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STATE OF SOUTH CAROLINA )

2019 FEB 26 PM 1:32

ORDINANCE NO. 2019-1567

COUNTY OF LANCASTER )

CLERK OF COURT  
LANCASTER, SC

**AN ORDINANCE AUTHORIZING AND ESTABLISHING A STANDARD TAX POLICY FOR THE TREATMENT OF RENEWABLE ENERGY PRODUCTION FACILITIES USING SOLAR POWER LOCATED WITHIN THE COUNTY; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Lancaster County, South Carolina, a political subdivision of the State of South Carolina (the “*County*”), acting by and through its County Council (the “*County Council*”), recognizes that renewable energy initiatives are critically important to our future as a nation, state and community; and

**WHEREAS**, strategic development of renewable energy initiatives will have compounding positive generational impact; and

**WHEREAS**, the Federal Government and South Carolina State Government have also recognized the value of supporting and promoting the reduction of the use of fossil fuels through tax reductions for renewable energy initiatives; and

**WHEREAS**, given the unique nature of Solar Farm Projects, County Council believes that the merits of any individual Solar Farm Project seeking a lower tax structure should be evaluated under a specific renewable energy policy; and

**WHEREAS**, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “*FILOT Act*”), and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “*Multi-County Park Act*” and collectively with the FILOT Act, the “*Acts*”) to enter into agreements with qualifying industry to encourage investment and projects constituting personal property to which the industrial development of the State of South Carolina will be promoted; and

**WHEREAS**, the County recognizes that solar energy production is a qualifying industry under the FILOT Act and that Solar Farms can be qualifying Projects under the FILOT Act (as that term is defined under the FILOT Act) but that such Projects are unique and distinct from the commercial, manufacturing, or industrial Projects generally contemplated under the Acts, including in that Solar Farm equipment depreciates on an eighteen year timeline and therefore is effectively taxed differently than other commercial, manufacturing, or industrial equipment; and

**WHEREAS**, the County recognizes that Solar Farm Projects may substantially increase property tax revenue from undeveloped agricultural tax parcels while not utilizing industrial or other commercial property that may otherwise be developed for other uses; and

**WHEREAS**, unlike other industrial development Solar Farms’ burdens on County infrastructure such as roads, utilities, or schools are de minimis; and

**WHEREAS**, the County has determined that tax reduction measures for solar energy production facilities (“*Solar Farms*”) merit County Council’s conditional support and approval; and

**WHEREAS**, the County desires the creation of a standard tax policy to be applied to Solar Farms in the County;

**NOW, THEREFORE, BE IT ORDAINED**, by the County Council, as follows:

Section 1. The County Council hereby finds that it shall be standard tax policy of the County to offer the benefits of the Acts to Solar Farms that otherwise qualify for such benefits under the terms of the Acts.

Section 2. The Solar Farm must have a minimum investment of 2.5 Million and no/100 (\$2,500,000.00) Dollars to qualify for the benefits of the FILOT Act.

Section 3. Projects must be located on property that at the time of the FILOT agreement has a zoning classified of AR, Agricultural Residential, or property that has been previously granted a condition use permit or have otherwise obtained vested rights for use as a solar farm.

Section 4. Any Solar Farm fee agreement must provide for a net annual fee payment to the County of an amount at least 4000% greater than the most recent annual *ad valorem* tax assessment for the real property where the Solar Farm Project is located.

Section 5. Projects will receive a thirty (30) year FILOT Agreement period.

Section 6. Projects will have the FILOT Payments calculated using an assessment ratio of six percent (6%) and a millage rate fixed for the life of the FILOT at the lowest then legally allowable millage rate for the year in which the FILOT is entered.

Section 7. Projects may receive Special Source Revenue Credits (SSRC), which can be used to establish a set annual payment over the term of the fee agreement; however, the aggregate SSRC over that term shall not exceed 63% over the life of the agreement.

Section 8. The Company shall commit to reimburse the County for its administrative expenses associated with the review, negotiation and preparation of all documentation and authorizing proceedings, including attorney’s fees, for the Project. The specific reimbursement commitment for each project shall be memorialized in the Ordinance for each project.

Section 9. Notwithstanding anything herein to the contrary, any proposed Solar Farm project may be evaluated by the County individually and County Council reserves its right approve or disapprove any tax agreement on a project by project basis and that the tax policy structure as listed in Sections 2-7 will not be adjusted for any agreements

Section 10. In the event that any ordinances, resolutions and parts thereof are in conflict herewith this ordinance shall control.

Section 11. Solar Farm Projects shall be limited to projects utilizing equipment that depreciates on schedules of not less than 15 years as it relates to business personal property tax requirements.

Section 12. Solar Farm Projects shall be solely responsible for the cost of any and all infrastructure upgrades.

Section 13. Solar Farm Projects shall maintain a security in the form of an annually renewable Surety Bond, Letter of Credit, or cash for an amount equal to the difference between the agreed upon net FILOT payment and the tax payable given a standard FILOT calculated with SSRC at 63% for any year that the flat fee is less.

Section 14. An applicant must include a decommissioning plan that describes the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored. Following a continuous six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the solar farm. Decommissioning includes removal of solar panels, buildings, cabling, electrical components, and any other associated facilities below grade as described in the decommissioning plan. Prior to issuance of a Building Permit, the applicant must provide the County with a performance guarantee (surety or performance bond, certified check or irrevocable letter of credit) in the amount of \$50,000 or 125% of the estimated decommission cost minus the salvageable value, whichever is greater. Estimates shall be determined by an engineer licensed to practice in South Carolina. If the salvage value is determined to be greater than the cost of decommissioning, then the performance guarantee will be deemed unnecessary. If the developer can provide proof in the form of a notarized statement or like document that a performance guarantee for decommissioning is part of the land lease or purchase agreement, then the performance guarantee will be unnecessary.


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This Ordinance shall take effect and be in full force only after the County Council has approved it after three readings and a public hearing has been duly and timely held.

**AND IT IS SO ORDAINED**

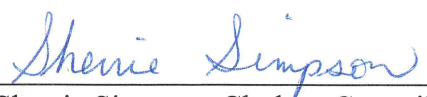
Dated this 25<sup>th</sup> day of FEBRUARY, 2019.

**LANCASTER COUNTY, SOUTH CAROLINA**

By:   
Steve Harper, Chairperson  
Lancaster County Council

By:   
Larry Honeycutt, Secretary  
Lancaster County Council

(SEAL)  
ATTEST:

  
Sherrie Simpson, Clerk to Council  
Lancaster County Council

First Reading: January 28, 2019  
Second Reading: February 11, 2019  
Public Hearing: February 11, 2019  
Third Reading: February 25, 2019