

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1278

Designating Enforcement Mechanism for PropertyFit Program and Declaring an Emergency.

(Language stricken is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- A. Multnomah County is committed to eliminating greenhouse gas emissions in Multnomah County, Resolution 2017-046, and transitioning energy use to renewable sources. To achieve that goal, existing buildings, which account for 40% of emissions, must be upgraded to meet modern energy efficiency targets, and, when appropriate, generate energy onsite.
- B. Many buildings in Multnomah County would be severely damaged or destroyed in a Cascadia Subduction Zone earthquake.
- C. The 2015 Climate Action Plan called upon the Multnomah County Office of Sustainability to establish new methods of financing building energy-efficiency improvements.
- D. It is in Multnomah County's interest to assist property owners in transitioning to more resource efficient buildings and to ensure those buildings can withstand a seismic event.
- E. In 2015, Multnomah County established the Commercial Property Assessed Clean Energy ("CPACE") program in Resolution 2015-097 in partnership with Prosper Portland, which serves as the program administrator.
- F. PropertyFit is the branded name for the CPACE program.
- G. PropertyFit facilitates private loans to commercial, industrial, and certain multifamily residential building owners and developers to assist with financing energy-efficiency upgrades, renewable energy development (such as roof-top solar, energy storage, and electric vehicle storage), and seismic rehabilitation projects.
- H. Under the CPACE statutes, ORS 223.680 – 223.685, a local government can secure a loan with a lien on the benefitted property that has the same priority as a lien for local improvement district ("LID") assessments arising under ORS 223.393. ORS 223.680(7)(a); ORS 223.685(6)(a). The local government then has three options to secure and enforce that lien: (1) use the LID enforcement process provided in ORS 223.505 – 223.650; (2) certify the assessment to the county

assessor under ORS 310.060; or (3) secure the loan “in any other manner that the local government deems reasonable.”

- I. To date, Multnomah County has structured its enforcement program so that delinquent liens would be certified to the tax rolls under ORS 310.060 as allowed by ORS 223.680(8)(a) and 223.685(7)(a).
- J. To date, three PropertyFit loans have been closed, totaling approximately \$6,790,000 in energy efficiency, renewable energy, and seismic resilience investments in the commercial building stock.
- K. Despite the success to date, the PropertyFit enforcement mechanism is out of step with national best practices because the program does not allow for partial foreclosure (*i.e.*, foreclosing on the delinquent amounts), with the remaining amounts owed surviving as a lien on the property. As a result of this disconnect, PropertyFit loans are less attractive to most CPACE capital investors.
- L. To cure these issues, and align the PropertyFit program with national best practices, the enforcement mechanism will transition to the one described in the local improvement district statutes, ORS 223.505 to 223.650, as authorized by ORS 223.680(7)(c) and 223.685(6)(c).
- M. The restructuring of the default collection process will facilitate greater inflows of capital into the commercial building sector and strengthen the County's economic infrastructure by improving property values, building safety, and marketability of the County's commercial real estate.
- N. By aligning with national best practices and developing the PropertyFit model, Multnomah County and Prosper Portland have created a replicable program that can be adopted by other Oregon jurisdictions.

Multnomah County Ordains as Follows:

Section 1. MCC 25.230 is added as follows:

MCC 25.230 PROPERTYFIT PROGRAM

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

- (1) **ACTS** – ORS 223.680 and 223.685.
- (2) **BENEFIT ASSESSMENT LIEN** – The special assessment lien levied against the qualifying real property securing the PropertyFit financing, pursuant to ORS 223.680(7)(a) and 223.685(6)(a).
- (3) **BUILDING RESILIENCY IMPROVEMENTS** - Those certain utility and seismic rehabilitation improvements to the qualifying real property that meet the requirements of the acts and program guide.

(4) **PROPERTYFIT** – The program provided for under the acts for the financing and construction of building resiliency improvements on qualifying real property.

(5) **QUALIFYING REAL PROPERTY** – The real property that qualifies to receive PropertyFit financing for building resiliency improvements under the PropertyFit program.

(6) **RECORDER** – The Multnomah County Assessor.

(7) **SEISMIC REHABILITATION** – 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.

(8) **TREASURER** – The Chief Financial Officer for Multnomah County, designated pursuant to ORS 223.505(3) (2019) to take all steps necessary to enforce delinquent liens and to maintain records pertaining to collection proceedings thereon.

(9) **UTILITIES IMPROVEMENTS** – 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.

(B) BENEFIT ASSESSMENT LIENS

(1) Benefit assessment liens shall be entered into the County lien docket.

(2) Pursuant to ORS 223.680(7)(a) (2019), benefit assessment liens shall have the same priority, as determined under ORS 223.230(3) (2019), as a lien for assessments for local improvements arising under ORS 223.393 (2019).

(C) ENFORCEMENT OF PROPERTYFIT BENEFIT ASSESSMENT LIENS

(1) 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.

(2) 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 223.650 (2019), 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 223.650 (2019).

(3) When an individual purchases real property at a foreclosure sale under ORS 223.505 to 223.590 (2019), 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.

Section 2. This ordinance being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and this ordinance will take effect immediately upon being signed pursuant to Section 5.50 of the Multnomah County Home Rule Charter.

FIRST READING AND ADOPTION:

January 9, 2020



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:

JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Will Glasson
Will Glasson, Senior Assistant County Attorney