

ORDINANCE NO. 1226

ORDINANCE OF THE BOROUGH OF BARRINGTON, COUNTY OF CAMDEN AND STATE OF NEW JERSEY OPTING INTO THE GARDEN STATE C-PACE PROGRAM TO FACILITATE THE FINANCING OF C-PACE PROJECTS IN THE BOROUGH OF BARRINGTON

WHEREAS, facilitating the direct financing of clean energy and resiliency-related improvements (“C-PACE Projects”) on commercial and certain other types of property will enable the Borough of Barrington (“Borough”) in the County of Camden (“County”) to contribute toward the goals of community sustainability and the reduction of greenhouse gas, carbon emissions and energy consumption, while also providing a valuable service to the citizens of this community that will create jobs and strengthen our ratable base; and

WHEREAS, the Legislature and the Governor of the State of New Jersey (the “State”) have declared it to be the public policy of this State to invest in clean energy and resiliency-related improvements to conserve our resources and allay the impact of natural disasters; and

WHEREAS, the Legislature and the Governor of the State have authorized the establishment of the Garden State C-PACE Program, pursuant to P.L. 2021, c. 201 (N.J.S.A. 34:1B-374 et seq.) (the “Act”); and

WHEREAS, pursuant to the Act, the New Jersey Economic Development Authority (the “Authority”) has issued Guidelines for the Garden State C-PACE Program; and

WHEREAS, any capitalized terms used in this Ordinance if not defined herein shall have their meaning as set forth in the Program Guidelines; and

WHEREAS, pursuant to the Act and the Program Guidelines, municipalities may “opt in” to the Garden State C-PACE Program to facilitate the Direct Financing of C-PACE Projects; and

WHEREAS, in order to participate in the Garden State C-PACE Program, a municipality must adopt an opt-in ordinance authorizing it to enter into a Garden State Program Agreement with the Authority; and

WHEREAS, in compliance with the Act and the Program Guidelines, and in order to facilitate Direct Financing pursuant to the Garden State C-PACE Program, this Ordinance authorizes the creation of C-PACE Assessments to be imposed on Eligible Properties located within the Borough, at the request of their Eligible Owners; and

WHEREAS, pursuant to the Act and the Program Guidelines, a C-PACE Assessment shall

be considered a single, continuous first lien, paramount to all prior or subsequent alienations and descents or encumbrances thereon, except subsequent taxes, charges or assessments, and such lien shall not be extinguished by the Borough's in rem foreclosure proceedings; and

WHEREAS, pursuant to the Act and the Program Guidelines, a C-PACE Assessment shall be treated as a municipal lien rather than a contractual lien for all purposes of law; and

WHEREAS, a C-PACE Assessment shall be entered into voluntarily by an Eligible Owner to facilitate the Direct Financing of a C-PACE Project with a loan from a Qualified Capital Provider, the repayment of which is made by way of the C-PACE Assessment on the Eligible Property on which the C-PACE Project is or will be located; and

WHEREAS, opting-in to the Garden State C-PACE Program is in the best interests of the health, safety, and welfare of the Borough and will generate more economic opportunities for citizens, property owners, and commercial businesses alike; and

WHEREAS, the Borough, pursuant to the Act and the Garden State C-PACE Program Guidelines and Supplemental Guidelines, as may be amended from time to time (collectively the "Program Guidelines"), does hereby declare its commitment to opt in and participate in the Garden State C-PACE Program and to enter into a Garden State Program Agreement with the Authority; and

WHEREAS, the Borough further declares that participating in the Garden State C-PACE Program is a valid public purpose; and

WHEREAS, if and to the extent there is any inconsistency between this Ordinance and the Act or Program Guidelines, this Ordinance shall be construed consistently with the provisions and requirements of the Act and the Program Guidelines and in case of conflict the Act and the Program Guidelines shall control.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Barrington, as follows:

1. Scope and Purpose; Approval of Certain C-PACE Project Documents

A. Pursuant to the Act, this Ordinance shall constitute the Borough's "opt-in" ordinance that authorizes participation in the Garden State C-PACE Program, which shall be available to Eligible Properties situated within the Borough and authorizes execution of a Garden State Program Agreement.

B. The Borough shall accept C-PACE Projects in accordance with the Garden

State Program Agreement to be entered into with the Authority.

C. In accordance with the Act, the Borough shall levy, bill, collect, remit, and enforce C-PACE Assessments with respect to participating Eligible Properties located within the Borough.

D. The Mayor of the Borough of Barrington, or any of his designees in writing, are designated as the “Authorized Officers” for purposes of executing and delivering the various agreements and documents authorized by this Ordinance.

E. An Authorized Officer is hereby authorized and directed to enter into the Garden State Program Agreement with the Authority in substantially the form attached as Exhibit A hereto.

F. An Authorized Officer under the direction of the Mayor of the Borough is hereby authorized and directed to (i) enter into C-PACE Assessment Agreements, Notices of Assessment, and any other Uniform Assessment Documents with Eligible Owners, and arrange for the recording of such documents in the Recording Office of the County; and (ii) enter into Assignment Agreements and any other Uniform Assessment Documents with Qualified Capital Providers, and arrange for the recording of such documents in the Recording Office of the County.

2. **Definitions.** Such terms and meanings as defined in this Ordinance or in the Program Guidelines shall be applicable to municipal actions and municipal documents required to carry out the purposes of this Ordinance.

3. **Criteria For Qualifying A C-PACE Project for A C-PACE Assessment.**

To qualify for a C-PACE Assessment, a proposed project must meet the criteria in the Program Guidelines for eligibility and have been approved by the Authority.

4. **Municipal C-PACE Liaison.**

The Mayor of the Borough shall designate a municipal official, who shall be known as the “Municipal C-PACE Liaison,” to serve as the Borough’s liaison to the Garden State C-PACE Program. The Borough shall have a designated Municipal C-PACE Liaison at all times during the Borough’s participation in the Garden State C-PACE Program. The Municipal C-PACE Liaison shall be or become qualified as described in the Garden State Program Agreement and shall have the responsibilities and obligations set forth in the Garden State Program Agreement.

5. **Municipal C-PACE Fees; Recording of C-PACE Project Documents.**

Municipal C-PACE fees and the recording of Uniform Assessment Documents for a C-PACE Project shall be as set forth in the Garden State Program Agreement. The amount of any fee shall not be revised without providing prior written notice to the Authority and shall not exceed the amount

set forth in the Program Guidelines. Any increase in the amount of a fee shall not apply retroactively to any prior fee paid for which a completed C-PACE Project application was submitted but shall apply to all prospective fees for all C-PACE Projects, including any C-PACE Project with an existing C-PACE Assessment.

6. Forms of Uniform Assessment Documents and Related Documents

A. All Uniform Assessment Documents, financial documents, or other documents in the form set forth in the Uniform Assessment Documents to be entered into between the Borough and an Eligible Owner or a Qualified Capital Provider shall be subject to review by the Mayor of the Borough or his designee to determine their substantive adherence to the forms as set forth in the Uniform Assessment Documents and shall be approved by resolution of the governing body, prior to execution of any such documents. All C-PACE Project Documents, such other Uniform Assessment Documents, and other related documents to be entered into in connection with the Garden State C-PACE Program shall be in compliance with the Act, this Ordinance, the Garden State Program Agreement, and the Program Guidelines.

B. All final documents to be executed by the Borough in connection with its participation in the Garden State C-PACE Program shall be subject to review and approval by the Municipal Attorney.

7. Acceptance of Projects

A. Pursuant to Paragraph 1 of this Ordinance, the Borough hereby agrees to accept C-PACE Projects pursuant to the Garden State C-PACE Program in accordance with the Act, the Program Guidelines, and the Garden State Program Agreement entered into with the Authority.

B. All C-PACE Projects and Eligible Owners shall have satisfied the criteria set forth in Paragraph 3 of this Ordinance.

8. Collection, Enforcement and Remittance

A. If any payment of a C-PACE Assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by the Borough for the payment of property tax bills as may be permitted or required by law, the Borough shall impose interest thereon (“statutory interest”) at the same rate as may be imposed upon unpaid property taxes in the Borough. Such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement.

B. All delinquent payments of C-PACE Assessments, together with statutory interest thereon, accrued interest, and any penalties for such delinquency, shall be collected and enforced in the same manner as unpaid property taxes, which may include accelerated tax sales. The proceeds of the tax sale shall also pay the outstanding past unpaid amounts of the C-PACE Assessment. The remaining balance not delinquent on a C-PACE Assessment shall not be subject to acceleration or extinguishment in the event of a default in payment.

C. Any statutory interest collected by the Borough on a delinquent C-PACE Assessment shall be retained by the Borough. Any accrued interest, or any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement shall be remitted to the Qualified Capital Provider.

D. If a Property Owner is delinquent on a C-PACE Assessment as well as delinquent on taxes, charges, or other assessments, the Borough shall apply any payment made by the Property Owner to any and all such other delinquencies before being applied to any delinquent C-PACE Assessment.

E. In the event that any lien on an Eligible Property shall be exposed to tax sale, pursuant to the “tax sale law,” N.J.S.A. 54:5-1 et seq., and is struck off and sold to the Borough, the C-PACE Assessment shall survive any subsequent action to foreclose the right of redemption and continue as a first lien upon the real estate described in the C-PACE Assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances, except subsequent taxes, charges, or other assessments.

F. While the Borough holds the lien or owns the Eligible Property, the Borough shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE Assessment.

G. The Borough shall not bear any other responsibility in furtherance or satisfaction of a C-PACE Assessment, except that a Qualified Capital Provider may seek to compel the Borough to enforce a lien through an action to foreclose.

H. The Borough’s appropriate administrative personnel are authorized to make payments to the Qualified Capital Provider or its designee in accordance with the Assignment Agreement without the necessity of prior approval from the governing body, in accordance with N.J.S.A 40A:5-17 and the appropriate provisions of the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq.

9. Public Funds Not To Be Utilized To Pay Delinquent Assessment

A. The Borough shall not be responsible for or required to make any payment from its funds or any other source of public funds in furtherance of or to satisfy the C-PACE Assessment.

B. This Ordinance shall not be construed to confer any right of action or property interest upon any party participating in a C-PACE transaction with the Borough, nor shall it be interpreted to pledge, offer, or encumber the full faith and credit of the Borough for any C-PACE lien or C-PACE Assessment.

10. Revenue From The C-PACE Assessment Not A Part of General Fund

A. The C-PACE Assessment in respect of a C-PACE Project shall be assigned directly by the Borough, and any assignee thereof, to the Qualified Capital Provider with respect to such C-PACE Project, as security for the Direct Financing.

B. Such assignment shall be an absolute assignment of all of the Borough's right, title, and interest in and to the C-PACE Assessment, except for its obligations to levy, bill, collect, remit, and enforce C-PACE Assessments. The proceeds of a C-PACE Assessment shall be considered "special revenues" owned by the Qualified Capital Provider pursuant to chapter 9 of the federal bankruptcy code, U.S.C. Title 11.

C. Pursuant to N.J.S.A 34:1B-378, C-PACE Assessments assigned shall not be included in the Borough's general funds, or be subject to any laws regarding the receipt, deposit, investment, or appropriation of public funds, and shall retain such status notwithstanding enforcement of the C-PACE Assessment by the Borough or its assignee.

D. If the Borough is otherwise subject to tax or revenue sharing pursuant to law, the C-PACE Assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether the Borough is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool. However, the redemption of any delinquent and unpaid C-PACE Assessments, including any interest, penalties, or other charges related thereto, shall be paid no later than on the first available tax bill after the property has been sold after an action to foreclose the right of redemption.

11. Each Paragraph of this Ordinance is an independent Paragraph, and the holding of any Paragraph or part thereof to be unconstitutional, void, invalid or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other Paragraph or parts thereof which shall survive in full force and effect.

12. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

13. This Ordinance shall take effect upon passage and publication according to law.

THE BOROUGH OF BARRINGTON

BY: _____
KYLE HANSON, MAYOR

ATTEST:

TERRY SHANNON, BOROUGH CLERK

Date of Introduction: February 10, 2026

Date of Adoption:

The foregoing ordinance was introduced by Borough Council at the regular meeting held on February 10, 2026. This Ordinance will be considered for adoption on final reading and public hearing to be held on March 10, 2026 at 6:00 p.m. in the Council Meeting Room, Barrington Municipal Building, 229 Trenton Avenue, Barrington, New Jersey.

The purpose of this Ordinance is to authorize the Borough to enter into a Garden State Program Agreement with the New Jersey Economic Development Authority in order to participate in the Garden State C-PACE Program in the Borough of Barrington. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Thursday (Legal Holidays excluded), and public between the hours of 8:30 AM to 12:00 PM on Fridays (Legal Holidays excluded), at the Office of the Borough Clerk, Barrington Borough Hall, 229 Trenton Avenue, Barrington, New Jersey.