504 project description) started during the reporting period,
505 separated by building type (e.g. retail, office, industrial,
506 etc.);
- 507 3. List of PACE projects (including municipal jurisdiction)
508 completed during the reporting period, separated by building
509 type project (e.g. retail, office, industrial, etc.), specify: (1)
510 the qualifying improvements made; (2) project start date and
511 completion date; (3) the projected energy savings and/or
512 amount of potential renewable energy to be generated; (4)
513 financial information such as cost per kilowatt hour
514 saved/generated associated with the projected energy
515 savings and/or amount of potential renewable energy to be
516 generated; (5) other resource savings if data is available; and
517 (6) energy audits performed detailing the audit results, if
518 applicable to the project;
- 519 4. Number of actual or estimated jobs created during the
520 reporting period, including, if available, local versus non-
521 local jobs and permanent versus temporary jobs;
- 522 5. Number of applications declined during the reporting period;
- 523 6. Unresolved complaints and/or contractor issues and status;

- 524 7. PACE assessment defaults and tax certificates issued on
525 Properties subject to PACE Assessment (updated annually);
526 and
527 8. All data included in the reports must be developed and
528 collected using standardized and verified principles and
529 methodologies for the industry. The methodologies and
530 supporting assumptions and/or sources must be made
531 available to the County by the PACE Local Government. It
532 is the responsibility of the PACE Local Government to test
533 and verify the data collection and reporting methods and
534 models used. All reports shall include only aggregate data,
535 excluding any nonpublic personal information.
536

537 (r) Amendments. County reserves the right to amend this ordinance to
538 revise PACE Program standards. It is the obligation of the PACE
539 Local Governments to remain abreast of and comply with all
540 changes in applicable law, including changes to this ordinance made
541 at public hearings.
542

543 (s) Reporting. PACE Local Governments will respond to County
544 requests for information on the PACE Program in a timely manner
545 and shall provide sufficient documentation as requested by the
546 County to ensure that the requirements of this Article and the State
547 statutes are being met. The PACE Local Government shall retain
548 sufficient books and records demonstrating compliance with the
549 Agreement and State and County requirements for a minimum
550 period of seven years from the initial date of each non-ad valorem
551 assessment, and shall allow County representatives access to such
552 books and records upon request.
553

554
555 **Sec. 42-447. Eligible Participants.** In order to be an Eligible Participant, a
556 Property owner (or Property) must meet the criteria listed below. The PACE Local
557 Government is responsible for verifying that all of these conditions are met.
558

- 559 (a) Be the legal owner of the Property and provide proof of ownership
560 in the application for the PACE Program;
561
562 (b) Property must be within the PACE Program boundaries, as defined
563 in Section 42-444;
564
565 (c) All property taxes and any other assessments levied on the same bill
566 as property taxes are paid and have not been delinquent for the
567 preceding three (3) years or the Property owner's period of
568 ownership, whichever is less;
569

- 570 (d) Property owner must be current on any mortgage on the subject
571 property;
- 572
- 573 (e) Property owner cannot be in bankruptcy nor can the Property be an
574 asset in any bankruptcy proceeding;
- 575
- 576 (f) Property cannot have any federal income tax lien, judgment lien or
577 similar involuntary lien, including construction liens, encumbering
578 it; and
- 579
- 580 (g) No notices of default or other evidence of property-based debt
581 delinquency on the Property have been recorded during the
582 preceding three (3) years or the property owner's period of
583 ownership, whichever is less.
- 584
- 585

Section 42-448. Non-ad valorem Assessments.

586 Pursuant to Section 163.08, Florida Statutes, the PACE Local Government is
587 authorized to impose non ad-valorem assessments on Property to secure the
588 repayment of the costs incurred by an Eligible Participant to pay for Qualified
589 Improvement(s), which shall be collected pursuant to Section 197.3632, Florida
590 Statutes, or any successor Section. Notwithstanding Section 197.3632(8)(a),
591 Florida Statutes, the assessments shall not be subject to discount for early payment
592 and shall not require notice and adoption as set forth in Section 197.3632(4), Florida
593 Statutes. Pursuant to Chapter 197, Florida Statutes, non-ad valorem assessments
594 levied pursuant to this Article shall remain liens, coequal with the lien of all state,
595 County, district and municipal taxes, superior in dignity to all other liens, titles and
596 claims, until paid.

Sec. 42-449. PACE Program Administration.

597
598
599 The PACE Program shall be administered pursuant to Section 163.08, Florida
600 Statutes, this Article and any additional regulations adopted by the Board.

Sec. 42-450. Recordation.

603 Any financing agreement entered into or a summary memorandum of such agreement
604 between the Eligible Participant and the PACE Local Government shall be recorded
605 in the public records of the County within five (5) days after execution of the
606 agreement pursuant to Section 163.08(8), Florida Statutes. The recorded agreement or
607 summary memorandum of such agreement shall provide constructive notice that
608 the assessment to be levied on the Property constitutes a lien of equal dignity to
609 County taxes and assessments from the date of recordation.

Sec. 42-451. Notice to Purchaser.

- 611 (a) Property owner must comply with Section 163.08(14) regarding
612 providing a written disclosure statement to a prospective purchaser.

613 (b) Failure to provide the notice referenced above to a purchaser of the
614 Property shall have no effect on either the validity of any PACE
615 Assessment or any obligation of a Property owner.

616 **Sec. 42-452. Suspension or Termination.**

617
618 In the event any PACE Local Government fails to abide by the provisions of this
619 Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board
620 of County Commissioners in its sole discretion, may suspend or terminate the
621 Interlocal agreement and the PACE Local Government shall have no authority to
622 continue with any new projects within Pinellas County. Notwithstanding termination
623 of the Interlocal agreement, however, property owners whose applications were
624 approved prior to the termination date, and who received funding through the PACE
625 Program, shall continue to be a part of the PACE Program, for the sole purpose of
626 paying their outstanding assessment payments, until such time that all outstanding
627 assessment payments have been satisfied.

628
629 **Sec. 42-453. Enforcement**

630
631 This Ordinance is enforceable by all means provided by law.


632
633 **SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this
634 article, amendment or the particular application thereof, shall be held invalid by any court,
635 administrative agency, or other body with appropriate jurisdiction, the remaining section,
636 subsection, sentence, clause or phrase and application shall not be affected thereby.

637
638 **SECTION 4. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included
639 and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be
640 appropriately renumbered to conform to the uniform numbering system of the Pinellas County
641 Code.

642
643 **SECTION 5. FILING OF ORDINANCE; EFFECTIVE DATE.** Pursuant to Section 125.66,
644 Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by
645 the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board
646 of County Commissioners, and shall become effective upon filing with the Department of State.

647
648
649

APPROVED AS TO FORM

By: 
Office of the County Attorney

STATE OF FLORIDA

COUNTY OF PINELLAS

I, KEN BURKE, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, DO HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners of Pinellas County, Florida, on December 12, 2017 relative to:

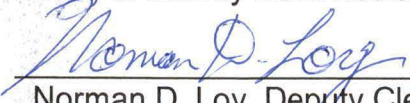
ORDINANCE NO. 17-37

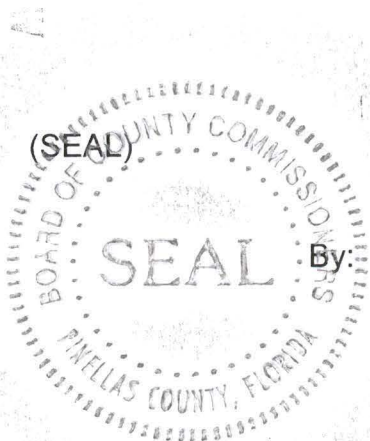
AN ORDINANCE OF THE COUNTY OF PINELLAS, FLORIDA, CREATING A PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM FOR PINELLAS COUNTY, TO BE CODIFIED AS ARTICLE XIII OF CHAPTER 42 OF THE PINELLAS COUNTY CODE; PROVIDING FINDINGS OF FACT; PROVIDING A SHORT TITLE; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING PACE PROGRAM BOUNDARIES; PROVIDING FOR PACE LOCAL GOVERNMENTS; PROVIDING FOR PACE PROGRAM STANDARDS; PROVIDING FOR ELIGIBLE PARTICIPANTS; PROVIDING FOR NON-AD VALOREM ASSESSMENTS; PROVIDING FOR PACE PROGRAM ADMINISTRATION; PROVIDING FOR RECORDATION; PROVIDING FOR NOTICE TO PURCHASER; PROVIDING FOR SUSPENSION OR TERMINATION; PROVIDING FOR ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this December 15, 2017.

KEN BURKE
Clerk of the Circuit Court
and Ex-officio Clerk to the
Board of County Commissioners

By:


Norman D. Loy, Deputy Clerk



Bachteler, James J

From: Bachteler, James J on behalf of BoardRecords,
Sent: Friday, December 15, 2017 10:27 AM
To: County Ordinances
Subject: RE: Pinellas County Ordinance - PIN20171215_Ordinance2017_17-37
Attachments: PIN20171215_Ordinance2017_17-37.pdf

Sender Full Name:	Ken Burke, Clerk of the Circuit Court and Comptroller Norman D. Loy, Deputy Clerk, Board Records Department
Sender Phone number:	(727) 464-3458
County Name:	Pinellas
Ordinance Number:	PIN20171215_Ordinance2017_17-37

Thank You and Have A Pleasant Afternoon

James Bachteler

Deputy Clerk / Senior Records Specialist
Pinellas County Board Records Department
Finance Division
Office of Ken Burke, Clerk of the Circuit Court and Comptroller
315 Court Street, Fifth Floor, Clearwater, Florida 33756
(727) 464-4749
www.mypinellasclerk.org

Tell us how we're doing by filling out a comment card!