City of Minden
P.O. Box 239, 325 N. Colorado
Minden, Nebraska 68959

*phone 308.832.1820*
*fax 308.832.1949*
*www.MindenNebraska.org*

The Christmas City
Minden NEBRASKA

**ORDINANCE NO. 1305**

AN ORDINANCE TO CREATE A CLEAN ENERGY ASSESSMENT DISTRICT; TO ESTABLISH DEFINITIONS; TO PROVIDE FOR THE FINANCING, ADMINISTRATION, AND COLLECTIONS TO PROMOTE ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS; AND TO PROVIDE THE EFFECTIVE DATE HEREOF; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

**Be it ordained by the Mayor and Council of the City of Minden, Nebraska.**

WHEREAS, the City of Minden, Nebraska, hereinafter "the City", desires to create a clean energy assessment district to enable property assessed clean energy financing for its property owners; and,

WHEREAS, the City also desires to authorize the clean energy assessment district to enable third-party lenders to accept applications and enter into financing agreements with property owners within the boundaries of the district; and,

WHEREAS, this Ordinance, upon execution, shall create a clean energy assessment district, which shall be known as the City of Minden PACE District, as authorized by Nebraska Revised Statute Sections 13-3203 and 13-3204(3), which boundaries shall be the zoning jurisdiction of the City including any area that is within its corporate boundaries or extraterritorial zoning jurisdiction.

**BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINDEN, NEBRASKA:**

**Section 1.** Findings and Determinations. The Mayor and Council of the City of Minden, Nebraska (the "City"), hereby find and determine as follows:

Pursuant to NEB. REV. STAT. §§13-3201 to 13-3211, inclusive, the Property Assessed Clean Energy Act (the "Act"), energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. To further these goals, it is necessary for the City to promote energy efficiency improvements and renewable energy systems. Upfront costs for energy efficiency improvements and renewable energy systems may prohibit or deter many property owners from making improvements. It is necessary for the City to implement an alternative financing method through the creation of a clean energy assessment district.

Financing energy projects to further these goals is a valid public purpose and can be accomplished through Property Assessed Clean Energy ("PACE") financing, which is used to overcome the upfront costs for energy efficiency improvements and renewable energy systems by using private capital and equity, rather than public debt.

Pursuant to the Act and NEB. REV. STAT. § 13-3204, the City is authorized to establish a clean energy assessment district so that owners of qualifying property can access PACE financing for energy

efficiency improvements or renewable energy improvements to their properties located in the City. The City also may enter into an agreement with one or more other municipalities pursuant to the Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801, et seq., for the joint creation, administration, or creation and administration of clean energy assessment districts, pursuant to NEB. REV. STAT. § 13-3210. The City hereby declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The City enacts this Ordinance pursuant to the Act, as amended.

**Section 2.** Title and Definitions. That this Ordinance shall be known and may be cited as the "City of Minden Property Assessed Clean Energy (PACE) Ordinance." Except the words and phrases specifically defined below or in NEB. REV. STAT. § 13-3203, as amended, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the following meanings:

"District" means the City of Minden PACE District, created pursuant to this Ordinance, as authorized by NEB. REV. STAT. §§ 13-3203 and 13-3204(3), which boundaries shall be the zoning jurisdiction of the City including any area that is within its corporate boundaries or extraterritorial zoning jurisdiction.

"District Administrator" means the designated representative or a third-party administrator selected by the City.

"PACE financing" means funds provided to the owner(s) of qualified property by third- party lender, pursuant to the Act and this Ordinance, for an energy efficiency improvement or renewable energy system(s).

"Qualifying Property" means commercial property, including multifamily residential property having more than four dwelling units, and industrial property located in the District.

**Section 3.** District Boundaries and Requirements Pursuant to NEB. REV. STAT. § 13-3204(3).

A. The City finds that the financing of energy efficiency improvements and renewable energy systems is a valid public purpose. Such public purposes include, but are not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

B. The boundaries of the District shall be the zoning jurisdiction of the City, including any area that is within its corporate boundaries or extraterritorial zoning jurisdiction, as allowed pursuant to NEB. REV. STAT. § 13-3204(1).

C. The District Administrator shall use a form contract for assessment contracts among the City, the owner of the qualifying property, and a third-party lender, governing the terms and conditions of financing and annual assessments in accordance with the Act, including NEB. REV. STAT. § 13-3205(1), which provides for repayment of the costs financed through annual assessments upon the qualifying property benefited by the energy project.

D. The District Administrator is authorized to enter into assessment contracts on behalf of the City.

City of Minden
P.O. Box 239, 325 N. Colorado
Minden, Nebraska 68959

phone 308.832.1820
fax 308.832.1949
www.MindenNebraska.org

The Christmas City
Minden NEBRASKA

E. The District Administrator will use a financing application process and eligibility requirements, for financing energy projects in accordance with the requirements of the Act and accepted by the third-party lender. The application process and program eligibility requirements shall be, at a minimum, as follows:

i. Submission of an application as attached hereto as Exhibit "A" to the District Administrator, which shall include, but not be limited to, the following information:

a) Applicant name and contact information, including property owner and developer;
b) Project location and legal description;
c) Identification of contractor or supplier, including anticipated PACE contractor and a copy of the approved bid for the energy efficiency project;
d) Project description;
e) Total project cost;
f) Description of proposed improvements;
g) Description of energy efficiency project to be financed;
h) Amount of requested assessment;
i) Interest rate on the PACE assessment and any required fees;
j) Term of assessment;
k) Energy savings report indicating estimated energy savings and estimated cost savings for the energy project;
l) Whether the applicant is requesting a waiver of the estimated economic benefit requirement;
m) Title report showing any mortgage or lien holders;
n) Lender consent;
o) Projected jobs created by PACE project;
p) Project environmental benefits;
q) Funding source;
r) All other such information as needed to demonstrate the project complies with all the requirements of the Act.

ii. The District Administrator may grant an applicant's request to waive the estimated economic benefit requirement. If the District Administrator denies the applicant's waiver request, the applicant may appeal the denial by submitting a request in writing to the Mayor and Council of the City of Minden. The appeal shall be mailed by certified mail or hand delivered to the City Clerk, PO Box 239, Minden, NE, 68959 within fourteen days after the denial. The City Council will review the matter on the record made by the District Administrator and, after providing the applicant an opportunity to be heard, the Council will make a final decision by roll call vote in an open public meeting.

iii. The District Administrator shall review the application to determine whether the energy project meets the eligibility requirements of the Act and this Ordinance. An energy project shall not be eligible for PACE financing if the qualifying property is subject to any of the following:

a) Delinquent ad valorem taxes;
b) Delinquent personal property taxes;
c) Delinquent special assessments;
d) Overdue or delinquent water or sewer charges;
e) Involuntary liens, including but not limited to construction liens;
f) Notice of default pursuant to any mortgage or deed of trust related to the qualifying property, or
g) If the property owner or property developer is delinquent in the payment of any assessment required to be paid for any energy efficiency improvement financed pursuant to the Act.

iii. If the energy project is determined to be eligible under the terms of the Act and as required in this Ordinance, the District Administrator shall review the application and approve, request additional information, or deny the application at his/her sole discretion.

iv. Upon approval of an application, the District Administrator is authorized to proceed with and execute an assessment contract.

F. Pursuant to NEB. REV. STAT. § 13-3205(7), annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected in accordance with the Act.

G. The District shall establish procedures to determine the following in the future:

i. Provisions for an adequate debt service reserve fund created under Section 13-3209, if applicable;

ii. Provisions for an adequate loss reserve fund created under Section 13-3208, if applicable; and

iii. Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the City as a result of the program;

iv. Any costs shall be deducted before remitting the assessment to the third-party PACE program administrator.

H. The assessment term shall not exceed the weighted average useful life of the energy project paid for by the annual assessments.

I. Any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs during the assessment term.

J. Prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in NEB. REV. STAT. § 13-3205(3)(d), and that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be assessed upon future owners of the qualifying property.

K. In connection with providing PACE financing, the City will provide for marketing and participant education.

L. The City shall obtain, or the District Administrator shall obtain and provide to the City, verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended.

**Section 4.** Authorization for PACE Program. That, pursuant to NEB. REV. STAT. § 13-3204(1), the District shall be governed by members of the Minden City Council.

A. The District Administrator shall comply with the Act and the provisions of this Ordinance and follow any applicable City procurement policy and procedures for selecting a third-party administrator should a third-party administrator be selected for the administration of the PACE program. Any such third-party administrator must ensure that there is no financial requirement, liability, or exposure to the District or the City. The District Administrator as defined in Section 2 of this Ordinance may serve as the administrator of the PACE program for the District and the City.

B. The District or City may also engage the services of a state or local financing agency for the purposes of providing conduit bond financing for the District or City as part of its third-party administration.

C. Upon selection of a third-party administrator, that third-party administrator may, on behalf of the City, accept applications for financing energy efficient improvements within the District boundaries, facilitate the financing application process, and review eligibility requirements for financing energy projects in accordance with the requirements of the Act and as accepted by the third-party lender.

City of Minden
P.O. Box 239, 325 N. Colorado
Minden, Nebraska 68959

*phone 308.832.1820*
*fax 308.832.1949*
*www.MindenNebraska.org*

The Christmas City
Minden NEBRASKA

D. The District may be expanded via the Interlocal Cooperation Act in order to create a program of sufficient size and scale to attract qualified third-party administrators and/or to promote energy efficiency across multiple political subdivisions, as authorized under the Act.

**Section 5.** Liability of City Officials; Liability of City. That notwithstanding any other provision of law to the contrary, officers, officials, employees, or agents of the District, or the City of Minden shall not be personally liable to any person or entity for any claims, liabilities, costs, or expenses, of whatever kind or nature, under, arising out of, or related to the City's or District's participation in the District's PACE Program or any PACE Financing, including, without limitation, claims for or related to uncollected PACE Assessments. Not in limitation of the foregoing, the City has no liability to a property owner or lender for or related to energy savings improvements or funding under a PACE Financing or Program, other than to remit PACE Assessments received in accordance with the Act or record a notice of assessment lien upon notice from the PACE lender that the property owner is delinquency in payment pursuant to applicable law.

**Section 6.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by the law, and satisfaction of any conditions set forth in this Ordinance.

Passed and approved this 4th day of August, 2025.

/s/ Larry Evans
Larry Evans, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

(SEAL)