

**AN ORDINANCE PROHIBITING ANNEXATION AS A PREREQUISITE FOR OBTAINING SEWER SERVICES IN THE UNINCORPORATED AREAS OF CHARLESTON COUNTY, REQUIRING CONNECTION TO SEWER LINES, AND OTHER MATTERS RELATING THERETO**

**WHEREAS**, Charleston County is empowered pursuant to S.C. Code Ann. § 4-9-25 (Supp. 2018) to adopt ordinances as may appear to be necessary and proper for the security, general welfare and convenience of the County and for preserving health, peace, order and good government, to include providing for the orderly control of services and utilities affected with the public interest pursuant to S.C. Code Ann. § 4-9-30 (1986); and

**WHEREAS**, Charleston County has experienced unprecedented growth in population which places increased demands upon County infrastructure and the services necessary to secure the general welfare and health of Charleston County citizens; and

**WHEREAS**, improperly used or maintained on-site septic disposal systems can affect an entire community by causing one or more of the following problems: a breeding area for mosquitoes and other insects, undesirable odors, costly damage caused by sewage backing up inside the home, the spread of serious diseases, and pollution of groundwater, wells, rivers, and lakes; and

**WHEREAS**, State law authorizes commissioner of public works to provide sewer services within and beyond municipal limits to promote harmonious living conditions and to maintain quality standards of living for Charleston County residents; and

**WHEREAS**, it is necessary to ensure that the residents of the unincorporated areas of the County have access to sewer services without regard to annexation pursuant to S.C. Code Ann. § 5-31-1520 (2004), where sewer service is available as provided herein; and

**WHEREAS**, in order to balance the unprecedented growth and maintain the County's natural landscapes, County Council has adopted guidelines for the Rural Areas as defined in Section 3.1.7.A Future Land Use Recommendations of the Charleston County Comprehensive Plan ("Comprehensive Plan") to regulate the provision of sewer in the unincorporated areas of the County; and

**WHEREAS**, to ensure that sewer providers have sufficient revenues to provide adequate services, all owners of improved real property in the unincorporated areas of Charleston County whose property abuts any sewer line must comply with the sewer providers mandatory connection requirements if any, and connect with the sewer line all water closets, bathtubs, lavatories, sinks and the like so that their contents may be made to empty into that sewer; and

**WHEREAS**, to provide for the safety, general welfare, and convenience of the citizens of Charleston County, it is necessary to promulgate rules and regulations, to include enforcement activities, rights, and procedures for both Charleston County and its citizens relating to the provision sewer services in the unincorporated areas of the County.

**NOW, THEREFORE**, be it ordained by the County Council of Charleston County, South Carolina, in meeting duly assembled, County Council adopts the above-stated recitals as findings of fact and enacts the following Ordinance:

### **SECTION ONE: CONNECTION TO SEWER**

Within the unincorporated areas of the County (excluding special purpose districts which provide sewer) it shall be unlawful to deny or condition sewer services to residents of the unincorporated area based on annexation, if sewer service is available and is directly adjacent to and/or crossing the boundary of an improved parcel. The property owner shall tie-on to a service provider's sewer line, *if available* and if any improvements thereon are occupied unless otherwise required by a sewer provider. Sewer connection shall occur within one hundred and eighty (180) days from the date sewer is available, or the adoption of this Ordinance whichever is later. Provided however, any functioning septic system shall be exempt from this Section. A septic system shall be deemed a non-functioning system if it receives a citation from any inspecting authority and repair costs meet or exceed 50% of the value of a new septic system that is appropriate for the property. A property owner with a non-functioning septic system must connect to the sewer line as described in this Section.

For the purpose of this Ordinance, sewer service shall be considered *available* if 1) the sewer service provider has installed sewer lines in the unincorporated area of the County; 2) the provision of sewer is consistent with the Comprehensive Plan and all other applicable local laws; and 3) the service provider has sufficient capacity to provide service to the area in its sole opinion. The provisions of this Section are not intended to impair or impede a sewer service provider's means and methods to conduct its business affairs as deemed appropriate by its governing body.

### **SECTION TWO: JUDICIAL ENFORCEMENT REMEDIES**

A. Violations. Failure to comply with this Ordinance is declared to be a public nuisance, which may be abated by the County by restraining order, preliminary and permanent injunction, or other means provided for by law, and the County may take action to recover the costs of the nuisance abatement.

B. Civil Penalty. Any sewer service provider whose service area extends beyond the jurisdictional boundary of a municipality or district who fails to comply with the non-annexation provision above shall be in violation of this Ordinance. If a court of competent jurisdiction finds that a sewer provider has violated Section One of this Ordinance, it shall impose a civil penalty of no less than \$100.00 but not more than \$500.00 per day for each day of violation of this Ordinance.

C. Injunctive Relief. Any person who has been denied sewer services in the unincorporated area pursuant to the provisions of Section One, may petition the Charleston County Court of Common Pleas for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of Section One upon the service provider in the unincorporated areas.

D. Other Relief. The County may also seek injunctive relief or such other action as is appropriate for legal and/or equitable relief. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a service

provider. In addition, if any sewer service provider fails to comply with the provisions of this Ordinance, any land disturbance or regulatory permit issued by a County agency or department may be suspended or revoked until such time the sewer service provider comes into compliance with this Ordinance.

### **SECTION THREE: SEVERABILITY**

If any one or more of the provisions or portions of this Ordinance are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions and the invalidity shall in no way affect the validity of the other provisions of this Ordinance.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions inoperative or unenforceable or invalid to any extent whatsoever.

### **SECTION FOUR: EFFECTIVE DATE**

This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.