



Minutes
Sumter County Council
Regular Meeting
August 24, 2010 - Held at 6:00 p.m.
County Administration Building County Council Chambers
13 E. Canal Street, Sumter, SC

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COUNCIL MEMBERS PRESENT:

1. Chairman Vivian Fleming McGhaney, Council District #5
2. Vice Chairman Eugene Baten, Council District #7
3. Councilman Artie Baker, Council District #2
4. Councilman Larry Blanding, Council District #6
5. Councilman Jimmy Byrd, Council District #3
6. Councilman Charles T. Edens, Council District #4
7. Councilwoman Naomi D. Sanders, Council District #1

COUNCIL MEMBERS ABSENT:

STAFF MEMBERS PRESENT:

Mary W. Blanding, Clerk to Council
Johnathan Bryan, County Attorney
Pamela Craven, Finance Director
Simon Major, Correctional Center Director
Keysa Rogers, Budget Analyst

William T. Noonan, County Administrator
Gary Mixon, Deputy Administrator
Peter Wilson, County Engineer
Lorraine Dennis, HR/Deputy Administrator

MEDIA PRESENT:

The Item Newspaper

THE PUBLIC PRESENT:

Approximately 18 members of the public were in attendance.

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CALL TO ORDER: Chairman of Council, Vivian Fleming McGhaney, called Sumter County Council's meeting of August 24, 2010, to order.

INVOCATION: Chairwoman McGhaney gave the invocation.

PLEDGE OF ALLEGIANCE: All in attendance repeated the Pledge of Allegiance.

APPROVAL OF AGENDA: Chairwoman McGhaney stated that she would entertain a motion to approve the August 24, 2010, agenda with any additions, deletions, or as printed.

ACTION ON AGENDA: MOTION was made by Councilman Baker, seconded by Vice Chairman Baten, and unanimously carried by Council to grant approval of the agenda as presented.

APPROVAL OF MINUTES: Chairwoman McGhaney stated that she would entertain a motion to approve the regular meeting minutes of Sumter County Council which was held on August 10, 2010.

ACTION: MOTION was made by Vice Chairman Baten, seconded by Councilman Baker, and unanimously carried by Council to approve the regular meeting minutes of August 10, 2010, as presented.

LAND USE MATTERS AND REZONING REQUESTS
Development/Rezoning Request - None

Street Name Change - None

Grant Awards -

OTHER PUBLIC HEARINGS: None

NEW BUSINESS:

1. Forestry Commission Presentation To Sumter County Council.

Harvey Belser, Forestry Director for Manchester State Forest, was present on behalf of this presentation. He stated that this year, statewide, the Forestry Commission will be able to present \$1,143,000.67 to different counties. This is about a 12% increase in donations that the Forestry Commission can provide to the receiving agencies. Sumter County will receive a check for \$213, 293.84 on behalf of School District Number Two. The funds will not be placed in the County's General Fund, but will be sent to the School District.

The funds are secured from the sale of timber, land rent, hunting and fishing fees, etc. The Chairman thanked Mr. Belser and the Forestry Commission for their generous donation to the School District in which Manchester State Forest is located.

ACTION: Received as information.

2. First Reading -- 10-716 -- An Ordinance To Restructure And Reorganize The Sumter County Airport Commission.

The Attorney, Johnathan Bryan, stated that this ordinance, (See Attached Ordinance) as requested by County Council, will restructure and reorganize the Sumter Airport Commission. This ordinance will grant Sumter County Council the authority to appoint all five members of the Commission. Then, the Commission members will elect their officers (Chairman, Vice Chairman, etc.).

Mr. Bryan asked Council to consider granting first reading to this ordinance as presented. After all discussions, Council took action on first reading.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to grant first reading approval.

3. **First Reading -- 10-717 -- An Ordinance To Regulate Outdoor Burning In Sumter County Within All Residential Zoning Districts Except The Agricultural Conservation Zoning District And Within Two Hundred Feet Of A Residential Subdivision.**

The County Attorney also presented this proposed outdoor burning ordinance. Mr. Bryan stated that this ordinance may require some changes as Council proceeds through the reading on this ordinance. He stated that the purpose of the ordinance is to regulate outdoor burning in the more densely populated areas of the County.

This ordinance is modeled after the Richland County burn ordinance. Mr. Bryan also stated that since the printing of this ordinance, he has received some comments from the Planning Director, Mr. George McGregor. Mr. McGregor suggests that instead of trying to regulate this ordinance by zoning districts, that it should be regulated by "lot size." Mr. Bryan stated that the suggestion from Mr. McGregor and after talking with several Council members, regulating by lot size has some merit.

The Attorney asked Council members what lot size they would like to use as the area to permit outdoor burning in a densely populated area.

There are current State Laws that the citizens must follow; however, there are no County ordinances which regulate outdoor burning. Councilman Baker stated that several citizens have contacted him about helping them introduce this ordinance to Council for consideration. He added that some of the citizens have stated that during the fall people rake their leaves and then burn them in their yards while their neighbors windows may be open. This causes the burn stench to remain in the homes and even causes some asthma sufferers to have asthma attacks.

Councilwoman Sanders stated that State Law requires that a person must call the Forestry Commission prior to initiating a burn. She also stated that even though the recycling center will accept limbs and leaves, the Center is not opened everyday of the week.

ACTION: MOTION was made by Councilman Blanding, seconded by Councilwoman Sanders, and carried by Council to defer first reading until more information can be received concerning this proposed ordinance. Councilman Baker voted nay. The motion carried.

4. **First Reading -- 10-718 -- An Ordinance Amending Chapter 30, Article Ii, Section 30-22, Code Of Ordinances, Sumter County, South Carolina Adding Two New Members To The County Cultural Commission.**

The County Attorney presented this proposed ordinance. He stated that the Cultural Director, Mr. Booth Chilcutt asked that this ordinance be developed to add two members to the Commission. The two new members would include one from the Army and one from the Air force. Each one of the branches, Army and Air Force, would nominate a person and then Council would approve the nomination.

The ordinance before Council listed one member from the Ninth Air Force/United States

Air Force Central; however, the person as commander for the Ninth Air Force is not one in the same as United States Air Force Center. Therefore, since the writing of this ordinance the Attorney, Mr. Bryan, spoke to Retired General Thomas Olsen about the protocol for the Air Force and which person would be best to make the recommendation to Council. General Olsen stated that it would be best to have the appointment by United States Air Force Central.

Mr. Bryan asked Council to delete the verbiage of "Ninth Air Force" and retain United States Air Force Central Commander as the person to make the recommendation.

Vice Chairman Baten had dialogue about his thoughts on Air Force Protocol and that the Ninth Air Force is the host wing at Shaw AFB.

Councilman Byrd stated that this ordinance was discussed several weeks ago in the Internal Affairs Committee and the Committee talked about the protocol information with Mr. Bryan.

Vice Chairman Baten asked for further research to be done about the protocol information prior to second reading.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Edens, and carried by Council to defer first reading until more information can be received concerning this proposed ordinance. Councilman Baker voted nay. The motion carried.

5. It May Be Necessary To Hold An Executive Session To Discuss A Personnel Matter, Receive A Legal Briefing, Or Discuss A Contractual Matter And Appropriate Actions May Be Required And Taken Thereafter.

A public hearing was held at the end of the meeting concerning the Internal Affairs Committee Report.

OLD BUSINESS:

- (1) 10-714 - Third Reading -- An Ordinance Establishing The Sumter County Stormwater Utility And The Services And Charges Relating Thereto.

The Chairman stated that she would like for Council to consider deferring third reading of this ordinance until such time that some additional questions from the citizens can be answered. Chairman McGhaney further stated that the citizens that contacted her were not concerned about implementing the ordinance; the citizens' concerns were about how the County was going to implement the ordinance and was it the most cost effective way to implement the ordinance. It appears that the farmers will be affected heavily by this ordinance if approved. Therefore, Council needs to look at ways to not negatively impact the farmers.

Councilman Blanding stated that he respectfully differ from the Chairman's thoughts on deferring third reading. He further stated that this ordinance has caused so much

confusion and it has been on Council's agenda for over two months or more. Also, he said that there have been public hearings on this matter and no one brought up the Chairman's concerns during the public hearings. Consequently, this is just another delay and two weeks or a month will not make a difference to support or non-support of the ordinance other than delaying the County's progression of the ordinance and other matters relating to this ordinance.

Vice Chairman Baten stated that he agrees with Councilman Blanding and that the very people that the Chairman wants to help are the people that do most of the damage to polluting the water. Chairwoman McGhaney disagreed with Vice Chairman Baten's comments.

Vice Chairman Baten further stated he will have to pay \$25.00 for one acre of land; but a farmer has to pay \$81 for 800 acres of land - who is most likely to pollute the water system - me with only one acre of land or a farmer who has pesticides, other pollutants, and the runoff is then in the water stream. He also said that Council will not be able to please everyone as it relates to this ordinance; he asked Council not to delay this any longer.

Chairman McGhaney said that she was contacted by constituents with legitimate concerns, and she listens to their concerns. She said that she is only asking Council to delay the third reading until the staff can explore every means of implementing this ordinance.

Councilman Edens stated that in respect of the Chairman he would offer a motion to defer. The Chairwoman stated that she will entertain a motion concerning third reading.

ACTION: MOTION was made by Councilman Edens and seconded by Councilman Byrd to defer third reading.

Then Council members had further discussion on the ordinance.

NOTE: The Chairman stated that one of the persons that contacted her works with Soil and Water Conservation and he has expressed that the costs to establish this ordinance can be reduced by a substantial amount of money.

Councilman Blanding asked what a delay would do to the requirements that Sumter County Council must adhere to concerning this ordinance. Peter Wilson, the County Engineer, stated that the delay would set-back the County on hiring inspectors, and other aspects of the implementation process. Mr. Wilson said that the implementation is February 11, 2011. (NOTE: information was later given to Council that the biggest concern is placing this matter on the tax roll and that deadline is October 1, 2010.)

Vice Chairman Baten asked Mr. Wilson whether or not he sees this ordinance, as it is currently written, as being a burden on farmers. Mr. Wilson stated the way the ordinance is written, crop agriculture is exempted, and agricultural industrial activities/agricultural animal activities will be subject to a fee. However, there is a credit system within the

ordinance which would allow the operations to apply if they can show that run-off from their agricultural activities does not enter the storm sewer system or water supply.

Vice Chairman Baten stated that since the credit system is already in the ordinance, then Council should not delay action on this ordinance.

RESTATED ACTION: MOTION was made by Councilman Edens, seconded by Councilman Byrd, and carried by Council to defer third reading until more information can be received concerning this proposed ordinance. Council Members Baten, Blanding, and Sanders voted in opposition. Council members, Baker, Byrd, Edens, and McGhaney voted in the affirmative. The motion carried.

- (2) 10-715 - Third Reading -- An Ordinance Imposing A Uniform Delinquency Penalty For Delinquent Payment Of The Solid Waste Disposal Fee, The Storm Water Service Charges And The Technology Fee For All Real Property In Sumter County South Carolina.

The County Attorney presented this proposed ordinance for third reading approval. He stated that this ordinance has had no changes since first reading. Then Council took action on third reading.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to grant third reading and adoption as presented. Vice Chairman Baten voted nay. The motion carried.

COMMITTEE REPORTS:

- (1) Internal Affairs Committee Meeting Held on **Monday, August 23, 2010, at 1:00 P.M.** In County Council's Conference Room at the County Administration Building - (Byrd, Blanding, and Sanders).

The Chairman of the Committee, Councilman Byrd gave the following report and recommendations:

- **Planning Commission** - Joint appoint between the City and County. This matter was discussed in executive session during this Council meeting - however; the Clerk to Council was asked to send a name to the City of Sumter requesting that the City send a response of support or rejection of the nomination made by Sumter County Council. No action was taken on this until the Executive Session. **Note:** Councilman Edens asked for Council to discuss this matter in executive session which will be held at the end of the meeting.
- **Cultural Commission** - Appoint Dr. D. Cannon, Jr. and Mark Hightower to the Cultural Commission.

ACTION: MOTION and second were received from the Committee, and unanimously carried by Council to approve the recommendation as presented.

- **Draft Of Proposed Airport Commission Ordinance** – Discussed during New Business.
 - **Draft Of Cultural Commission Ordinance** – Discussed during New Business.
- (2) Fiscal, Tax, and Property Committee Meeting Held on **Tuesday, August 24, 2010, at 5:00 P.M.** In County Council's Conference Room at the County Administration Building – (McGhaney, Blanding, and Edens).
1. **Executive Session – If Necessary Council May Hold An Executive Session To Discuss Contractual, Economic Development, or Personnel Matters, or Receive A Legal Briefing And Take Actions As Appropriate.**
 - a) Update On Contractual Matter Pertaining To Water
 - b) Contractual Matter With Waste Management
 - c) Contractual Matter With The City Of Sumter
 - d) Legal Briefing
 - e) Discussion On Matters Relating To The Proposed Location, Expansion, Or The Provision Of Services Which May Encourage Location Or Expansion Of Industries Or Other Businesses In Sumter County.
 2. Fiscal Year 2010-2011 Lease-Purchase Bid Information.
 3. Update on Airport Grant: Runway Safety Area Improvements (Construction); Wetland and Stream Mitigation, Planning & Monitoring.
 4. Additional Items: _____
- (3) Report From Council Members On Other Meetings, Trainings, and/or Conferences.

No reports given.

MONTHLY REPORTS: No Reports

ADMINISTRATOR'S REPORT:

- **Picnic Tables:** The Administrator introduced the Correctional Center Director who informed Council about Back To Zero Program. This program is in collaboration with the Adult Education Program and the Career Center. Basic carpentry is introduced to the inmates, Safety classes, Work Key Classes, as well as continuing education in the Adult Education Program. The Picnic Table will be marketed and sold; but no funds will be given to the County or the Correctional Center. The funds from sale of the tables will be used to decrease the arrears that the inmates owe for child support. The Vocal Rehabilitation Agency and Central Carolina Technical College will also work with these individuals once they leave the Correctional Center so that they will continue to be trained

and gain employment. The work on the picnic tables are done after the normal work hours of the inmates that assist within the County departments.

- **GIS:** The County has received compliments concerning the County's GIS/Mapping System.
- **Sumter Stormwater Solutions - Year 1 2008-2009 Annual Report Of Activities** as of November 2009. Carolina Clear has provided Council members with a copy of an annual report of the Stormwater activities. Each Council member was given a copy.
- **Stormwater Programs Throughout The State:** The Administrator reported that all Counties within the State will ultimately have to implement a stormwater program. However, larger Counties with populations of over 100,000 must have a program implemented by February 2011. The Counties that have already completed the implementation process are Beaufort, Charleston, Dorchester, Georgetown, Greenville, Richland, Lexington, and Rock Hill.
- **Stormwater Fee:** The Administrator also provided Council members with a breakout of the fees and the implementation funding for Sumter County's Stormwater Program.

PUBLIC COMMENT:

The Chairman asked if anyone from the public would like to address members of Sumter County Council. The following persons spoke to Council during public comment.

- **Lewis Watkins** thanked Council members for allowing the inmates to receive training. He then asked whether or not the inmates had OSHA cards. Mr. Major informed him that all of the inmates are OSHA certified.
- **Mr. Steve Schmidt** thanked Council and especially the Chairman for deferring the Stormwater Third Reading. Mr. Schmidt said that he would like to have the same waiver as the farmers if the Stormwater Ordinance is passed. He also asked Council to not support the County Burn Ordinance and require citizens to go to the recycling centers.
- **Mrs. Moore** stated that the burning is a very serious matter in the Cherryvale Community. She also talked to Council about the problems that still exists with the Pit Bull Dogs.
- **Cheryl Edwards** stated that she lives in the Cherryvale community. She said that burning in the Cherryvale community is out of control. Recently a member of the community had a fire for fourteen days straight; the fire and police told the people not to burn, but they kept doing it. There are approximately 100 homes in this community and there can be at least three or four unattended burnings going on at any given time.
- **Mr. Reginald Evans** asked Council members to consider placing a referendum on the ballot for November to be known as a "Penny For Education."

EXECUTIVE SESSION:

The Chairman stated that she would entertain a motion to enter executive session.

ACTION: MOTION was made by Councilman Edens, seconded by Councilman Byrd, and unanimously carried by Council to enter executive session to discuss a possible Planning Commission appointment.

At the conclusion of executive session, Council re-entered open session.

ACTION: MOTION was made by Councilman Edens, seconded by Councilman Blanding, and unanimously carried by Council to return to open session.

REPORT FROM EXECUTIVE SESSION:

The Chairman of the Internal Affairs Committee, Councilman Byrd, presented the Committee's recommendation for this joint appointment between the City and County. The Committee has a name that will be sent to the City by the Clerk to Council requesting that the City send a response of support or rejection of the nomination as recommended by Sumter County Council.

ACTION: MOTION and second were received from the Committee, and unanimously carried by Council to approve the recommendation as presented.

ADJOURNMENT:

There being no further business and no additional comments from the public, the meeting was adjourned at 7:10 p.m. after a motion by Councilman Byrd, a second by Councilman Blanding, and unanimously carried by Council.

Respectfully submitted,

Vivian Fleming McHaney
Chairman or Vice Chairman
Sumter County Council

Mary W. Blanding
Clerk to County Council
Sumter County Council

Approved: September 14, 2010



I certify that public and media notification of the above-mentioned meeting was given prior thereto as follows:

Public Notified: Yes

Manner Notified: Agendas posted on bulletin board on third floor of the Administration Building.

Date Posted: August 18, 2010

Media Notified: Yes

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Manner Notified: Agendas were sent to most radio stations, television stations, and newspapers in the Sumter, Columbia, Manning, and Florence communities. Also, E-Mail notification was sent to Sumter County's Home Page, WIBZ, The Item, The Chamber, and Time Warner Cable.

Date Notified: August 18, 2010

Respectfully submitted,

Mary W. Blanding

Mary W. Blanding

SUMTER COUNTY ORDINANCE NO. 10-716

**AN ORDINANCE TO RESTRUCTURE AND REORGANIZE
THE SUMTER COUNTY AIRPORT COMMISSION**

WHEREAS, The Sumter Airport Commission was created by the General Assembly by Act #414 of the Regular Session of 1959; and

WHEREAS, the original name of the organization was the Sumter Airport Commission; and

WHEREAS, the original act creating the Sumter Airport Commission authorized the City of Sumter to appropriate and donate to the Commission such sums of money as it may deem expedient and necessary for the purposes of carrying out the provisions of the act and a similar power was delegated to the County of Sumter through the Legislative Delegation, upon the advice of the Sumter COMMISSION of Commissioners.; and

WHEREAS, the original enumerated powers of the Sumter Airport Commission included the powers to receive gifts and donations, to hold and enjoy property (both real and personal) for the purpose of establishing and maintaining airports in Sumter County and to make such rules and regulation as may be necessary in the conduct and operation of such airports; and

WHEREAS, Article VIII, Section 7 of the South Carolina Constitution, ratified on March 7, 1973, prohibits the General Assembly from enacting "special legislation" or laws which affect only one county; and

WHEREAS, the General Assembly enacted Act #283 in 1975, commonly referred to as the Home Rule Act, which is codified in Section 4-9-10 through 4-9-1230, Code of Laws of South Carolina,(1976, as amended); and

WHEREAS, Section 4-9-30, Code of Laws of South Carolina authorizes the different counties in South Carolina:

- (6) to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title...; and

WHEREAS, the County Council for Sumter County finds that it is in the best interest of Sumter County to restructure and reorganize the Sumter Airport Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AT ITS REGULAR MEETINGS DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

That Act #141 of the Regular Session of the General Assembly of 1959 is hereby revised, and, where in conflict with this ordinance, repealed and the following shall be the ordinance of the County of Sumter establishing the Sumter County Airport Commission.

1. Sumter County Airport Commission created; Members; Terms; Appointments. There is hereby created a commission in and for Sumter County to be known as the Sumter County Airport Commission (hereinafter, "COMMISSION"), which shall be composed of five (5) members to be appointed by the majority vote of the County Council for Sumter County. The terms of office shall be for three (3) years and until their successors are appointed and qualified. The County Council for Sumter County shall initially appoint two members to serve one (1) year, two members to serve two (2) years and one member to serve three (3) years. Any vacancy shall be filled in the manner of the original appointment for the unexpired portion of the term. To the maximum extent possible, all appointees serving on the COMMISSION at the time this ordinance passes third reading shall be allowed to complete their unexpired terms. Appointees serving on the COMMISSION at the time this ordinance passes third reading may have their terms extended to fulfill the requirements of this section. All appointments to membership on the COMMISSION shall be transmitted to the Clerk of Sumter County Council who shall properly record the same on the permanent records of his/her office. COMMISSION members may serve no more than two terms consecutively. After two consecutive terms, COMMISSION members

may not serve as a member of the COMMISSION for a minimum of one year.

Non-voting "Ex Officio" members of the COMMISSION shall be: the County Administrator or his delegate; the Airport Manager or a delegate; and the United States Air Force Twentieth Fighter Wing Commander or his delegate.

2. Purpose and Powers. The COMMISSION is created to promote commercial and general aviation in Sumter County and to oversee the operations of the Sumter Airport. The COMMISSION shall have the power to receive any gifts or donations from any source, to enter into contracts concerning the operation of the airport, to make such rules and regulations as may be necessary in the conduct and operation of the Sumter Airport and shall have such other powers as may be necessary to carry out the purposes of this Ordinance. The COMMISSION shall make recommendations to Sumter County Council regarding funding of the airport operations and zoning of property at and near the airport.
3. Officers, Meetings, Records. The COMMISSION shall elect one (1) of its members as Chairman and one (1) of its members as Vice Chairman. Meetings of the COMMISSION shall be held at the call of the Chairman and at such other times as the COMMISSION may determine. The members of the COMMISSION shall serve without pay but may be reimbursed for actual expenses incurred in attending meetings and other necessary expenses in connection with business of the COMMISSION from available funds, approved in advance. The COMMISSION shall keep minutes of its proceedings and shall make records of all official actions, which minutes and records shall be available for inspection at all times by the County Council for the County of Sumter, or its designee.

4. Appropriations; Expenditures; Gifts; and Grants. The funds necessary to pay for maintenance and capital improvements of the real and personal property located at the airport and other necessary expenses of the COMMISSION shall be appropriated in the annual budget for the County of Sumter. The COMMISSION shall coordinate the receipt of all revenue and expenditure of all expenses through Sumter County Administration which, in turn, shall provide to the Commission a monthly, itemized verified statement of all revenue and expenditures. The COMMISSION may accept gifts and grants of money from either private or public resources to be used in the promotion of commercial and general aviation and all such money shall be accounted for in the same manner as funds appropriated by the County of Sumter.
5. Cooperation with other Agencies. For the purpose of carrying out the other provisions of this Ordinance, the COMMISSION is authorized to cooperate with the United States Department of the Air Force, the South Carolina Aeronautics Commission, the South Carolina Department of Commerce, the Sumter Development Board, the Sumter City-County Planning Commission, all towns, all Chambers of Commerce, all business leagues, all civic clubs and other similar organizations in Sumter County and all other agencies and organizations within and without the county which the COMMISSION may desire to cooperate with in the furtherance of the development and advertisement of commercial and general aviation in Sumter County.
6. Saving Clause. If any provision of this Act shall be held invalid for any reason, such holding should not affect the remainder thereof.
7. Repeal. All acts or parts of acts inconsistent herewith are repealed.
8. Effect. This Ordinance shall take effect upon third reading of the Ordinance.

**THE COUNTY COUNCIL FOR SUMTER COUNTY
SOUTH CAROLINA**

BY: _____
Vivian Fleming McGhaney
ITS: Chairman

ATTEST:

BY: _____
Mary W. Blanding
ITS: Clerk to County Council

First Reading: _____

Second Reading: _____

Third Reading and Adoption: _____

ORDINANCE NO. 10-717

AN ORDINANCE TO REGULATE OUTDOOR BURNING IN SUMTER COUNTY
WITHIN ALL RESIDENTIAL ZONING DISTRICTS EXCEPT THE
AGRICULTURAL CONSERVATION ZONING DISTRICT AND WITHIN TWO
HUNDRED FEET OF A RESIDENTIAL SUBDIVISION

WHEREAS, Sumter County Council recognizes that fire is a common hazard to all residential structures; and

WHEREAS, Sumter County Council further recognizes that smoke from fire is a hazard to public health and safety and an impediment to the peaceful, comfortable and quiet enjoyment of residential property;

WHEREAS, Sumter County Council finds that open burning near residential property in areas zoned particularly for residential uses should be more closely regulated than open burning in the rural areas;

NOW, THEREFORE, it is hereby resolved by Sumter County Council in meeting duly assembled, that:

Section 1. Definitions. "Residential Property" means, for the purposes of this Ordinance, a tract or parcel of land which is used for residential purposes and which is located in one of the Sumter County Residential Zoning Districts, including specifically, the R-15 Single-Family Residential District, the R-9 Single Family Residential District, the R-6 Residential District, the General Residential District and the Residential Multi-Family District. For purposes of this Ordinance, "Residential Property" does not include property in the Agricultural Conservation Zoning District.

Section 2. Prohibition. It shall be unlawful for any person to kindle or maintain any open burning or authorize any such fire to be kindled or maintained on Residential Property or within two hundred feet of Residential Property in Sumter County, except as provided below:

- (A) The burning must be located not less than fifty (50) feet from any structure and adequate provision is made to prevent the fire from spreading within fifty (50) feet of any structure; and
- (B) The burning must be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to a water supply, or other fire extinguishing equipment readily available for use. Proper notification shall be given to the State Forester or his duly authorized representative or other persons designated by the State Forester. The notice shall contain all information required by the State Forester or his representative. The burning must be conducted in accordance with all

applicable laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-62.4 and state statute §48-35-10, et seq.; and

- (C) All burnings must be extinguished by 4:00 p.m. and no burnings shall be permitted between 4:00 p.m. one day and 9:00 a.m. of the following day with the exception of fires in connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth and those fires where the time parameters are already regulated by Department of Environmental Control Regulation 61-62-2.

Section 3. Authority to Prohibit Permitted Burnings. The Official charged with the administration and enforcement of this Ordinance may prohibit open burning that is otherwise authorized by this ordinance when atmospheric conditions, local circumstances or other conditions exist that, in the sole determination of such Official, would make such fires hazardous.

Section 4. County Roads and Drainage Right-of-Ways. Open burning shall be prohibited on all Sumter County roads and drainage right-of-ways or within an area that may cause damage to any Sumter County road or drainage right-of-way.

Section 5. Inapplicability. The provisions of this Ordinance do not apply to the following:

- (A) Vegetative debris burning related to forestry, wildlife, and agricultural burns authorized by the South Carolina Forestry Commission.
- (B) Any burning in connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth, so long as such burnings are performed in a safe manner.
- (C) Fires set for the purposes of training public fire-fighting personnel when authorized by the appropriate governmental entity, and fires set by a private industry as a part of an organized program of drills for the training of fire-fighting personnel. These will be exempt only if the drills are solely for the purposes of fire-fighting training and the duration of the burning is held to the minimum required for such purposes. Prior approval is required only for sites which are not established training sites.

Section 6. Hazardous or Toxic Materials. The burning of hazardous or toxic materials shall not be permitted under any circumstances.

Section 7. Liability. Any burning authorized by the provisions of this ordinance shall not relieve the individual responsible for such burning from any civil or criminal liabilities which may occur as a result of such burning.

Section 8. Severability. Should any section, paragraph, clause, phrase, or provision of this ordinance be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 9. Conflicts. In the event any conflict may arise between the provisions of this ordinance and any state law, the provisions of state law shall prevail and be controlling.

Section 10. Penalties. Any person, firm, corporation or agent, who shall violate the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court. Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, or continued.

Section 11. Administration and Enforcement. The provisions of this ordinance shall be administered and enforced by the Sumter County Fire Chief, or his/her designated representative, in whose area the burning occurs.

Section 12. Separability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions.

Section 13. Effective Date. This ordinance shall take effect on the date of its adoption.

This Ordinance is done, ratified and adopted this _____ DAY OF _____, 2010.

Vivian Fleming McGhaney, Chairman
Sumter County Council

ATTEST:

Mary W. Blanding
Clerk to Council

First Reading: _____, 2010.

Second Reading: _____, 2010.

Third Reading and Adoption: _____, 2010.