

AN ORDINANCE

TO AMEND SECTIONS 32.35 THROUGH 32.42 OF THE YORK COUNTY CODE OF ORDINANCES BY AMENDING THE COMPOSITION, STRUCTURE, ORGANIZATION, POWERS, DUTIES AND FUNCTIONS OF THE YORK COUNTY CULTURE AND HERITAGE COMMISSION; TO RESTRUCTURE THE YORK COUNTY CULTURE AND HERITAGE COMMISSION AND TO PROVIDE FOR THE APPOINTMENT AND QUALIFICATION OF SEVEN (7) VOTING and TWO (2) *EX-OFFICIO* MEMBERS OF THE COMMISSION FOR CONCURRENT TWO-YEAR TERMS; TO PROVIDE FOR THE ORGANIZATION AND COMPOSITION OF THE RESTRUCTURED YORK COUNTY CULTURE AND HERITAGE COMMISSION; TO PROVIDE FOR AND PRESCRIBE THE OFFICERS OF THE COMMISSION; TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR, STAFF AND EMPLOYEES TO CARRY OUT AND PERFORM THE PURPOSES, OBJECTIVES, POLICIES, FUNCTIONS, DUTIES, RESPONSIBILITIES, AND PROGRAMS OF THE COMMISSION; TO DEFINE THE PURPOSES AND OBJECTIVES OF THE COMMISSION; TO PROVIDE AND DEFINE THE POWERS AND DUTIES OF THE COMMISSION AND THE LIMITS OF SUCH POWERS; TO PROVIDE FOR THE NEWLY-RESTRUCTURED YORK COUNTY CULTURE AND HERITAGE COMMISSION TO ASSUME THE STRUCTURE, ORGANIZATION, COMPOSITION, POWERS, DUTIES AND FUNCTIONS OF THE EXISTING YORK COUNTY CULTURE AND HERITAGE COMMISSION; TO AMEND SECTIONS 32.35 THROUGH 32.42 OF THE YORK COUNTY CODE OF ORDINANCES TO THE EXTENT INCONSISTENT WITH THIS ORDINANCE; TO PROVIDE FOR A PUBLIC HEARING AFTER AT LEAST FIFTEEN (15) DAYS' NOTICE IN ADVANCE OF SUCH HEARING BEFORE FINAL LEGISLATIVE ACTION IS TAKEN FOR THE 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.

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

- 1.1 Council has adopted an ordinance creating the York County Culture and Heritage Commission; providing for the organization and composition of the Commission; establishing the purposes and objectives and defining the powers and duties of the Commission; providing for other matters relating to the administration, operation, powers, duties and functions of the Commission and providing for other matters related thereto, which ordinance is codified as Sections 32.35 through 32.42 of the York County Code of Ordinances.
- 1.2 Council is authorized and empowered, pursuant to the provisions of S.C. Code Ann. § 4-9-30(6), to establish such agencies, departments, boards, commissions and positions in the County as may be necessary and proper to provide services of local concern for public purposes; to prescribe the functions thereof; and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions.
- 1.3 Council finds that York County ordinances and codes providing for the structure, organization, composition, purpose, powers, duties and functions of the York County Culture and Heritage Commission should be amended to provide for the restructuring of the existing Commission and the assumption of the duties,

responsibilities, assets, structure, organization, composition, purposes, powers and functions of the Commission by a newly-appointed Commission consisting of nine (9) members which shall assume the structure, organization, composition, powers, duties and functions of the existing York County Culture and Heritage Commission. Council finds that the restructuring of a new York County Culture and Heritage Commission will enhance general administrative functions; further the development of museums, historic sites, functions, assets and property; preserve the artistic, cultural, historic and natural history heritage of York County; promote economy in the performance of the purposes, objectives, powers and duties of the Commission; provide for a more efficient operation of the Commission and serve the public interest.

Section 2. Sections 32.35 through 32.42 of York County Code of Ordinances Amended.

Sections 32.35 through 32.42 of the York County Code of Ordinances are hereby amended to read as follows:

§ 32.35 CREATED.

There is hereby created a commission to be known as the Culture and Heritage Commission. The Culture and Heritage

Commission shall have the composition, structure, organization, powers, duties and functions established by this subchapter.

('77 Code, § 11-40.1) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.36 ORGANIZATION AND COMPOSITION.

(A) (1) The Culture and Heritage Commission shall consist of nine (9) members appointed by the York County Council, seven (7) of whom shall be voting members and two (2) of whom shall be *ex-officio* members that are not entitled to vote and shall not be counted in determining a quorum. At least one (1) of the members shall be a resident of each of the seven (7) County Council districts in York County. The initial term of the first nine members of the Commission shall be from the date of their appointment and qualification in 2011 until the last day of February, 2013. Thereafter, the members of the Commission shall be appointed by the Council for two (2) year concurrent terms commencing on March 1st of every other odd numbered year.

(2) Vacancies on the commission shall be filled in the same manner as their original appointment for the unexpired term and, of the nine (9) members of the commission, at least one must be a resident of each of the seven County Council districts. No member shall be reappointed to serve a new term on the Culture and Heritage Commission after serving more than five consecutive years until a minimum of two years has elapsed since the last service of that member on the commission.

(B) Members of the commission shall serve without pay, but travel and other incidental expenses may be provided upon approval of the director, the chairperson and the secretary-treasurer of the commission; subject, however, to compliance with the statutes, ordinances, policies and procedures established by the County Council for reimbursement of expenses for county boards, agencies and commissions.

(C) The Culture and Heritage Commission may propose and recommend by-laws and rules of procedure not inconsistent with this code for the management and regulation of its business and

affairs which must be approved by the County Council before becoming effective. The commission shall maintain records and minutes of its proceedings and meetings.

(D) The Culture and Heritage Commission shall meet at regular intervals, but not less frequently than once each quarter. The chairperson or a majority of the members of the commission may call special meetings of the commission at any time. Any member of the commission who shall be absent from 50% or more of the meetings of the commission during any 12-month period shall be deemed to have forfeited their membership on the commission and shall be removed without further action by the commission or the County Council. It shall be the responsibility of the secretary-treasurer of the commission to notify the commission, the offending member and the County Council of the absences, removal and vacancy, and the County Council shall fill the vacancy created thereby in the manner of the original appointment, for the unexpired term of the member.

('77 Code, § 11-40.2) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.37 OFFICERS.

(A) The officers of the Culture and Heritage Commission shall consist of a chairperson, a vice-chairperson, secretary-treasurer and any other officers as may be elected by a majority vote of the commission.

(B) (1) The initial chairperson of the commission shall be designated by a majority vote of the County Council and other officers shall be elected by a majority vote of the commission no later than June of 2011 for a term of office running from the date of this election until June 30, 2012.

(2) Beginning in May, 2012 and thereafter, all officers, including the chairperson, shall be elected by a majority vote of the commission in May of each year for one year terms of office which shall commence on July 1 of the same year. Vacancies in office shall be filled in the same manner as that officer's original selection for the unexpired term and all officers shall continue in office until their successors are elected and qualify.

(C) Officers of the commission shall serve without pay, but may be reimbursed for travel and other incidental expenses incurred in connection with commission responsibilities;

subject, however, to compliance with statutes, ordinances, policies and procedures established by the County Council governing the reimbursement of expenses for county boards, agencies and commissions.

('77 Code, § 11-40.3) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.38 PERSONNEL.

The Culture and Heritage Commission shall employ a staff, consisting of a director and other employees, consistent with the availability of funds, as may be necessary to implement and carry out the purposes and objectives of this subchapter and the policies, functions, duties, responsibilities and programs of the commission, all of whom shall be at-will employees of the Commission.

The Commission annually shall submit to the County Council, with its budget request, an organizational chart listing the recommended number of positions, the job title for each description, the proposed salary range for each position, and an explanation of the proposed functions, duties and responsibilities of each staff member and employee of the Commission, which the Council may approve, modify or reject.

The Commission shall use the services of York County administrative and operational departments to conserve costs and avoid duplication of efforts in functions like human resources, finance, purchasing, information technology and general facility maintenance. All positions of the Commission which duplicate existing County administrative and operational functions, departments and positions, including human resources, finance, purchasing, information technology, general facility maintenance and other positions which duplicate existing functions, positions and resources of York County shall be eliminated unless specifically approved by the York County Council.

('77 Code, § 11-40.4) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.39 ADOPTION OF POLICIES AND PROCEDURES.

The Culture and Heritage Commission shall adopt policies and procedures relating to purchasing, the acquisition and disposal of commission collections, conflicts of interest and freedom of information not inconsistent with the general law and

statutes of the state and the ordinances and policies of the county. The Commission shall also adopt and use York County ordinances, practices and procedures relating to the submission, approval and management of an annual line item budget, transfers of funding between budget line items and authorization of expenditures and other financial transactions involving budgeted funds as if the Commission were an internal County department unless a written exception has been approved by the County Council. With respect to personnel practices, policies and procedures, the provisions of Chapter 33 of the York County ordinances shall apply to the Culture and Heritage Commission unless a specific written exception has been approved by the County Council.

('77 Code, § 11-40.5) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.40 PURPOSES AND OBJECTIVES.

The purposes and objectives of the Culture and Heritage Commission shall be:

(A) To maintain and operate museums, planetariums and sites related to the diverse cultural, historical and natural heritage of the county;

(B) To preserve the authenticity and unique character of Historic Brattonsville as a historical site and living history museum;

(C) To locate, select, conserve, restore, develop, appropriately mark and preserve the authenticity and unique character of other sites related to the diverse cultural, historical and natural heritage of the county;

(D) To advise the County Council and citizens of the county on matters of their shared cultural, historical and natural heritage;

(E) To promote and coordinate, with the County Council and other county agencies, efforts to identify, conserve, protect and publicize the museums and other places related to the cultural, historical and natural heritage of the county;

(F) To be the repository for and to maintain the county government records on loan to or entrusted to the care of the commission by the County Council, in the county seat;

(G) To accept donations of and to purchase property, art, artifacts, services, manuscripts, photographs, memorabilia, government records, books, buildings and grounds and other items suitable for use by the commission in order to preserve the cultural, historical and natural heritage of all of the county's citizens, as well as other materials collected by donation or purchase suitable for educating the citizens of the county about matters of cultural, historical and natural heritage issues in general; provided, however, that all real property owned, leased or used by the commission or any related entity for commission purposes shall be transferred to the county by the persons or entities owning title thereto, and all real property used or acquired for commission purposes shall be owned, purchased, leased, held, conveyed or disposed of in the name of the county by the County Council, and provided further, that all collections, artifacts, exhibits, items suitable for use in programs and projects of the Commission shall be held by the Commission in trust for the benefit of York County;

(H) To serve as the permanent repository and perpetual caretakers of art, artifacts, services, manuscripts, photographs, memorabilia, government records, books and the buildings and grounds as may be entrusted to its care, and other items suitable for use by the commission in order to preserve the cultural, historical and natural heritage of the county; and

(I) To promote to the citizens of the county, as well as the general public, awareness of and visitation to museums and related sites in order to create a comprehensive system of linked cultural, historical and natural heritage attractions which enhance the economic development and cultural, historical and natural heritage of the county.

('77 Code, § 11-40.6) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.41 POWERS AND DUTIES.

The Culture and Heritage Commission shall have the following powers and duties:

(A) Recommend by-laws for the management and regulation of its business and affairs, which must be approved by the County Council before becoming effective;

(B) Elect officers and prescribe the duties and responsibilities of the officers, provided, however, that the first chairperson of the Commission shall be appointed by the York County Council;

(C) Establish and appoint committees and subcommittees. The commission shall not delegate or devolve any power, duty or responsibility conferred upon the commission under the general law or the provisions of this subchapter to any committee or subcommittee of the commission;

(D) Establish and implement policies and carry out programs and projects as may be advisable in order to effectuate and implement the objectives of this subchapter in accordance with the general law, the provisions of this subchapter and the ordinances and policies of the county; subject, however, to the availability of funds. The commission shall not make or enter into any contract or agreement involving or requiring an expenditure of funds in excess of funds appropriated by the County Council or made available to the commission from other sources;

(E) Accept donations of or purchase art, artifacts, services, manuscripts, photographs, memorabilia, government records, books, buildings and grounds and other items suitable for use by the commission in order to preserve the cultural, historical and natural heritage of all of the county's citizens, as well as other materials collected by donation or purchase suitable for educating the citizens of the county about the matters of cultural, historical and natural heritage issues in general. All real property owned or used by the commission or any related entity for commission purposes shall be transferred to the county by the persons or entities owning title thereto and all real property used or acquired for commission purposes shall be owned, purchased, leased, held, conveyed or disposed of in the name of the county by the County Council. All personal property, collections, artifacts, exhibits and items suitable for use in the programs and projects of the Commission shall be held by the Commission in trust for the benefit of York County;

(F) To serve as an official repository of the county government records on loan to or entrusted to the care of the commission by the governing body of the county. The records

will be maintained by the commission at the historical center of the county, currently located in the McCelvey Center and shall not be relocated by the commission to any other locations without the prior written approval of the County Council;

(G) Submit an annual budget and plan of operation to the County Council before April 1 of each year for the next ensuing fiscal year, which shall include an organizational chart listing the recommended number of positions, the job title for each description, the proposed salary range for each position, an explanation of the proposed functions, duties and responsibilities of each staff member and employee of the Commission, a list of proposed projects, programs, functions and capital administrative costs, expenditures, revenues and programs which the Council may approve, modify or reject;

(H) Receive and expend grants, gifts, donations, appropriations, admission fees and user fees from any public or private source for the operation, maintenance, expansion or improvement of property, sites, collections, programs or educational or other activities of the commission;

(I) Apply for and seek the approval of the County Council for the purchase, sale, lease, use or exchange of real property for the use of the commission or any related entity. All real property used by the commission or any related entity for commission purposes shall be owned, purchased, leased, exchanged, acquired, sold, conveyed, transferred or disposed of by the County Council in the name of the county;

(J) Purchase, lease, acquire, receive, hold, own or use personal property, artifacts, collections, displays, exhibits, manuscripts, photographs, memorabilia, government records, books and other items suitable for use by the commission in trust in the name of the commission. The commission shall be operated in all respects as a tax-exempt commission under provisions of the Internal Revenue Code;

(K) Operate, maintain and make available to residents of the county one or more museums, historical sites, planetariums, collections, repositories or other projects, with the programs as may be suitable for use by the commission in order to preserve the cultural, historical and natural heritage of the county and its citizens as may be deemed appropriate or advisable for those purposes;

(L) File annually a detailed report of its operations and expenditures for the previous fiscal year with the County Council;

(M) Locate, select, conserve, restore, develop, appropriately mark and preserve sites, buildings, rooms, facilities, equipment, exhibits, displays, collections, artifacts, manuscripts, services, photographs, memorabilia, government records, books, buildings, grounds or other sites or items suitable for use by the commission in order to preserve the cultural, historical and natural heritage of the county and its citizens;

(N) Perform all duties and responsibilities and exercise all powers devolved upon or granted to the county's Historical Commission with respect to abandoned cemeteries under Chapter 155, Appendix B, Exhibits 1 through 5, zoning and development standards; and

(O) Develop, revise, amend and implement mission statements for the Culture and Heritage Commission not inconsistent with the provisions of this subchapter.

(P) Cause an annual audit of all books, financial records and transactions of the Commission by auditors approved by the York County Council and provide a copy of such audit to the York County Council.

('77 Code, § 11-40.7) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

§ 32.42 OWNERSHIP AND TRANSFER OF PROPERTY AND ASSETS.

(A) All real property owned or used by the Culture and Heritage Commission or any related entity for commission purposes shall be transferred to the county by the persons or entities owning title thereto and all real property used or acquired for commission purposes shall be owned, purchased, leased, held, conveyed or disposed of in the name of the county by the County Council. All collections, artifacts, exhibits, items suitable for use in the programs and projects of the commission, and personal property shall be owned and held by the Culture and Heritage Commission in trust; and all personal property, collections, artifacts, exhibits or items shall be purchased, leased, held, conveyed or disposed of by appropriate

action of the commission taken at a regular or special meeting after proper notice with a quorum present, and any action shall be recorded in the minutes of the meeting at which action was taken. The Culture and Heritage Commission shall annually file with the County Council a report and accounting of all real property owned, leased or used by the county or the commission or any related entity for commission purposes. However, the Commission shall not sell, convey or otherwise dispose of a material portion of the collection or other personal property held in trust by the Commission for the benefit of York County nor shall the Commission purchase, lease or otherwise acquire a significant body of items or personal property such as to materially alter the nature or character of the collection without the prior approval of the County Council.

(B) The commission shall also file an annual report and accounting of personal property, collections, exhibits, artifacts, grants, appropriations, gifts, revenues or donations owned, held, used, received, transferred, purchased, sold, leased or disposed of by the commission during the previous fiscal year with the County Council. In the event the Culture and Heritage Commission is dissolved, the collections, artifacts, exhibits and property of the commission shall be turned over to one or more organizations which themselves are exempt as organizations described in Section 501(c)(3) or 170(c)(2) of the Internal Revenue Code, as amended, or corresponding or related sections of prior or future internal revenue codes, or to the federal, state or local government for public purposes, and all other real and personal property shall be transferred and conveyed to the county.

('77 Code, § 11-40.8) (Ord. 6797, passed 10-20-97; Am. Ord. 3403, passed 11-3-03)

Section 3. Public Hearing Required.

The York County Council shall hold a public hearing after publishing notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance.

Section 4. Severability.

The provisions of this ordinance are hereby declared to be severable, and if any provision, section, or phrase of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality or enforceability of any other provision, section or phrase of this ordinance, which shall continue in force and effect.

Section 5. Effective Date.

Adopted this 2 day of May, 2011.

YORK COUNTY COUNCIL

By: 

J. Britt Blackwell, Chairman
York County Council

Attest: 

James E. Baker
York County Manager

First Reading: March 7, 2011
Second Reading: March 21, 2011
Public Hearing: April 4, 2011
Public Hearing: May 2, 2011
Third Reading: May 2, 2011