

## Carroll County C-PACE Ordinance Passed

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### § 33.76 CLEAN ENERGY LOAN PROGRAM.

(A) *Definitions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**CLEAN ENERGY FINANCING AGREEMENT.** An agreement between a property owner and a clean energy lender providing for the terms and conditions of a clean energy loan.

**CLEAN ENERGY LENDER.** A private lender providing a clean energy loan.

**CLEAN ENERGY LOAN.** Any loan made by a private lender to a property owner under the Clean Energy Loan Program.

**CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR.** Any person or entity selected by the county to manage the Clean Energy Loan Program.

**CLEAN ENERGY LOAN OBLIGATION.** All indebtedness and obligations of a property owner to a clean energy lender under a Clean Energy Financing Agreement.

**COMMERCIAL PROPERTY.** Has the meaning stated in the Md. Code, Local Government Article, §§ 1-1101 *et seq.*

**PROPERTY OWNER.** An owner or owners of commercial property as defined in this subsection.

**SURCHARGE.** The repayment obligation of a clean energy loan, including principal, interest, any applicable fees and administrative costs, collected from a property owner through the county's property tax billing system in accordance with [Chapter 33](#), § 33.77.

**SURCHARGE LIEN.** The lien automatically established upon the county's levy of the surcharge on the property tax bill.

(B) *Program.* There is a Clean Energy Loan Program ("the Program") to finance energy efficiency projects and renewable energy projects, as provided in the Md. Code, Local Government Article, §§ 1-1101, *et seq.*

(C) *Rules and regulations.* In coordination with the Clean Energy Loan Program Administrator, the Comptroller shall determine all policies for operation of the program.

(D) *Scope.* Commercial property owners are eligible to participate in the program for non-accelerating loans greater than \$25,000 for a term of up to 20 years.

(E) *Eligibility.* In order to be eligible for a clean energy loan, the property owner shall:

(1) Have a 100% legal ownership interest in the title of the property located in Carroll County for which improvements are proposed.

(2) Obtain an energy audit approved under program guidelines demonstrating that the savings to be obtained from the improvements equal or exceed the repayment amount of the loan.

(3) Establish that the property owner is able to repay the loan based on criteria and methods set forth in the Md. Code, Commercial Law Article, §§ 12-127, 12-311, 12-409.1, 12-925, and 12-1029.

(4) Demonstrate that the most recent property tax bill has been paid for the property; and

(5) The property owner is not in bankruptcy.

(6) Provide a copy of written notice to all current holders of a mortgage or deed of trust and other current mechanic's lienholders who have a priority recorded lien on the property and written proof of consent to the clean energy loan as a priority lien by all holders of a mortgage or deed of trust and current mechanic's lienholders on the property.

(F) *Qualifying improvements.* The following improvements, either new or replacement, qualify as energy efficiency or renewable energy projects under the program:

(1) Solar energy equipment;

(2) Geothermal energy devices;

(3) Wind energy systems;

(4) Water conservation devices not required by law; and

(5) Any construction, renovation or retrofitting of commercial property to reduce energy consumption, including energy efficient heating and cooling systems.

(6) Any other improvement approved by the county or the Clean Energy Loan Program Administrator as qualifying as an energy efficiency project or renewable energy project.

(G) *Qualifying costs.* A clean energy loan may be used to pay for all costs incurred by a property owner in connection with the qualifying improvements, including the cost of the energy audit; feasibility studies and reports; project management, design, installation, and construction of the qualifying improvements; commissioning; energy savings or performance guaranty or insurance; building accreditation; closing costs of the clean energy loan; permitting fees; administrative fees; post-install Evaluation, Measurement & Verification; and, building accreditation.

(Ord. 2017-09, passed 10-19-2017)

### **§ 33.77 REAL PROPERTY TAX SURCHARGE.**

(A) *Repayment of loans.* A property owner participating in the program shall repay the loan through a surcharge on his or her real property tax bill. The Clean Energy Loan Program Administrator shall provide the county with written notice of the execution of a Clean Energy Loan Financing Agreement. **If the Clean Energy Loan Program Administrator provides such**

notice to the county prior to May 1 in any given year, the county shall add the surcharge to the tax property bill on July 1st of that same year. If the Clean Energy Loan Program Administrator provides such notice on or after May 1 in any given year, the county shall add the surcharge to the tax property bill on July 1st of the year immediately following. The surcharge shall constitute a first lien on the property from the date it becomes payable until the unpaid surcharge and interest and penalties on the surcharge are paid in full, regardless of a change in ownership, whether voluntary or involuntary. A person or entity that acquires property subject to a surcharge assumes the obligation to pay such surcharge. The county may assign the surcharge lien to the Clean Energy Loan Program Administrator.

(B) *Calculation.* The surcharge for a clean energy loan shall include the clean energy loan principal, accrued interest, and any administrative costs incurred by the county.

(C) *Notice of levy and lien of surcharge.* Upon receiving written notice from the Clean Energy Loan Program Administrator of the execution of a Clean Energy Loan Financing Agreement, the property owner shall execute a notice with the county and the clean energy lender that will be recorded in the land records of Carroll County, at the expense of the property owner, and which shall include:

(1) The date the clean energy loan was made to the property owner and the property became subject to the surcharge;

(2) The term of the clean energy loan and over which the surcharge will apply to the property;

(3) The clean energy loan obligation and estimated county administrative costs for the first year;

(4) The annual principal and interest amount for each year of the term of the clean energy loan, including any partial year prorated amounts;

(5) Prepayment requirements and any prepayment premium that may apply to a prepayable clean energy loan;

(6) Notice that the clean energy loan obligations and the county's administrative costs will be repaid through a surcharge included on the owner's real property tax bill due and payable on the same date as the real property tax bill;

(7) Notice that an unpaid clean energy loan surcharge constitutes a first lien on the property that has priority over prior or subsequent liens in favor of private parties and that the surcharge will continue as a lien on the property from the date it becomes payable until the unpaid surcharge and interest and penalties on the surcharge are paid in full, regardless of a change in ownership of the property, whether voluntary or involuntary; and

(8) Notice that if payments of surcharges are not timely paid, the surcharge will be collectible as a tax lien through the tax sale process authorized under Md. Code, Tax-Property Article, Title 14, Subtitle 8 and in accordance with [Chapter 33](#) of the Carroll County Code of Public Local Laws and Ordinances and that an overdue surcharge will be so collected, irrespective of whether real property taxes (or any other taxes, charges, or assessments) are due and owing.

(D) *Default.* In the event of default on the clean energy loan surcharge, the lien will be collected pursuant to the tax sale process irrespective of whether property taxes (or any other taxes, charges, or assessments) are due and owing. The county shall not incur any liability to the clean energy lender or others in the event of default. Nothing in this subchapter shall prevent the clean energy lender from pursuing its rights and remedies under the Clean Energy Financing Agreement provided however that the terms of the Clean Energy Financing Agreement are in compliance with this subchapter.

(E) *Payment to clean energy lender.* The county shall have no ownership of the surcharges collected except for administrative costs provided under this subtitle. The county shall pay all surcharge payments received in any calendar month to the applicable clean energy lender or the Clean Energy Loan Program Administrator within 30 days after the end of the month in which such amounts are collected. The county shall have no obligation to make payments to any clean energy lender with respect to any clean energy loan obligation other than that portion of surcharge actually collected from a property owner for the repayment of a clean energy loan.

(Ord. 2017-09, passed 10-19-2017)

### **§ 33.78 FINANCING.**

(A) *Private lenders, terms.* Clean energy loans may be provided by any private lender and a Clean Energy Financing Agreement may contain any terms agreed to by the clean energy lender and the property owner, as permitted by law, for the financing of clean energy loans. The county may not finance or fund any loan under the program. The county shall serve only as a program sponsor to facilitate loan repayment by including the surcharge on the annual county real property tax bill for the property, and the county shall incur no liability for the loan.

(B) *County role.* The county's role in the Clean Energy Loan Program is limited to sponsoring the program and collecting and forwarding the surcharges imposed under the program. The county may not provide clean energy loans or other financing in connection with this program.

(Ord. 2017-09, passed 10-19-2017)

### **§ 33.79 DESIGNEE OF PROGRAM ADMINISTRATOR.**

The Maryland Clean Energy Center and its designee is hereby authorized and directed to serve as the Clean Energy Loan Program Administrator under the terms of separate agreement.

(Ord. 2017-09, passed 10-19-2017)