



**AGENDA  
TOWN OF FORT MILL  
TOWN COUNCIL MEETING  
February 8, 2010  
7:00 PM**

**CALL TO ORDER**

Mayor Funderburk

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

1. Town Council Meeting: January 11, 2010 *Pages 4 – 6*
2. Town Council Meeting: January 25, 2010 *Pages 7 – 8*

**PUBLIC HEARING**

The following item has been advertised for a Public Hearing:

1. Ordinance No. 2010-01 (Roll Cart Fee Ordinance)

**PUBLIC COMMENT**

Pursuant to § 2-46 of the Code of Ordinances for the Town of Fort Mill, any resident may appear before council for the purpose of providing public comments on any municipal matter (except personnel matters). Those who wish to speak must sign the Public Comment sheet prior to the start of the meeting.

**PRESENTATIONS**

1. Presentation of a Resolution to Lowe's Home Improvement Warehouse
2. York County Emergency Response Team Presentation

## INTRODUCTION AND OATH FOR NEW POLICE OFFICERS

1. The following individuals shall be introduced and take an oath before entering upon the duties of their positions:
  - Ray Atwell
  - Greg Felzer

## OLD BUSINESS

1. Ordinance 2010-01 (Second Reading): *Pages 9 – 12*  
An ordinance amending the Code of Ordinances for the Town of Fort Mill; Chapter 28, Solid Waste Management; Article II, Containers; Sections 28-26, Receptacles for Garbage and Refuse; and 28-27, Damage and Loss of Mobile Container; so as to implement a fee for the issuance of new and replacement mobile garbage containers
2. Ordinance No. 2010-02 (Second Reading) *Pages 13 – 19*  
An ordinance authorizing the execution of a lease-purchase agreement in an amount not to exceed \$411,000 relating to the acquisition of certain equipment by the Town of Fort Mill, South Carolina; authorizing the execution of other necessary documents and papers; and other matters relating thereto
3. Ordinance No. 2010-03 (Second Reading) *Pages 20 – 37*  
An ordinance amending the code of ordinances for the Town of Fort Mill; Chapter 4, Animals; Article II, Animal Control; so as to repeal Division 1, Generally; Sections 4-31 through 4-42; and Division 2, Rabies Control; Sections 4-56 through 4-57; to adopt animal and rabies control regulations consistent with those adopted by York County; to authorize York County Animal Control Officers to enforce animal and rabies control regulations within the Town of Fort Mill; and to authorize an intergovernmental agreement between the Town of Fort Mill and York County for the administration and enforcement of animal and rabies control regulations within the Town of Fort Mill
4. Consideration of Appointments to Town Boards and Commissions *Page 38*
  - Planning Commission
  - Board of Zoning Appeals

## NEW BUSINESS

1. Consideration of Lease Agreement relating to the acquisition and operation of athletic programs *Page 39*  
*(Eligible for Discussion in Executive Session)*
2. Ordinance No. 2010-04 (First Reading) *Pages 40 – 43*  
An ordinance amending the Fiscal year 2009-10 General Fund Annual

Budget for the Town of Fort Mill to appropriate two hundred sixty-one thousand five hundred and fifty-two dollars (\$261,552) to fund revenues and expenditures related to the town's acquisition and operation of athletic programs

3. Ordinance No. 2010-05 (First Reading)

*Pages 44 – 48*

An ordinance amending the Zoning Ordinance for the Town of Fort Mill; Article IV, Landscaping Standards; Section 6, Lighting Standards; so as to amend lighting regulations within the Town of Fort Mill

**REPORT OF THE TOWN MANAGER**

1. Presentation of FY 2009-10 Budget Books
2. Strategic Planning Retreat:  
Friday, February 19, 2010 – 12:00 pm to 5:00 pm  
Saturday, February 20, 2010 – 8:00 am to 1:00 pm

**EXECUTIVE SESSION**

There are no items for discussion in executive session.

**ADJOURN**

**MINUTES  
TOWN OF FORT MILL  
TOWN COUNCIL MEETING  
January 11, 2010  
7:00 P.M.**

Present: Councilmen Huntley, Mosher, Starnes, Helms, and Adams, Mayor Funderburk, Councilwoman-Elect Guynn Savage, Manager Hudspeth, Attorney Mack, Clerk Beachum

Absent: Councilman Gibson (illness)

Guests: Deputy Chief Jerry Chapman (FMFD), Engineering Director Paul Mitchell, Toya Graham-Fort Mill Times, Judge Peter Lenzi, Chief Kerber, Sarah Savage, Russell Savage, Matt Savage, Sharon Mosher, Patrick Geil, Jeffrey Kendall, Russell Rogers, James Broome, Andy Mosher, Jeff Reese, Curt Tillman, Father John Giuliani, Patsy Huntley, Public Works Director Davy Broom, Mike Pierce, Public Works Supervisor Justin Krueger, Andy Robinson-Fort Mill Police Department, Assistant Town Manager Joe Cronin

Mayor Funderburk called the meeting to order at 7pm and led the Pledge of Allegiance. Councilman Adams gave the invocation and Mayor Funderburk welcomed everyone. Councilman Starnes made a motion to approve the minutes of the December 14, 2009 meeting as submitted, with a second by Councilman Helms. Motion approved with a 6-0 vote.

**OATHS OF OFFICE**

- 1. Introduction and Oaths for New Firefighters:** Mayor Funderburk administered the oaths to the three new firefighters: Patrick Geil, Jeffrey Kendall and Russell Rogers. Chief Kerber congratulated the new firefighters, and also recognized lieutenants who were promoted as of January 1, 2010, and those are Jeff Reese, Curt Tillman and James Broome. Mayor Funderburk and Council welcomed the new firefighters and congratulated those who were promoted.
- 2. Oaths of Office for Town Council:** Mayor Funderburk called on Father John Giuliani, who administered the oaths of office for Councilman Mosher, who was accompanied by his wife Sharon. Mayor Funderburk then called on Judge Peter Lenzi, who administered the oaths of office to Councilman Huntley, who was accompanied by his wife Patsy, and to Councilwoman Savage, who was accompanied by her daughter Sarah. Mayor Funderburk and Council welcomed and congratulated the newly elected and re-elected Councilmembers.
- 3. Election of Mayor Pro-Tem:** Councilman Starnes nominated Councilman Huntley as Mayor Pro-Tem, who was approved with a 6-0 vote.

**NEW BUSINESS**

1. **An Ordinance Amending the Code of Ordinances for the Town of Fort Mill; Chapter 28, Solid Waste Management; Article II, Containers; Sections 28-26, Receptacles for Garbage and Refuse; and 28-27, Damage and Loss of Mobile Container; so as to Implement a Fee for the Issuance of New and Replacement Mobile Garbage Containers:** Mayor Funderburk announced a Public Hearing will be held on this item at the February 8, 2010 meeting. Councilman Starnes made a motion to approve as first reading, with a second by Councilwoman Savage. Motion approved with a 7-0 vote.
2. **A Resolution Granting the Town of Fort Mill's Consent to an Ordinance of the York County Council to Reduce the Late Payment Penalties for Taxes Due on Real Property for the Tax Year 2009:** Councilman Starnes asked what action other municipalities have taken, and Manager Hudspeth replied that there hasn't been any opposition to this proposal. Councilman Adams made a motion to approve the resolution with a second by Councilman Mosher. Motion approved with a 7-0 vote.
3. **Consideration of Appointments to Town Boards and Commissions:** Councilman Adams made a motion to approve the reappointments of Thomas Petty, Jr., and John Garver to the Planning Commission, with a second by Councilwoman Savage. Motion approved with a 7-0 vote. Councilwoman Savage made a motion to approve the reappointment of Lloyd Riley and David Bowman to the Zoning Board of Appeals, with a second by Councilman Helms. Motion approved with a 7-0 vote. Councilman Adams made a motion to approve the reappointment of Phyllis Carswell and Chip Heemsoth to the Historical Review Board, with a second by Councilwoman Savage. Motion approved with a 7-0 vote.

## **ANNOUNCEMENTS**

Mayor Funderburk announced the second annual Martin Luther King, Jr., Event to be held at Town Hall on January 18, at 11am; he encouraged all citizens to attend. Mayor Funderburk also noted a Planning Retreat is tentatively scheduled for February 19 and 20; and other possible dates for future planning retreats include May 15, August 14, and November 19. He congratulated the Fort Mill Church of God on the opening of their education building.

Mayor Funderburk and Council welcomed Councilwoman Savage back to Council, and also relayed their gratitude to Councilman Gibson for his many years of dedicated service to the citizens and the Town.

Councilman Starnes made a motion to allow Manager Hudspeth to draft a resolution recognizing Lowe's Home Improvement for their efforts in bringing the troops home for Christmas prior to their deployment, with a second by Councilwoman Savage. Motion approved with a 7-0 vote.

Manager Hudspeth gave an update on the proposed hospital and stated it is still in litigation and will be for the near future. He also indicated consideration is being given to having a rotating artists display for the Hall of Fame.

There being no further business, Councilman Starnes made a motion to adjourn, with a second by Councilman Mosher. Motion approved with a 7-0 vote and Town Council adjourned at 7:35pm.

Respectfully submitted,

April Beachum  
Town Clerk

David E. Hudspeth  
Town Manager

**MINUTES  
TOWN OF FORT MILL  
TOWN COUNCIL WORKSHOP/MEETING  
January 25, 2010  
7:00 A.M.**

Present: Councilmen Huntley, Mosher, Starnes, Helms, and Councilwoman Savage, Mayor Funderburk, Manager Hudspeth

Absent: Councilman Adams

Guests: Assistant Town Manager Joe Cronin, Engineering Director Paul Mitchell

Mayor Funderburk called the meeting to order at 7am and led the Pledge of Allegiance. Councilman Helms gave the invocation and Mayor Funderburk welcomed everyone.

**NEW BUSINESS**

- 1. First Reading of an Ordinance Authorizing the Execution of a Lease-Purchase Agreement in an Amount Not to Exceed \$411,000 Relating to the Acquisition of Certain Equipment by the Town of Fort Mill, South Carolina; Authorizing the Execution of Other Necessary Documents and Papers; and Other Matters Relating Thereto:** Manager Hudspeth reminded Council that this is the lease-purchase agreement for items discussed during the budget workshops. The items include new vehicles for the police department, fire department, and public works department. Councilman Starnes made a motion to approve as first reading, with a second by Councilwoman Savage. Motion approved with a 6-0 vote.
  
- 2. First Reading of an Ordinance Amending the Code of Ordinances for the Town of Fort Mill; Chapter 4, Animals; Article II, Animal Control; so as to Repeal Division I, Generally; Sections 4-31 through 4-42; and Division 2, Rabies Control; Sections 4-56 through 4-57; to Adopt Animal and Rabies Control Regulations Consistent with those Adopted by York County; to Authorize York County Animal Control Officers to Enforce Animal and Rabies Control Regulations within the Town of Fort Mill; and to Authorize an Intergovernmental Agreement between the Town of Fort Mill and York County for the Administration and Enforcement of Animal and Rabies Control Regulations within the Town of Fort Mill:** Councilman Huntley and Councilwoman Savage asked for some clarification and comparisons regarding the current ordinance and the proposed ordinance. Councilman Mosher made a motion to approve as first reading, with a second by Councilman Helms. Motion approved with a 6-0 vote.

**ANNOUNCEMENTS**

Mayor Funderburk announced the 2010 Strategic Planning Retreat will be on February 19, from 12pm-5pm, and on February 20, from 8am-1pm. He asked for Council to advise him or Manager Hudspeth of any items they would like to see on the agenda. Mayor Funderburk also

stated the marketing packages are just about complete and ready to be sent out. He also asked for Council to consider ways to assist and engage the elderly community in Fort Mill. Mayor Funderburk praised the upgrades that have been made to Channel 19, and is looking forward to the website being upgraded as well. He asked for Manager Hudspeth to ask RFATS and/or York County for a Southern Bypass update.

### **EXECUTIVE SESSION**

Councilman Starnes made a motion to move into Executive Session to discuss proprietary information related to a proposed contract for the purchase of real property on Academy Street, and to discuss information incidental to proposed contractual arrangements with Leroy Springs Recreation Complex, and to discuss a personnel matter regarding the Town Manager's contract, with a second by Councilman Huntley. Motion approved with a 6-0 vote, and Town Council moved into Executive Session at 7:20am.

### **OPEN SESSION**

Town Council reconvened in Open Session at 8:20am, and Mayor Funderburk reported no action or votes were taken in Executive Session.

Councilman Starnes made a motion to approve the Town Manager's contract through December 31, 2012, with a second by Councilwoman Savage. Motion approved with a 6-0 vote.

There being no further business, Councilman Starnes made a motion to adjourn, with a second by Councilman Helms. Motion approved with a 6-0 vote and Town Council adjourned at 8:28am.

Respectfully submitted,

April Beachum  
Town Clerk

David E. Hudspeth  
Town Manager

**Town Council Meeting  
February 8, 2010  
Old Business Item #1**

**Ordinance No. 2010-01 (Second Reading)**

**An ordinance amending the Code of Ordinances for the Town of Fort Mill; Chapter 28, Solid Waste Management; Article II, Containers; Sections 28-26, Receptacles for Garbage and Refuse; and 28-27, Damage and Loss of Mobile Container; so as to implement a fee for the issuance of new and replacement mobile garbage containers**

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Council is asked to adopt an ordinance that would establish a \$75 user fee for the purchase of new and replacement rollout mobile garbage containers.

During the adoption of the FY 2009-10 budget, revenues were budgeted from the collection of fees for the purchase of new and replacement roll carts. In order to collect the fee, the town's code of ordinances must be amended to establish and implement a fee.

Because this ordinance will authorize the collection of a new user fee, the ordinance will require two readings and a public hearing, consistent with Section 6-1-330 of the S.C. Code of Laws.

First reading was given on January 11<sup>th</sup>, and a public hearing has been scheduled for the February 8<sup>th</sup> meeting prior to second reading.

In the coming months, staff will be working on a more comprehensive re-write to Chapter 28 (Solid Waste) so that the code accurately reflects the current practices and policies currently in place in the town.

**Staff Recommendation:**

This ordinance is consistent with council's action during adoption of the FY 2009-10 Budget. If council chooses not to adopt the ordinance, the fee will not be collected, and a shortfall will be expected in the budgeted amount for garbage revenues. Staff recommends approval. A public hearing will take place on February 8<sup>th</sup> prior to second reading consideration.

Joseph M. Cronin  
Assistant Town Manager  
February 3, 2010

STATE OF SOUTH CAROLINA  
TOWN COUNCIL FOR THE TOWN OF FORT MILL  
ORDINANCE NO. 2010-01

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF FORT MILL; CHAPTER 28, SOLID WASTE MANAGEMENT; ARTICLE II, CONTAINERS; SECTIONS 28-26, RECEPTACLES FOR GARBAGE AND REFUSE; AND 28-27, DAMAGE AND LOSS OF MOBILE CONTAINER; SO AS TO IMPLEMENT A FEE FOR THE ISSUANCE OF NEW AND REPLACEMENT MOBILE GARBAGE CONTAINERS

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. Amending to Section 28-26 to establish a fee for new rollout mobile containers.

The Code of Ordinances for the Town of Fort Mill; Chapter 28, Solid Waste Management; Article II, Containers; Section 28-26, Receptacles for Garbage and Refuse; is hereby amended to read as follows:

**Sec. 28-26. Receptacles for garbage and refuse.**

(a) Containers shall be supplied to households for garbage and refuse as follows:

(1) All households shall be provided by the town with one rollout mobile container, except as otherwise provided in this chapter, which shall remain the property of the town. If a new rollout mobile container is required at the time garbage service is established, a one-time user fee shall be charged at the time the customer establishes service. Beginning in fiscal year 2009-10, the fee for a new rollout mobile container shall be seventy-five (\$75) dollars. In future fiscal years, the fee for new rollout mobile containers shall be established in the annual budget ordinance.

(2) If one mobile container is not sufficient to hold the quantity of garbage accumulated between collections, one additional mobile container may be purchased by the householder, tenant, or corporation from the town, ~~and an additional collection charge~~ The one-time user fee for an additional rollout mobile container shall be equal to the fee outlined in Section 28-26(a)(1), and will be applied to the householder's, tenant's, or corporation's sanitation billing. If more than two mobile containers are needed, the householder, tenant, or corporation may be required to use bulk containers and be serviced with self-loading garbage collection equipment.

(3) Backyard garbage service to disabled persons with permanent or temporary physical handicaps will be provided when there is no one in the residence or in the household physically capable of moving the mobile container from backyard to curbside. Persons wishing to obtain backyard service shall make application through the town manager's office, and he shall review each case. A doctor's statement of disability may be required

to substantiate existence of disability. Backyard garbage service will consist of only one pickup per week. Pickup day will be determined by the sanitation superintendent. Persons receiving such service shall place garbage in a heavy duty plastic bag and tie the bag at the top. The bag should be placed in a rollout where it will be picked up by town employees.

(4) Backyard service may be provided to nondisabled persons should they make application as provided in subsection (a)(3) of this section and pay an additional fee of four times the regular rate.

(5) Mobile containers shall be serviced as scheduled by the town, subject to variations required by weather, legal holidays, or other special causes. The householder, tenant or corporation shall arrange for all mobile containers to be placed at the street curb and returned to the occupant's rear premises consistently with the schedule so established and promulgated by the town.

SECTION II. Amending to Section 28-27 to establish a fee for rollout mobile containers that are replaced due to abuse, neglect, or improper use by the householder.

The Code of Ordinances for the Town of Fort Mill; Chapter 28, Solid Waste Management; Article II, Containers; Section 28-27, Damage and Loss of Mobile Container; is hereby amended to read as follows:

**Sec. 28-27. Damage and loss of mobile container.**

Mobile containers shall remain the property of the town and are provided and assigned to householders for their health, safety, convenience and general welfare. Containers which are damaged, destroyed, or stolen through abuse, neglect, or improper use by the householder shall be replaced by the town at the expense of the householder. A one-time user fee shall be required for rollout mobile containers that are replaced due to abuse, neglect, or improper use by the householder. The fee for replacement mobile rollout containers shall be equal to the fee outlined in Section 28-26(a)(1); however, containers which are damaged in the course of normal and reasonable usage, or which are damaged, destroyed, or stolen through no abuse, neglect, or improper use by the householder shall be repaired or replaced by the town at no charge. The householder shall notify the sanitation superintendent of loss or damage in any event, regardless of how occasioned, and the sanitation superintendent shall dispatch a representative to confer with householder, ascertain the facts and circumstances of the loss or damage, and determine responsibility therefor. The containers shall not be damaged, destroyed, defaced or removed from the premises by any person. Markings and identification devices on the containers, except as placed or specifically permitted by the town, are expressly prohibited and shall be regarded as damage to the containers.

SECTION III. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, the validity of the remaining sections, subsections, paragraphs, clauses, or provisions shall not be affected thereby.

SECTION IV. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall take effect upon adoption of the ordinance.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First Reading: 01/11/2010  
Public Hearing: 02/08/2010  
Second Reading: 02/08/2010 (Tentative)

TOWN OF FORT MILL

\_\_\_\_\_  
Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

\_\_\_\_\_  
B. Bayles Mack, Town Attorney

\_\_\_\_\_  
David E. Hudspeth, Town Manager

**Town Council Meeting  
February 8, 2010  
Old Business Item #2**

**Ordinance No. 2010-02**

**An ordinance authorizing the execution of a lease-purchase agreement in an amount not to exceed \$411,000 relating to the acquisition of certain equipment by the Town of Fort Mill, South Carolina; authorizing the execution of other necessary documents and papers; and other matters relating thereto**

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During the adoption of the FY 2009-10 Budget, the Town Manager recommended that several capital purchases be obtained under a lease-purchase agreement during the current fiscal year. The lease-purchase option would allow the town to purchase needed equipment during the current fiscal year and defer payment on these items to future budget years.

Based on capital requests submitted by department directors during the FY 2009-10 budget process, the Town Manager has recommended that the following items be purchased during the current fiscal year under a lease purchase agreement:

<b><u>General Fund Department</u></b>	<b><u>Description</u></b>
Police	4 Vehicles
Fire	4 door utility pick up – 4 wheel drive
Street	Knuckle Boom Lawn Mower Truck Ford F-450 Dump Truck
<b><u>Gross Rev. Fund Department</u></b>	<b><u>Description</u></b>
Water	Utility Truck Pickup Truck Pickup Truck

The attached ordinance would authorize the execution of a lease-purchase agreement in an amount not to exceed \$411,000. First reading approval was given on January 25<sup>th</sup>.

**Recommendation**

Staff recommends approval of the ordinance. Approval would allow the town to purchase needed equipment and spread the payments over future budget years. The selected bank and interest rate will be presented during the February 8<sup>th</sup> meeting prior to second reading consideration.

David E. Hudspeth  
Town Manager  
February 3, 2010

STATE OF SOUTH CAROLINA  
TOWN COUNCIL FOR THE TOWN OF FORT MILL  
ORDINANCE NO. 2010-02

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE-PURCHASE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$411,000 RELATING TO THE ACQUISITION OF CERTAIN EQUIPMENT BY THE TOWN OF FORT MILL, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF OTHER NECESSARY DOCUMENTS AND PAPERS, AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED by the Town Council of the Town of Fort Mill, in meeting duly assembled:

ARTICLE I  
FINDINGS OF FACT

The Town Council of the Town of Fort Mill, South Carolina, the governing body of the Town of Fort Mill, South Carolina, has made the following findings of fact:

Section 1.01 Findings

1. The Town of Fort Mill (the “**Town**”) is a duly constituted municipality and political subdivision of the State of South Carolina.
2. The Town Council of the Town of Fort Mill, the governing body of the Town (the “**Town Council**”), has determined that a true and very real need exists for the acquisition of certain equipment, as shown in Exhibit “A” hereto, for the Town’s use (herein the “**Equipment**”). The total cost of the Equipment and costs associated with the financing thereof is estimated to be not in excess of \$411,000.
3. The Town Council has determined that it is in the best interests of the Town to acquire the Equipment through a lease-purchase financing, and adopts this Ordinance to authorize the entry by the Town into an agreement relating to the lease-purchase financing for the Equipment (the “**Financing Agreement**”) in accordance with the terms hereof.

\* \* \*

ARTICLE II  
AUTHORIZATION

Section 2.01 Approval of the Financing.

The Town Council hereby approves the entry of the Town into the Financing Agreement in a principal amount not to exceed \$411,000 in order to finance the purchase of the Equipment and to defray costs of issuance. Payments under the Financing Agreement shall be due on the anniversary date of the execution and delivery of the Financing Agreement in each of the years 2011 through 2013, inclusive. The Financing Agreement shall not constitute a debt of the Town, and the full faith, credit and taxing power of the Town shall not be pledged to secure payment of any sums due pursuant to the Financing Agreement. The Financing Agreement shall contain a “non-appropriation clause” and shall not contain a “non-substitution clause.”

Section 2.02 Solicitation; Authorization to Contract.

The Town Manager (the “*Manager*”) has heretofore solicited proposals from financial institutions and other entities which provide lease-purchase financing, and has informed the Town Council that the proposal most favorable to the Town was submitted by {BANK}, at an interest rate of \_\_\_\_\_% per annum. The Manager has tentatively awarded the Financing Agreement to {BANK}, pending confirmation of the award by the Town Council. The award of the Financing Agreement to RBC Centura Bank is hereby approved, ratified and confirmed.

The Mayor of the Town (the “*Mayor*”) and the Manager are each hereby authorized, empowered, and directed, individually or collectively, to execute, acknowledge, and deliver the Financing Agreement, in such form as they, or either one of them, shall approve, upon advice of Bond Counsel and not inconsistent with this Ordinance, together with all associated documents, certificates, agreements, undertakings, and papers to the provider of the Financing Agreement and other appropriate parties. The execution of the Financing Agreement by the Mayor or the Manager shall constitute conclusive evidence of approval of the principal amount and rental payments due pursuant to the Financing Agreement and the terms thereof.

Section 2.03 Other Documents, etc.

The Mayor, the Manager and the Town Clerk of the Town are hereby authorized to execute any and all other documents, instruments, certificates or other papers as they deem necessary and appropriate, with the advice of Bond Counsel, to accomplish the transactions contemplated by this Ordinance.

Section 2.04 Effective Date of Ordinance.

This Ordinance shall become effective upon adoption.

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ARTICLE III  
CERTAIN MATTERS PERTAINING TO THE INTERNAL REVENUE CODE

Section 3.01 General Tax Covenants.

The Town will comply with all requirements of the Internal Revenue Code of 1986, as amended (the “*Code*”), in order to preserve the tax-exempt status of the Financing Agreement including without limitation, the requirement to file the information report pertaining to the Financing Agreement with the Internal Revenue Service.

Section 3.02 General Tax Representations and Covenants.

The Town hereby represents and covenants that it will not take any action that will, or fail to take any action which failure will, cause the interest component of rental payments made pursuant to the Financing Agreement to become includable in the gross income of the Holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original execution of the Financing Agreement. Without limiting the generality of the foregoing, the Town represents and covenants that:

(a) All property provided by the net proceeds of the Financing Agreement will be owned by the Town in accordance with the rules governing the ownership of property for federal income tax purposes.

(b) The Town shall not permit the proceeds of the Financing Agreement or any facility financed with the proceeds of the Financing Agreement to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or (b) five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

I The Town is not a party to or nor will it enter into any contracts with any person for the use or management of any facility provided with the proceeds of the Financing Agreement that do not conform to the guidelines set forth in Revenue Procedure 97-13 as may be modified or amended by subsequent pronouncements of the United States Treasury Department.

(d) The Town will not sell or lease the Equipment or any property provided by the Financing Agreement to any person unless it obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the Financing Agreement.

4 The Financing Agreement will not be federally guaranteed within the meaning of Section 149(b) of the Code. The Town has not entered into any leases or sales or service contracts with any federal government agency and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of the Financing Agreement.

Section 3.03. Qualified Tax-Exempt Obligations.

The Town reasonably expects that it and all entities subordinate thereto will issue no tax-exempt obligations (other than private activity bonds) in calendar year 2010 which, along with the Financing Agreement, will aggregate more than \$30,000,000. Accordingly, the Financing Agreement is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code. The Financing Agreement, at the option of the official executing the same, may contain an alternative interest rate, not to exceed 7.0% per annum, which shall apply in the event the Financing Agreement is determined either before or after the execution and delivery thereof to not be a “qualified tax-exempt obligation.”

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First Reading: 01/25/2010

TOWN OF FORT MILL

Second Reading: 02/08/2010 (Tentative)

\_\_\_\_\_  
Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

\_\_\_\_\_  
B. Bayles Mack, Town Attorney

\_\_\_\_\_  
David E. Hudspeth, Town Manager

**EXHIBIT A**

**DESCRIPTION OF THE EQUIPMENT**

<b><u>General Fund Department</u></b>	<b><u>Description</u></b>
Police	4 Vehicles
Fire	4 door utility pick up – 4 wheel drive
Street	Knuckle Boom Lawn Mower Truck Ford F-450 Dump Truck
<b><u>Gross Revenue Fund Department</u></b>	<b><u>Description</u></b>
Water	Utility Truck Pickup Truck Pickup Truck

**STATE OF SOUTH CAROLINA**

**COUNTY OF YORK**

I, the undersigned, Town Clerk of the Town of Fort Mill, DO HEREBY CERTIFY:

That the foregoing is a true, correct, and verbatim copy of an Ordinance duly adopted on second reading by the Town Council of the Town of Fort Mill (the "Town Council") on \_\_\_\_\_, 2010. The Ordinance was given its first reading by the Town Council on \_\_\_\_\_ 2010. At each meeting of the Town Council at which a reading of the Ordinance was given, a majority/all members of the Town Council were present and voted in favor thereof. At each of said meetings, a quorum of the Town Council was present at all times during the proceedings pursuant to which the aforesaid Ordinance was adopted, the original of which is duly entered in the record of minutes of the aforesaid meetings of said Town Council in my custody as such Clerk.

The meetings held on \_\_\_\_\_, 2010 and \_\_\_\_\_, 2010 were regular meetings of the Town Council, for which notice had been previously given pursuant to and in conformity with Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended (the "Freedom of Information Act").

I DO FURTHER CERTIFY that the foregoing Ordinance has not been repealed or amended and remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the Town Council this \_\_\_ day of \_\_\_\_\_, 2010.

(SEAL)

\_\_\_\_\_  
Clerk, Town of Fort Mill, South Carolina

**Town Council Meeting  
February 8, 2010  
Old Business Item #3**

**Ordinance No. 2010-03 (Second Reading)**

**An ordinance amending the code of ordinances for the Town of Fort Mill; Chapter 4, Animals; Article II, Animal Control; so as to repeal Division 1, Generally; Sections 4-31 through 4-42; and Division 2, Rabies Control; Sections 4-56 through 4-57; to adopt animal and rabies control regulations consistent with those adopted by York County; to authorize York County Animal Control Officers to enforce animal and rabies control regulations within the Town of Fort Mill; and to authorize an intergovernmental agreement between the Town of Fort Mill and York County for the administration and enforcement of animal and rabies control regulations within the Town of Fort Mill**

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Council is asked to approve an ordinance that would repeal all of the existing animal and rabies control provisions of the Fort Mill Code of Ordinances, Chapter 4 (Animals), Article II (Animal Control) and would adopt, by reference, York County's animal and rabies control regulations.

Specifically, this ordinance would result in the following:

- Adoption of York County's Animal and Rabies control regulations (Sections 55.01, 55.15 through 55.35, and 55.99 of the York County Code of Ordinances). This would ensure that Fort Mill and York County had consistent regulations relating to animal and rabies control;
- Permitting York County's animal control officers to administer and enforce the animal and rabies control regulations within the town limits; and
- Authorizing the establishment of an intergovernmental agreement between the Town of Fort Mill and York County. This agreement, which would be on terms mutually acceptable to both parties, would formalize the existing arrangement already used by both parties for the administration of animal and rabies control regulations within the town.

First reading was given during the council meeting on January 25<sup>th</sup>.

**Recommendation**

Adopting York County's regulations by reference will ensure that the county's animal control officers are administering and enforcing consistent regulations inside and outside of town limits. Staff believes that continuing to work with York County is the best and most economical approach to ensuring compliance with animal and rabies control regulations. If council chooses not to adopt this ordinance, the town may be forced to administer and enforce its own regulations, and additional staff and financial resources would be needed.

Joe Cronin  
Asst. Town Manager / Planning Director  
February 3, 2010

STATE OF SOUTH CAROLINA  
TOWN COUNCIL FOR THE TOWN OF FORT MILL  
ORDINANCE NO. 2010-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF FORT MILL; CHAPTER 4, ANIMALS; ARTICLE II, ANIMAL CONTROL; SO AS TO REPEAL DIVISION 1, GENERALLY; SECTIONS 4-31 THROUGH 4-42; AND DIVISION 2, RABIES CONTROL; SECTIONS 4-56 THROUGH 4-57; TO ADOPT ANIMAL AND RABIES CONTROL REGULATIONS CONSISTENT WITH THOSE ADOPTED BY YORK COUNTY; TO AUTHORIZE YORK COUNTY ANIMAL CONTROL OFFICERS TO ENFORCE ANIMAL AND RABIES CONTROL REGULATIONS WITHIN THE TOWN OF FORT MILL; AND TO AUTHORIZE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FORT MILL AND YORK COUNTY FOR THE ADMINISTRATION AND ENFORCEMENT OF ANIMAL AND RABIES CONTROL REGULATIONS WITHIN THE TOWN OF FORT MILL

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. Repeal of Existing Animal and Rabies Control Regulations:

The Code of Ordinances for the Town of Fort Mill; Chapter 4, Animals; Article II, Animal Control; Division 1, Generally; Sections 4-31 through 4-42; and Division 2, Rabies Control; Sections 4-56 through 4-57; are hereby repealed.

SECTION II. Enactment of New Animal and Rabies Control Regulations:

The Code of Ordinances for the Town of Fort Mill; Chapter 4, Animals; Article II, Animal Control; is hereby amended to read as follows:

**ARTICLE II. ANIMAL CONTROL**

**Sec. 4-31. Adoption of York County Animal and Rabies Control Regulations**

Sections 55.01, 55.15 through 55.35, and 55.99 of the York County Code of Ordinances are hereby adopted by reference and included as an integral part of this chapter. All codes and regulations currently enforced by York County in the unincorporated areas of the county shall have the same force and effect within the corporate limits of the Town of Fort Mill. A copy of the York County regulations shall be maintained on file with the Town Clerk and the Town Code Enforcement Official.

**Sec. 4-32. Administration and Enforcement**

The provisions of this article shall be enforced by animal control officers employed by York County. The York County animal control officers shall be authorized to enforce the provisions of this article within the corporate limits of the Town of Fort

Mill pursuant to and in the same manner as outlined in Chapter 55 of the York County Code of Ordinances.

**Sec. 4-33. Intergovernmental Agreement Authorized**

The administration and enforcement of the animal and rabies control regulations adopted herein shall be established through an intergovernmental agreement between the Town of Fort Mill and York County. This agreement shall be based upon such terms and conditions as may be mutually acceptable to both the town and the county.

SECTION III. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, the validity of the remaining sections, subsections, paragraphs, clauses, or provisions shall not be affected thereby.

SECTION IV. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall take effect sixty (60) days after adoption of the ordinance.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First Reading: 01/25//2010

TOWN OF FORT MILL

Second Reading: 02/08/2010 (Tentative)

\_\_\_\_\_  
Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

\_\_\_\_\_  
B. Bayles Mack, Town Attorney

\_\_\_\_\_  
David E. Hudspeth, Town Manager

## York County Ordinance

Ordinance No.: 1009

Adopted: Feb. 2, 2009

### AN ORDINANCE

TO REPEAL SECTIONS 55.01, 55.15 THROUGH 55.19, 55.35 THROUGH 55.42 , AND 55.55 THROUGH 55.61 AND 55.99 OF CHAPTER 55, ANIMALS AND FOWL OF THE CODE OF ORDINANCES OF YORK COUNTY, SOUTH CAROLINA, AND TO ENACT NEW SECTIONS 55.01, 55.15 THROUGH 55.35 AND 55.99 OF CHAPTER 55 OF THE YORK COUNTY CODE OF ORDINANCES; TO PROVIDE DEFINITIONS FOR TERMS USED IN CHAPTER 55 OF THE YORK COUNTY CODE OF ORDINANCES; TO ENACT PROVISIONS FOR THE ENFORCEMENT AND CONTROL OF CERTAIN ANIMALS IN THE UNINCORPORATED AREA OF YORK COUNTY; TO PROHIBIT THE KEEPING OF ANY ANIMAL THAT IS A PUBLIC NUISANCE; TO PROVIDE RABIES CONTROL MEASURES, RULES AND REGULATIONS; TO REQUIRE THE DISPLAY OF A RABIES INOCULATION TAG FOR DOGS AND CATS; TO ENACT RESTRAINT REQUIREMENTS FOR THE OWNERS OF DOGS; TO PROVIDE FOR THE RESTRAINT AND CONFINEMENT OF DANGEROUS ANIMALS; TO PROVIDE FOR THE IMPOUNDMENT OF ANIMALS RUNNING AT LARGE; AND TO PROVIDE FOR THE CONTROL, REMOVAL OR DISPOSITION OF UNCLAIMED ANIMALS; TO PROVIDE AN EXCEPTION FOR HUNTING DOGS UNDER THE PROVISIONS OF THIS CODE; TO PROHIBIT THE ABANDONMENT AND MALTREATMENT OF ANIMALS; TO PROHIBIT THE MISTREATMENT OF ANIMALS AND PROVIDE FOR THE RESCUE OR DESTRUCTION OF ANIMALS; TO PROVIDE FOR THE DISPOSITION OF UNCLAIMED ANIMALS; TO PROHIBIT THE SALE OF ANIMALS ON ANY ROADSIDE, PUBLIC RIGHT-OF-WAY, PUBLIC PROPERTY, COMMERCIAL PARKING LOT OR SIDEWALK, FLEA MARKET, FAIR OR CARNIVAL; TO REQUIRE THE KEEPING OF ACCURATE RECORDS BY THE YORK COUNTY ANIMAL SHELTER; TO PROVIDE FOR THE RECLAMATION OF IMPOUNDED ANIMALS; TO PROVIDE FOR THE SPAY-NEUTERING OF RECLAIMED ANIMALS; TO PROVIDE FOR THE ADOPTION OF ANIMALS; TO AUTHORIZE CONTRACT SERVICES TO SPAY OR NEUTER ANIMALS WITH VETERINARY CLINICS; TO PROVIDE FEES FOR ANIMAL CONTROL SERVICES; TO PROVIDE RULES OF CONSTRUCTION FOR THE PROVISIONS OF THIS CHAPTER; TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THIS CHAPTER; TO PROVIDE FOR A PUBLIC HEARING BEFORE FINAL ADOPTION OF THIS ORDINANCE; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO. BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA.

#### Section 1. Legislative Findings.

1.1 Incident to the enactment of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following findings:

Section 2. Repeal of Provisions of Section 55, York County Code; Enactment of New Sections of County Code Relating to Animals and Fowl.

Sections 55.01, 55.15 through 55.19, 55.35 through 55.42, 55.55 through 55.61 and 55.99 of Chapter 55 of the York County Code of Ordinances are hereby repealed. Chapter 55, Animals of the York County Code is hereby amended by inserting the following Sections 55.01, 55.15 through 55.35, and 55.99 therein, which sections shall supersede and replace former provisions of Chapter 55 of the York County Code of Ordinances.

***Chapter 55: Animals***

***General Provisions***

1.01 Definitions

***Regulations***

55.15 Enforcement

55.16 Public Nuisance Animals

55.17 Rabies Control

55.18 Display of Rabies Inoculation Tag

55.19 Restraint Requirements

55.20 Restraint and Confinement of Dangerous Animals

55.21 Impoundment of Animals Running at Large

55.22 Reserved.

55.23 Hunting Dog Exception

55.24 Keeping or Harboring Stray Animals

55.25 Abandonment and Maltreatment

55.26 Injured, Diseased and Dead Animals

55.27 Disposition of Unclaimed Animals

55.28 Profiting From Animals

55.29 Records

55.30 Reclamation of Impounded Animals

55.31 Spay/Neuter Option

55.32 Adoption of Animals

55.33 Contract of Spay Neuter Services

55.34 Fees

55.35 Rules of Construction; Remedies not Exclusive

55.99 Penalties

Cross-reference:

Code Enforcement Officer, see § 31.04

## ***GENERAL PROVISIONS***

### ***§ 55.01 DEFINITIONS.***

For the purposes of this chapter, the following words, phrases and terms shall have the meanings and definitions ascribed to them in this chapter and such definitions shall apply unless the context clearly indicates or requires a different meaning:

***ABANDONMENT:*** A situation in which an owner or keeper does not transfer ownership, deserts, forsakes, and intends to give up absolutely an animal without securing another owner or without providing for adequate food, water, shelter, care, or humane disposal of a dog or cat

***ADEQUATE SHELTER:*** An enclosed, weatherproof dwelling accessible to an animal that is of sufficient size and nature so as to provide that animal with sufficient protection from the extremes of weather (sun, heat, cold, rain, etc) and allow it to remain comfortable in outside conditions.

***ANIMAL:*** A dog or a cat. The term animal may be used interchangeably with both except as noted in section 55.19 paragraph (A) 6 and section 55.25 paragraph (C) which shall also apply to horses.

***ANIMAL CONTROL OFFICER*** A person employed by the county as an enforcement officer for the provisions of this chapter; provided, however that no animal control officer shall have the power or authority to issue an ordinance summons unless commissioned as a code enforcement officer as provided in S.C. Code Ann. section 4-9-145, as amended.

***ANIMAL RESCUE GROUP:*** An unincorporated or nonprofit organization existing for the purpose of prevention of cruelty to animals and whose purpose is to rescue and rehome dogs and cats that cannot be adopted by the animal shelter due to medical, behavioral, holding time limits or other reasons as determined by Animal shelter personnel as provided in SC Code 47-3-60.

***ANIMAL SHELTER:*** Any premises so designated by County Council for the purpose of impounding or harboring, caring for, adoption or euthanasia of seized, stray, homeless, abandoned or unwanted dogs and cats.

***AT LARGE:*** Any dog is deemed to be running “at large” when it is off the property of its owner and not under physical restraint or control of the owner or keeper by means of a leash, cage or other effective device which restrains and controls the animal.

***CAT:*** A domestic feline of either sex.

***DANGEROUS ANIMAL:*** Any dog or cat:

(1) which the owner or keeper knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; or

(2) which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by S. C. Code Ann., Section 47-3-720, as amended; or which commits unprovoked acts in a place other than the place where the animal is confined as required by S.C. Code Ann., 47-3-720, as amended and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being or other domestic animal.

*DOG:* A domestic canine of either sex.

*EXPOSURE TO RABIES:* The circumstance in which any person or animal has been bitten by or exposed to any animal known or suspected to have been infected with rabies. This determination shall be made by the health department, animal control officer or a licensed veterinarian.

*FERAL CAT:* The wild offspring of a domestic cat.

*KEEPER:* Any person feeding, harboring, sheltering, having charge of or taking care of any animal for such a period of time as to constitute responsibility for that animal unless that animal is being boarded for a fee.

*OWNER* A person 18 years or older who:

- (1) Has a property interest in an animal;
- (2) Keeps or harbors an animal or who has an animal in the person's care or acts as its custodian;
- (3) Permits an animal to remain on or about any premises occupied by the person; or,
- (4) Provides care, shelter, or nutrition to an animal or group of animals, excepting such care, shelter, or nutrition provided on a temporary basis until such time as an animal control officer or rescue group representative can retrieve the animal/group of animals.

*PUBLIC NUISANCE:* Any dog or cat making loud or objectionable sounds, chasing vehicles or pedestrians, damaging property other than that of the owner or behaving in a manner which disturbs the rights of, threatens the safety of or injures a member of the general public, carries a communicable disease dangerous to other animals or humans; or has a known history of biting or attacking people or other animals or any person maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.

*RESTRAINT:* The act of keeping a dog which is under the immediate physical control of a person capable of restraining the animal, by means of a collar and leash, or by passive means of control, such as by a fence, kennel, or other confinement device.

*SECURE ENCLOSURE:* Any fenced or otherwise enclosed area suitable for properly restraining a dog or cat and for prohibiting that dog or cat from coming into contact with people and/or other animals.

*SPAYED FEMALE:* Any female dog or cat which has been operated on to prevent conception.

## **REGULATIONS**

### **§ 55.15 ENFORCEMENT**

(A) The provisions of this chapter shall be enforced in the unincorporated areas of York County.

(B) Under section 4-9-145 of S.C. Code Ann., Animal Control Officers may be appointed and commissioned by the York County Council to enforce all sections under this chapter and any other applicable state law and may exercise their powers on all private and public property within the unincorporated area of York County.

(C) Animal Control Officers who are commissioned by the County Council are authorized and empowered to issue written warnings or uniform ordinance summons to enforce any section of this chapter in the unincorporated area of York County. Any violator of this chapter may also be charged under any relevant state law under Title 47, S.C. Code Ann. as amended.

(D) No person shall interfere with, hinder or molest any Animal Control Officer in the execution of that officer's duties or release or take out of impoundment any animal from an animal control vehicle, animal trap, cage or the animal shelter.

(E) Nothing in this chapter shall be construed to prevent sheriff's deputies or law enforcement officers of any kind from enforcing any of the sections of this chapter or from exercising their authority as law enforcement officers.

(F) Any duly appointed official empowered to enforce this chapter shall have the authority to destroy any pet which appears to be vicious and may endanger their safety or the safety of other persons, animals or livestock.

### **§ 55.16 PUBLIC NUISANCE ANIMALS**

It shall be unlawful for any person to keep any animal that is a public nuisance as defined in this chapter upon their premises or on the premises of another.

### **§ 55.17 RABIES CONTROL**

As provided in S.C. Code Ann. Sections 47-5-10 through 47-5-210, as amended, the following rules and regulations concerning rabies control shall apply to the areas of the county that have been placed under the jurisdiction of this chapter:

(A) Whenever a dog or cat is affected by rabies or suspected of being affected by rabies or has been bitten by an animal known or suspected to be infected with rabies, the owner or keeper of the dog or cat or any person having knowledge thereof shall forthwith notify the animal control officer or the health department stating precisely where the animal may be found;

(B) The animal control officer shall immediately inform the health department upon receipt of any information concerning an animal bite or a possible animal bite;

(C) The animal control officer, in conjunction with the health department, shall arrange for the supervised confinement of any dog or cat which has bitten a person. The confinement may be on the premises of the owner if the owner will sign a DHEC agreement assuming total responsibility for the safe confinement of the pet or other animal or the confinement may be at the county animal shelter with the current impoundment and boarding fees charged, or the dog or cat may be confined at a private animal shelter or a veterinary hospital at the owner's expense;

(D) Any dog or cat which has bitten a person must be confined for a period of at least ten days. The health department or the animal control officer shall be permitted by the owner or keeper of the dog or cat to examine the same at anytime and daily if desired within the ten-day period of confinement to determine whether the animal shows symptoms of rabies. No person shall obstruct or interfere with the animal control officer or the health department in making the examination;

(E) In the case of an animal other than a dog or cat which has scratched or bitten a person, the health department shall serve notice upon the owner of that animal that the owner shall have the animal euthanized immediately and have the brain submitted for rabies examination;

(F) The health department shall serve notice in writing upon the owner of a dog, cat or other animal known to have been bitten by an animal known or suspected of being affected by rabies requiring the owner to confine the animal for a period of not less than six months except that animals properly treated with anti-rabies vaccine shall be confined for a period of not less than three months;

(G) No person shall kill, or cause to be killed any dog, cat or other animal, that is suspected of having been exposed to rabies or which has bitten a person, nor remove the animal from the jurisdiction of the county without written permission of the health department. An exception to the preceding requirement is in any circumstance in which there exists the possibility of the animal escaping or being involved in an additional biting incident in which case the animal is to be killed and the health department notified immediately.

#### **§ 55.18 DISPLAY OF RABIES INOCULATION TAG**

As is provided in S.C. Code Ann., Sections 47-5-10 through 47-5-210, as amended, the following rules and regulations governing the inoculation of dogs and cats shall be applicable:

(A) Every owner of a dog or cat shall have the animal inoculated against rabies and require the animal to wear a rabies vaccination tag on a collar or harness.

(B) A State Board of Health certificate of animal rabies vaccination will be issued by a licensed veterinarian for each animal stating the name and address of owner, the name, breed, color and markings, age and sex of the animal and the veterinary or pharmaceutical control number of the vaccination. One copy of the certificate shall be given to the owner, and one copy shall be retained by the person administering the vaccine;

(C) With the issuance of the certificate, the veterinarian shall also furnish the owner with a serially numbered metal rabies vaccination tag bearing the same number and year as the certificate. The metal rabies vaccination tag shall bear the name of the veterinarian who administered the vaccination.

(D) The rabies vaccination tag issued by the veterinarian shall at all times be attached to a collar or harness worn by the animal for which it was issued and any animal not having a proper rabies inoculation license tag attached may be subject to impoundment.

(E) The owner shall have a valid certificate of rabies immunization readily available for inspection by competent authority..

(F) In the event that a rabies vaccination tag is lost, the owner will obtain a duplicate tag without delay;

(G) A certificate of rabies immunization issued by a licensed veterinarian from another state will be accepted as valid evidence of inoculation provided it is less than one year old.

## **ANIMAL CONTROL REGULATIONS**

### **§ 55.19 RESTRAINT REQUIREMENTS**

(A) The owner or keeper of every dog shall keep the animal under restraint at all times. If a responsible adult is physically outdoors with their dog on the land where the owner of the animal resides and the dog is under the owner's direct control and is obedient to the owner's commands, this section shall not apply during the duration of the time that the dog is in the company and under the control of that person.

1. Any dog that is chained or tethered shall be provided a chain or tether that is at least ten feet in length and have swivels on both ends. The chain or tether shall allow the animal free access to food, water and shelter.

2. Any chain or tether must be attached to a properly fitting collar or harness worn by the dog and shall weigh no more than ten percent (10%) of the dog's estimated body weight.

3. All collars used for the purpose of chaining or tethering an animal must be made of nylon, leather, or other durable and non-metallic material and must be fitted so as to not cause injury to the animal or embed itself in the animal's neck.

4. Use of a chain, choke, or pinch collar as a primary collar is prohibited.

5. Any dog that is chained or tethered to a stationary object must be a sufficient distance from any other objects or debris so as to prohibit any tangling of the tether or from extending over an object or an edge that could result in injury or strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.

6. No horse shall be restrained to a stationary object by means of a rope, chain or other tethering device unless under the direct physical supervision of the animal owner or keeper.

(B) No animal shall be permitted to be on school grounds, shopping areas, public parks, roads or streets unless on a leash and subject to control by its owner or other person at all times.

(C) No animal shall be permitted to be on private property unless it is with the express permission of the property owner.

(D) Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel or shall be treated in a manner so as not to create a nuisance by attracting other dogs or cats.

(E) Any person walking or owning an animal is required to clean up any waste deposited by the animal on public property or the private property of anyone other than the property of the animal's owner.

#### **§ 55.20 RESTRAINT AND CONFINEMENT OF DANGEROUS ANIMALS**

The owner shall confine, within a building or secure enclosure, any dangerous animal and shall not take the animal out of the building or enclosure unless the animal is securely muzzled and under restraint, or under the physical control of its owner.

#### **§ 55.21 IMPOUNDMENT OF ANIMALS RUNNING AT LARGE**

(A) Any dog found to be running at large may be captured, confined and/or impounded by an animal control officer and held in an animal shelter for a minimum period of five days. If the animal is not reclaimed by the owner as provided in this chapter, the animal may be humanely euthanized or adopted to a new owner.

(B) Any dog observed by an animal control officer to be running at large in violation of the leash law and subsequently returning to its owners property when the owner is absent or away from the property may be removed from the owner's property and impounded if the animal control officer has reasonable cause to believe that the animal is running at large in violation of the provisions of this chapter and the animal will present a danger to itself, persons or other animals or be prejudicial to the safety of the public if the dog is left unrestrained.

(C) In the case of an impoundment of a dog under the provisions of Section 55.21(B), the animal control officer shall provide posted written notice upon the property in issue setting forth the date and time of impoundment and the procedures to follow in order to retrieve the owner's dog.

(D) Pursuant to the provision of S.C. Code Ann., Chapter 3, section 47-3-540, an animal control officer is authorized to hold identifiable animals and dispose of them if the owner fails to claim them. Animal control officers must not euthanize any positively identifiable animal until they have notified the owner at his last known address by registered mail that officers have the animal in their possession. The owner must notify the animal shelter within two weeks after receipt of the registered letter that the owner will reclaim the animal. If the owner does not reclaim the animal within two weeks of notification, it may be euthanized. Reasonable costs associated with the above extended holding period, including cost of mailing the required notice, must be paid before the animal is returned to its owner, or the owner's designee, in addition to any other established costs, fines, fees, or other charges."

#### **§55.22 RESERVED.**

#### **§ 55.23 HUNTING DOG EXCEPTION**

The provisions of § 55.19(A) of this chapter shall not apply to hunting dogs while actually engaged in hunting or training exercises while on the property of the owner or property of a consenting landowner. The hunting dogs are permitted to be under voice control or electronic tracking control rather than under the restraint required in § 55.19 of this chapter. If any dog strays on public property or private property without permission of the landowner, the exception contained in this section shall not apply, and the owner of the dog shall be in violation of the provisions of this chapter.

#### **§55.24 KEEPING OR HARBORING STRAY ANIMALS**

(A) No person, without the actual consent of the owner, shall harbor, feed, keep in possession by confinement or otherwise have any animal which does not belong to such person, unless he has, within 24 hours of the time the animal came into his possession, notified the animal shelter. Upon receiving such notice, the animal shelter may choose to impound the animal.

(B) No person shall refuse to surrender a stray animal to an employee of the animal shelter upon demand.

#### **§ 55.25 ABANDONMENT AND MALTREATMENT**

(A) It shall be unlawful for the owner or keeper of any animal to abandon it.

(B) If an animal is found to be obviously abandoned by its owner or keeper, an animal control officer may impound that animal.

(C) It shall be unlawful for any owner or keeper of an animal to deny it adequate food, water, shelter or medical care for sickness or injury or in any way treat any animal in a cruel or inhumane manner as defined in S.C. Code Ann. section 47-1-40, as amended.

(D) It shall be unlawful for any animal owner or keeper to fail to provide any animal in their care, including horses, with a clean and sanitary living environment.

(E) It shall be unlawful for any animal owner or keeper to fail to provide sufficient shade to animals that are housed outside to protect them from extreme summer temperatures.

(F) (1) If a person has delivered an animal to a veterinarian, a dog kennel, a cat kennel, an animal hospital, or another animal care facility, or if a person who boards domestic animals on his or her premises for a fee and the owner of the animal does not retrieve it at the agreed time in the case of boarding, or when the owner has been informed that the animal has completed its treatment in the case of hospitalization, the animal may be transferred to the county animal shelter ten days after the date the owner failed to pick up the animal, as agreed pursuant to a written contract or agreement. The county will not be liable for any fees resulting from the animal's care.

(2) The animal may be transferred to the county animal shelter only if the written contract or agreement provides for the transfer and if the facility has attempted to notify the owner by regular mail at his or her last known address on the date the owner failed to pick up the animal as agreed. A person, who boards the animals of others, as described in this section, shall post written notice of the provisions of this section at his or her place of business.

(G) It shall be a violation of this ordinance for a motor vehicle owner or operator to place or confine an animal or allow it to be placed or confined or to remain unattended in a motor vehicle without sufficient ventilation or under conditions for such period of time as may be reasonably expected to endanger the health or well-being of such animal due to heat, cold, lack of water or other such circumstances as may reasonably be expected to cause suffering, disability, or death.

(H) No person shall cause, instigate, attend or permit any dog fight, cockfight, or other combat between animals or between animals and humans

#### **§ 55.26 INJURED, DISEASED AND DEAD ANIMALS**

(A) It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle.

(B) Any person injuring a dog or cat by striking it with an automobile or other vehicle shall notify the owner of the animal, if identification is possible, or shall notify the Animal Control Department if the animal cannot be identified.

(C) Any animal received by a veterinarian in critical condition from wounds, injuries or disease, may be destroyed if the owner cannot be contacted and the pet is suffering great pain.

(D) If an injured animal has been released to the shelter and is determined to be unadoptable to the public, the animal may be eligible for rescue by any approved animal rescue group after an

evaluation by the shelter veterinarian. Upon rescue, the animal will become the property of the rescue organization. Injured or distressed animals that have been released to the shelter will not be held an unreasonable length of time awaiting pick up by a rescue organization.

#### **§ 55.27 DISPOSITION OF UNCLAIMED ANIMALS**

Any animal that has been impounded for five days and unclaimed by its owner will become the property of York County and may be disposed of as follows:

(A) An animal may be placed for adoption to a person 18 years or older upon compliance with the provisions and payment of the fees required by this chapter.

(B) An animal may be released to an approved animal rescue group as defined in this chapter if it has been determined that the animal is not suitable for adoption to the public or space at the animal shelter is not available to house that animal.

(C) An animal may be humanely euthanized if deemed to be unadoptable due to medical, behavioral or spatial issues.

#### **§55.28 PROFITING FROM ANIMALS**

(A) No person shall sell, trade, barter, auction, lease, rent, give away, or display for commercial purposes, any live pet, on any roadside, public right-of-way, public property, commercial parking lot or sidewalk, or at any flea market, fair, or carnival.

(B) No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or other competition or as an inducement to enter a place of amusement or as an incentive to enter into any business agreement whereby the offer was for a purpose of attracting trade.

(C) The provisions of this section shall not apply to Animal Shelters, County recognized Animal Rescue Groups or other County recognized non-profit agencies that are sponsoring or attending events for the purpose of providing adoptable animals to the public or providing education or instruction to the public, or providing inoculations to animals in conjunction with the express exceptions set forth herein.

#### **§ 55.29 RECORDS**

(A) Accurate records shall be kept by the animal shelter on all animals impounded as to whether they are redeemed, adopted or euthanized.

(B) Records shall also be kept on all cases involving animal bites.

### **§ 55.30 RECLAMATION OF IMPOUNDED ANIMALS**

(A) To obtain the release of an animal after impoundment, an owner must be at least 18 years old and also provide documentation that the animal is currently inoculated against rabies and also must pay the impoundment fee as specified in section 55.34 of this chapter

(B) If an animal is not reclaimed by its owner within 24 hours of the impoundment of that animal, a boarding fee will be charged at the current established boarding rate for each day after the first day of impoundment.

(C) Pursuant to the provisions of S.C. Code Ann., Section 47-3-55, subsections C and E; All dogs and cats that are reclaimed from the animal shelter will have a microchip implanted with the associated cost of the microchip added to any impoundment and boarding fees.

(D) An increasing impoundment fee will be charged to an animal owner according to the schedule established in this chapter each time an animal belonging to the same owner is impounded up to three consecutive times. Any subsequent impoundments charged to the owner after three times will be charged at a rate equal to the third impoundment fee and for each time thereafter.

1. In calculating the fees required under this section, no animal impoundments charged to the animal owner occurring more than three years before the current impoundment shall be considered.

2. The Animal Control Supervisor may, at his or her discretion, waive all fees for the first impoundment if, in the judgment of the Animal Control Supervisor, a violation of this code is inadvertent and there are extenuating circumstances which would warrant the waiver of fees for a first impoundment.

(E) The animal control supervisor may prohibit an owner of any animal to reclaim the animal, which, by virtue of its temperament, size, behavior, history or any combination thereof, may present a danger to the safety of the public. Under this provision, the animal may be held at the Animal Shelter pending a hearing before a magistrate to determine if additional confinement measures are necessary. In the case of such a detention of an animal, boarding fees shall accrue pursuant to the schedule of fees set forth herein, but, may be waived by the magistrate upon a finding that additional confinement of the animal in issue is not necessary.

(F) All requests for information on circumstances and reasons why an animal was impounded must be requested through the Freedom of Information Act. A written request must be submitted stating what information is requested, and it must include the contact information for the person making the request.

**§ 55.31 SPAY/NEUTER OPTION FOR RECLAIMED ANIMALS** Any animal owner may elect to have their animal spayed or neutered at the time it is reclaimed and in any such case, all boarding fees will be waived and the animal owner will pay one-half the cost of the

impoundment fee in addition to the cost of the rabies vaccination and the microchip. The animal will remain at the shelter until the next available surgery day.

### **§ 55.32 ADOPTION OF ANIMALS**

(A) Any animal impounded under the provisions of this chapter may, at the end of the legal detention period be evaluated by the shelter staff and be eligible for adoption by a person 18 years or older who will agree to comply with the provisions of this chapter.

(B) A person may be refused adoption of an animal by the Animal Control Supervisor if it is determined that the person wishing to adopt an animal has a history of (as evinced by County records) or past conviction of abandonment, maltreatment, or any other violation of this chapter.

(C) If a licensed veterinarian certifies within three days of the adoption of an animal that the adopted animal is ill, sick or injured, the person to which the animal was adopted may request a refund or exchange the animal for another animal.

### **§55.33 CONTRACT OF SPAY/NEUTER SERVICES**

The Public Works Director shall issue through the Purchasing Department a request for contract services to spay or neuter animals with veterinary clinics in the county which agree to discount usual and customary fees for the services whenever the shelter veterinarian is unable to complete the surgery. The contract fees for service will be reviewed on a yearly basis.

### **§55.34 FEES**

The fees set forth herein shall be applicable to the functions listed and such fees shall be turned over to the county treasurer, who shall make a monthly accounting of the funds:

Adoption Fee (All Animals) \$77.00  
Impound Fee 1st Occurrence \$75.00  
Impound Fee 2nd Occurrence \$125.00  
Impound Fee 3rd Occurrence \$150.00  
Board Fee \$9.00/day Microchip \$5.00  
Rabies Vaccination \$6.00

### **§ 55.35 RULES OF CONSTRUCTION; REMEDIES NOT EXCLUSIVE**

(A) Nothing in this chapter may be construed to limit the power of the County to prohibit animals from running at large, whether or not they have been inoculated as provided in this chapter; and nothing in this chapter may be construed to limit the power of the County to regulate and control animals in the unincorporated area of the County or to enforce other and additional measures for the restriction and control of rabies.

(B) The penalties imposed in this chapter are non-exclusive. In the event of any violation or proposed violation of this chapter, the county manager, the director of public works, or the animal shelter supervisor, or any adjacent or neighboring property owner who would be damaged by the violation may, in addition to other remedies, apply to a court of competent jurisdiction for injunctive relief, mandamus, a restraining order, or other appropriate relief in a civil proceeding to prevent, correct or abate the violation or threatened violation of this chapter, and all such additional remedies shall be cumulative to the penalties provided herein.

## **§ 55.99 PENALTIES**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$200.00 or imprisonment for a term not to exceed thirty days and must be ordered to pay all costs incurred to care for the animal and all related expenses and court costs as provided by law.

### Section 3. Severability.

If any section, paragraph, subdivision, clause or provision of this ordinance, or the sections of the York County Code amended by this ordinance shall be declared invalid, unenforceable or unconstitutional by the final decision of a court of competent jurisdiction, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision, and shall not affect the remaining provisions of this code, which shall be deemed severable, valid, enforceable and effective.

### Section 4. Public Hearing.

The York County Council shall hold a public hearing on this ordinance at least fifteen (15) days' notice of the time and place of which shall be published in a newspaper of general circulation in York County, South Carolina, before this ordinance shall become effective.

### Section 5. Amendment of Inconsistent Sections in Ordinances.

All sections of the York County Code and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

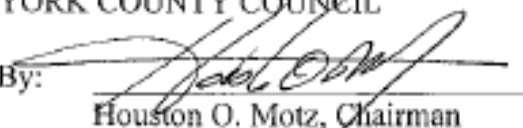
### Section 6. Effective Date.

This ordinance shall take effect ninety (90) days after adoption of the ordinance.

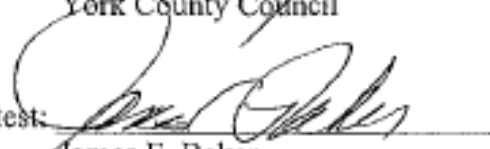
ADOPTED THIS 2<sup>nd</sup> DAY OF February, 2009.

YORK COUNTY COUNCIL

By:

  
Houston O. Motz, Chairman  
York County Council

Attest:

  
James E. Baker  
County Manager

First Reading: December 1, 2008  
Public Hearing: January 5, 2009  
Second Reading: January 5, 2009  
Third Reading: February 2, 2009

**Town Council Meeting  
February 8, 2010  
Old Business Item #4**

**Consideration of Appointments to Town Boards and Commissions**

- **Planning Commission**
- **Board of Zoning Appeals**

---

During regular council meeting on January 11, 2010, council filled several vacancies on various boards and commissions; however, one vacancy currently remains on the Planning Commission. The current vacancy is for the seat that was formerly held by Ms. Ruby Watts. Upon the expiration of her term, Ms. Watts informed town staff that she did not wish to serve another term. During the January meeting, council directed the town manager to identify a suitable replacement to fill the vacant seat left on the Planning Commission.

Staff has communicated with the current chair of the Board of Zoning Appeals, Mr. Chris Wolfe. Mr. Wolfe has indicated that he is willing to vacate his position on the Board of Zoning Appeals and instead be appointed to the Planning Commission. Appointing Mr. Wolfe to the Planning Commission would fill the vacancy on this critical board, but would leave open a new vacancy on the Board of Zoning Appeals.

**Recommendation**

Staff recommends the appointment of Mr. Chris Wolfe to the Planning Commission. This will leave one vacancy on the Board of Zoning Appeals which may be filled at a later date.

Joe Cronin  
Asst. Town Manager / Planning Director  
February 3, 2010

**Town Council Meeting  
February 8, 2010  
New Business Item #1**

**Consideration of Lease Agreement relating to the acquisition and operation of athletic programs**

---

Council is asked to consider a lease agreement relating to the acquisition and operation of various athletic programs.

The proposed agreement is incidental to proposed contractual arrangements, and therefore, is currently exempt from disclosure pursuant to Section 30-4-40 (A)(5) of the SC Code of Laws. This item is eligible for discussion in executive session.

Back up information will be provided to council under separate cover.

**Town Council Meeting  
February 8, 2010  
New Business Item #2**

**Ordinance No. 2010-04 (First Reading)**

**An ordinance amending the Fiscal year 2009-10 General Fund Annual Budget for the Town of Fort Mill to appropriate two hundred sixty-one thousand five hundred and fifty-two dollars (\$261,552) to fund revenues and expenditures related to the town's acquisition and operation of athletic programs**

---

Council is asked to consider an ordinance amending the FY 2009-10 Budget for the purpose of appropriating revenues and expenditures related to the town's acquisition and operation of athletic programs (Related to New Business Item #1).

The total cost of these new programs for the remaining seven months of the current fiscal year has been budget at \$261,552. This includes an additional \$224,052 for the Recreation Department, and \$37,500 for the Buildings and Grounds Division of the Public Works Department.

These programs are expected to generate \$160,500 in new revenue over the next seven months, leaving an estimated shortfall of \$101,052 during the current fiscal year. The attached budget amendment ordinance would fund this shortfall by appropriating \$101,052 from the General Fund undesignated fund balance.

Once the auditors have completed the annual audit of the FY 2008-09 books, staff will be able to determine whether there were any excess funds at the completion of the previous fiscal year. In the past, council has transferred these excess funds to the Capital Projects Fund in order to fund capital improvements in future years' budgets. IF any excess funds remain from FY 2008-09, staff recommends that the first priority should be to reimburse the General Fund undesignated fund balance for all or part of the \$101,052 appropriated as part of this budget amendment. Placing any excess funds back into the fund balance will enable the town to maintain compliance with its stated fund balance policy (25-30%). Any excess funds beyond the \$101,052 may be transferred to the Capital Projects Fund to be used in FY 2010-11 or future years.

**Recommendation**

If council chooses to enter into a lease agreement for the purpose of acquiring and operating various athletic programs, adoption of a budget amendment will be necessary in order to appropriate adequate revenues and expenditures related to the operation of these programs.

David E. Hudspeth  
Town Manager  
February 3, 2010

Joe Cronin  
Asst. Town Manager  
February 3, 2010

Brown Simpson  
Recreation Director  
February 3, 2010

STATE OF SOUTH CAROLINA  
TOWN COUNCIL FOR THE TOWN OF FORT MILL  
ORDINANCE NO. 2010-04

AN ORDINANCE AMENDING THE FISCAL YEAR 2009-10 GENERAL FUND ANNUAL BUDGET FOR THE TOWN OF FORT MILL TO APPROPRIATE TWO HUNDRED SIXTY-ONE THOUSAND FIVE HUNDRED AND FIFTY-TWO DOLLARS (\$261,552) TO FUND REVENUES AND EXPENDITURES RELATED TO THE TOWN'S ACQUISITION AND OPERATION OF ATHLETIC PROGRAMS

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. The FY 2009-10 General Fund Annual Budget is hereby amended to appropriate Two Hundred Twenty-Four Thousand and Fifty-Two Dollars (\$224,052) to the Recreation Department budget and Thirty-Seven Thousand Five Hundred Dollars (\$37,500) to the Department of Public Works, Buildings and Grounds Division, budget. Therefore, the Fiscal Year 2009-10 General Fund Annual Budget is hereby amended as follows:

REVENUE

General Fund Revenue appropriated October 1, 2009: \$7,226,030

Charges for Services

Total Revenue appropriated October 1, 2010:	\$537,000
Appropriate Gym Rentals	\$3,000
Total Revenue appropriated as Amended:	
	\$540,000

Program Revenues

Total Revenue appropriated October 1, 2010:	\$0
Appropriate Registrations - Baseball	\$25,000
Appropriate Registrations - Basketball	\$0
Appropriate Registrations - Cheerleading	\$2,500
Appropriate Registrations - Football	\$19,000
Appropriate Registrations - Soccer	\$45,000
Appropriate Registrations - Softball	\$16,000
Appropriate Registrations - Tennis	\$6,000
Appropriate Registrations - Volleyball	\$4,000
Appropriate Registrations - Wrestling	\$0
Appropriate Registrations - Youth Camps	\$30,000
Appropriate Athletics Donations & Sponsorships	\$6,000

Appropriate Athletics Admissions	\$2,500
Appropriate Athletics Concessions	\$1,500
<hr/>	
Total Revenue appropriated as Amended:	\$157,500
Appropriation of General Fund unrestricted Fund Balance:	\$101,052
Total General Fund Revenue appropriated as amended:	\$7,487,582

EXPENDITURES

General Fund Expenditures appropriated October 1, 2009: \$7,226,030

Recreation Department

Total Expenditures appropriated October 1, 2010:	\$175,558
Add to Salaries	\$50,700
Add to Social Security / Medicare	\$3,879
Add to SC Retirement	\$3,944
Add to SC Deferred Compensation	\$320
Add to Medical Insurance	\$7,000
Add to Workers Compensation	\$1,200
Add to Uniforms	\$1,200
Add to Materials & Supplies	\$8,000
Add to Vehicle Maintenance	\$350
Add to Gas, Oil, Grease	\$1,283
Add to Electricity	\$9,333
Add to Telephone	\$700
Add to Equipment Repairs	\$4,375
Add to Travel & Training	\$2,333
Add to Water & Heat	\$8,000
Add to Memberships/Dues/Subscriptions	\$1,000
Add to Buildings & Grounds Maint.	\$8,000
Add to Miscellaneous Expenses	\$1,000
Add to Professional Services	\$37,000
Add to Service Contracts	\$4,500
Add to Equipment Rental	\$1,000
Add to Other Insurance Expense	\$3,600
Add to Advertising	\$2,000
Add to Athletics Program Supplies	\$35,000
Add to Contracted Services	\$25,300
Add to Employee Assistance Program	\$35

Add to Computer Outlay	\$3,000
<hr/>	
Total Expenditures as amended:	\$399,610

Public Works Department – Buildings & Grounds Division

Total Expenditures appropriated October 1, 2010:	\$654,878
Add to Salaries	\$13,000
Add to Social Security	\$1,000
Add to Workers Compensation	\$400
Add to Materials & Supplies	\$9,500
Add to Service Contracts	\$3,000
Add to Equipment Rental	\$200
Add to Machinery & Equipment	\$10,400
<hr/>	
Total Expenditures as amended:	\$692,378

Total General Fund Expenditures appropriated as amended: \$7,487,582

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall take effect upon adoption by the Town Council.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First Reading: 02/09/2010 (Tentative)

Public Hearing:

Second Reading:

TOWN OF FORT MILL

\_\_\_\_\_  
Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

\_\_\_\_\_  
B. Bayles Mack, Town Attorney

\_\_\_\_\_  
David E. Hudspeth, Town Manager

**Town Council Meeting  
February 8, 2010  
New Business Item #3**

**Ordinance No. 2010-05 (First Reading)**

**An ordinance amending the Zoning Ordinance for the Town of Fort Mill; Article IV, Landscaping Standards; Section 6, Lighting Standards; so as to amend lighting regulations within the Town of Fort Mill**

---

Council is requested to review an ordinance to amend the lighting standards for the Town of Fort Mill.

This ordinance has arisen out of the fact that the Board of Zoning Appeals has received a number of appeals for variances from the town's current maximum height restriction of 14 feet.

The proposed ordinance includes regulations pertaining to lighting heights, but also includes other provisions that have not previously been addressed in the town's lighting regulations.

The Fort Mill Planning Commission reviewed the draft ordinance during its meeting on January 26, 2010. The Commission recommended approval of the ordinance by a unanimous 6-0 vote.

**Recommendation**

Based on the number of variance appeals that have been received, staff believes that the 14' height requirement is not practical in most commercial circumstances. Staff recommends amending the town's zoning code to relax the maximum height based on zoning districts and the potential uses within each district. Additional provisions have been added in an effort to limit light spill onto neighboring properties and to cut down on glare and driver distractions along public rights-of-way.

Joe Cronin  
Assistant Town Manager / Planning Director  
February 3, 2010

STATE OF SOUTH CAROLINA  
TOWN COUNCIL FOR THE TOWN OF FORT MILL  
ORDINANCE NO. 2010-05

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE TOWN OF FORT MILL; ARTICLE IV, LANDSCAPING STANDARDS; SECTION 6, LIGHTING STANDARDS; SO AS TO AMEND LIGHTING REGULATIONS WITHIN THE TOWN OF FORT MILL

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. Amending lighting standards for the Town of Fort Mill.

The Zoning Ordinance for the Town of Fort Mill; Article IV, Landscaping Standards; Section 6; is hereby amended to read as follows:

**Sec. 6. Lighting standards.**

~~The maximum allowable height of any light fixture shall be 14 feet from the ground to the highest point of the fixture.~~

1) Purpose and applicability.

- a. Purpose. The intent of this section is to improve safety and preserve the quality of life in the Town of Fort Mill by achieving the following objectives with respect to lighting: to minimize light pollution, glare, and light trespass on to neighboring properties; to conserve energy and resources while maintaining night-time safety and utility; and to curtail the degradation of the night-time visual environment.
- b. Applicability. This section shall apply to all new development in the Town of Fort Mill subject to the Town's zoning codes, unless otherwise specified. When a building, structure, or lighting fixture is extended, enlarged, or reconstructed after the effective date of this chapter, the applicable lighting standards shall apply with respect to such.

2) General Standards

- a. Unless exempted by the provisions of this section, the following standards shall apply to lighting fixtures in all zoning categories and applications.
  1. Lighting fixture heights are measured from ground level to the top of the fixture.
  2. All lighting fixtures shall be full-cutoff certified.

3. All lighting fixtures shall have internal visors/panels or external visors that control offsite light spill and glare.
  4. The orientation of all lighting shall be downward; provided, however, churches, temples, mosques, and other such places of worship may orient some lights upward onto specific architectural components of the structure (such as steeples or domes).
  5. Accent lighting for sculptures, statues, trees, landscaping features, flags, signs, and entrances may orient light upward, provided that the directed light shall be substantially confined to the object intended to be illuminated to minimize glare, sky glow, and light trespass. Accent lighting shall not shine directly into the window of a neighboring structure or directly onto a roadway.
  6. To control light spill and glare, lighting fixtures shall be properly aimed when installed, and proper aiming shall be maintained at all times.
  7. The following types of lighting features shall be prohibited: search lights, strobe lights, laser source lights, or any similar high-intensity or flashing light, except in emergencies by police and fire personnel or at their direction.
- 3) Maximum lighting fixture height in non-residential zoning districts
- a. Except as provided below, lighting fixtures in non-residential zoning districts shall not exceed the following height:
    1. Eighteen (18) feet in the Local Commercial (LC) zoning district.
    2. Twenty-eight (28) feet in the Light Industrial (LI), General Industrial (GI), and Highway Commercial (HC) zoning districts, as well as non-residential uses within Mixed Use (MXU) zoning districts
  - b. The Planning Director may approve lighting fixtures up to thirty-five (35) feet in height if the following conditions are met:
    1. The area of development is at least five (5) acres in size; and
    2. The property is located within the following zoning districts: Light Industrial (LI), General Industrial (GI), and Highway Commercial (HC). Property located within the Mixed Use (MXU) zoning district may be approved if the proposed use is non-residential; and
    3. The total square footage of any building or buildings to be constructed on the property shall be at least 50,000 square feet; and

4. The applicant shall submit a lighting plan, certified by a licensed lighting engineer, demonstrating that lighting levels shall not exceed 0.5 foot-candles along any public right-of-way or any shared property line.
- 4) Maximum lighting fixture height in residential zoning districts
    - a. Except as provided below, lighting fixtures in any residential zoning district, including residential uses within the Mixed Use (MXU) zoning district, shall not exceed fourteen (14) feet in height.
    - b. Lighting fixtures mounted on any building in a residential zoning district may not be mounted above the 1st floor of the building.
- 5) Decorative or aesthetic lighting fixtures
    - a. The Planning Director may approve decorative or aesthetic lighting fixtures, including those that do not orient all light downward, if the following conditions are met:
      1. The fixtures shall not exceed the maximum height as outlined in this section;
      2. The fixtures shall offer a design element that is complimentary to the architectural style of the adjacent building(s); and
      3. The fixtures shall not negatively impact neighboring residential properties or any public right-of-way.
- 6) Lighting exempt from these standards.
    - a. The following types of lighting shall be exempt from the standards set forth in this section:
      1. Lighting within swimming pools or other water features that are governed by South Carolina Department of Health and Environmental Control regulations;
      2. Exit signs, stairs, ramps, and other illumination required by building codes;
      3. Emergency room entrances;
      4. Airport lighting;
      5. Lighting of the American flag; and
      6. Any lighting fixture that is exempt from the provisions of this section by state and/or federal law.

SECTION II. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, the validity of the remaining sections, subsections, paragraphs, clauses, or provisions shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall take effect upon adoption by the Town Council.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First Reading: 02/08/2010 (Tentative)

Second Reading:

TOWN OF FORT MILL

\_\_\_\_\_  
Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

\_\_\_\_\_  
B. Bayles Mack, Town Attorney

\_\_\_\_\_  
David E. Hudspeth, Town Manager