

## CHAPTER 20

### WATER SUPPLY

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Sec. 20-1. Mandatory Service and Contract for service prerequisite to use.

Sec. 20-1-a. All houses, buildings or properties used for human occupancy, employment, commercial, recreation or other similar purposes is hereby required to be connected to the public water supply of the Town of Sullivan's Island. It shall be unlawful for any person to take water from any public hydrant or private pipe connected to the public water supply of the Town for domestic, industrial, fire or other purposes without having previously contracted for such service. All privately held parcels shall pay a monthly water basic facility charge whether connected or not unless the public water supply is not available at a location on or adjacent to the parcel. (11-2-69, S1; 3-19-96) (7-15-08)

Sec 20-1-b. No person shall combine water from any private source with the Town's supply of water within any water distribution system whether inside or outside of any residence, commercial building or any accessory building. (3-19-96)

Sec. 20-1-c. In the event the Town discovers a violation of Section 20-1-b, the Town shall give ten (10) days written notice to have the violation removed in the event the

violation is not removed within ten (10) days, the Town shall disconnect the Town's water supply until the violation has been removed. In addition thereto, the violator of Section 20-1-b shall be punished in accordance with Section 20-16. (3-19-96)

Sec. 20-1-d. Notwithstanding anything else stated in Chapter 20 herein, the Town shall have no obligation to pay for and extend the public water supply system of the Town to undeveloped lots that do not currently have such water service lines adjacent to them. Any such extension shall require an agreement between the Town and the requesting property owner as to payment of the cost of the extension in addition to the Town's approval of the specifications for construction as well as the final installation.(9-16-08)

Sec. 20-1-e. As part of an agreement for the property owner to extend the water service lines to an undeveloped lot that does not currently have adjacent water service lines, the Town reserves the right to require such property owner to construct water service lines to accommodate service to other adjacent properties along the same service line, at the property owner's cost and expense, subject to reimbursement from other adjacent property owners as provided in Section 20-1-f. (4-17-12)

Sec. 20-1-f. If the Town requires a property owner to construct water lines to accommodate water service to adjacent parcels, the Town shall require the owner of each such adjacent parcel to compensate the constructing property owner for a pro-rata cost of construction of the water line at the time the adjoining property owner submits an application to the Town for water or sewer service. The pro-rata cost of construction shall be determined by Town Council by dividing the final cost of constructing the water line extension by the number of buildable lots in which water service has been provided pursuant to Section 20-1-e. To the extent sewer service is also extended pursuant to Section 18-6, the construction of the sewer and water line extensions may be performed under the same construction contract. Assessment of a monthly water basic facility charge shall not relieve any property owner from the obligation to pay the pro-rata cost of construction as provided herein. (4-17-12)

Sec. 20-2. Opening fire hydrants or private pipes.

It shall be unlawful for any person to open any fireplug, hydrant or private pipe connected with or appurtenant to the waterworks of the town or to draw water therefrom, except officials and employees of the Town, including the Fire Chief and members of the Fire Department, acting under the direction of the Town Council or with its permission. (11-2-69, S2)

Sec. 20-3. Water supply to premises on or off.

It shall be unlawful for any person to tamper with the meter boxes or meters installed by the Town of Sullivan's Island. Residents under contract with the Town for water service may, as necessary, use the green shut off valve on the property owners side of the meter to turn service on or off. (3-19-96)

Sec. 20-4. Pollution of water supply prohibited.

It shall be unlawful for any person to pollute the water supply of the Town. (11-2-69, S4)

Cross Connection Control: The Town shall be responsible to CPW for the protection of the public potable water distribution system from contamination of pollution due to the backflow of contaminates or pollutants through the water service connection. In the event a person has connected or cross connected any private well or any private water system in any way, shape or form to or with the public water system which such connection or cross connection is not in violation of Section 20-1 herein, the same shall be subject to the following: Town personnel, when deemed necessary, shall require an approved backflow prevention assembly to be installed by the landowner for the safety of the water system in accordance with the Cross-Connection Control Policy and South Carolina State Primary State Drinking Water Regulations (Safe Drinking Water Regulations). The Town shall give notice, in writing, to the customer to install an approved backflow prevention assembly at each service connection to the owner's premises. In the event that the assembly is not installed as required by the Town, the water service will be disconnected until such assembly has been properly installed in the sole discretion of the Town. (2-21-06)

Prior to any landowner, Tenant or water user connecting or cross connecting any private well or water system with the public water system (not in violation of Section 20-1 herein) the same shall apply in writing with the Town, thereafter, upon Town approval shall follow requirements contained in paragraphs 20-4 (a). (3-19-96)

Sec. 20-5. Permit required to extend service pipes attached to water mains.

It shall be unlawful for any person to extend service pipes attached to mains of the public water supply on any premises within the Town without first obtaining permission therefore in writing from the Town. Before any workman or plumber shall perform any work connected with the extension of such, written permission for such extension shall be obtained from the Water Department Manager. (11-2-69, S5; 3-19-96)

Sec. 20-6. Contract for water service to be on annual basis; contracting party to advise Town Council of correct address.

All contracts for the service of water for commercial or residential use shall be on an annual basis covering the period from January 1 through December 31 of each year and automatically renewable. All Owners of residential and commercial parcels occupied or vacant, shall contract with the Town for water service for the purpose of paying the monthly basic facility charge. Persons entering into contracts with the Town for water service shall be responsible for ascertaining and paying water service charges hereinafter provided as such charges accrue. All water contracts now in existence are hereby amended to conform with all of the provisions hereof and as so amended shall continue in force. The Town Council will mail notices of accruing charges to water users at mailing

addresses furnished by the contracting parties, but it is the responsibility of the contracting party that the Town Council be advised of his current and correct address. (11-2-69, S6) (7-15-08)

Sec. 20-6a. Any residential and/or commercial property owner, who fails to contract with the Town for the monthly basic facility charge, any monthly usage charge, any penalties and interest, if any, shall accrue and become the obligation of the owner. In addition, a lien shall be placed upon the property. (7-15-08)

Sec. 20-6b. The amount owed to the Town under this section along with any penalties, fines, interest and cost of collection including attorney fees are declared to be a charge and continuing lien upon the property (lot) and shall run with the land. The Town shall have the right to enforce the lien by bringing an action to The Small Claims Court for Charleston County of The Circuit Court. The cost of collection including but not limited to filing fee, process of service and attorney fees shall be the responsibility of the property owner and shall become a part of the lien. (7-15-08)

Sec. 20-6c. Where an Institutional Mortgagee obtains title to the property (lot) as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such Institutional Mortgagee shall not be liable for the amount due and owing pertaining to that property (lot) that became due prior to the acquisition of title by such Mortgagee as a result of the foreclosure or deed in lieu thereof, unless the amount due and owing is secured by a claim of lien recorded prior to the recording of the applicable mortgage. (7-15-08)

Sec. 20-7. Number of contracts per lot.

Only one contract and one meter for each residential lot is allowed except those non conforming contracts established prior to February 20, 1996. During residential construction, water only service may be provided until such time that the property is to be occupied, then the service shall be water and include sewer service. Only one contract for the service of water for residential use will be entered into with respect to any one residential lot; provided further, that there shall be no limitations as to the number of separate contracts for water service for commercial purposes on one lot. (11-2-69, S7) (12-21-10)

Sec. 20-7-a. Water only service, providing only water service to a residential lot and no sewer service, shall be limited to: 1) a new construction site prior to connecting to the public sewer system and/or the issue of a Certificate of Occupancy, 2) a lot with or without a residential structure, using water service only for irrigation and/or pool filling and/or water service to a dock attached to the lot, with no sewer service for any use. There shall be no leak adjustments for a water-only service. (3-19-96) (7-15-08) (12-21-10)

Sec. 20-7-b. Except as provided in Section 20-7-a set out above and 20-7-c set out below, all contracts for the servicing of water shall include the servicing of sewer and the bill for the usage of the water shall be computed in accordance with the current adopted

Sullivan's Island rate schedule. (3-19-96) (12-21-10)

Sec. 20-7-c. The Town will allow for a property owner or renter of a residential lot with or without a residential structure to apply for a single separate meter for water-only service for landscape irrigation and/or pool filling and/or water service to a dock. Such a separate water-only meter will not be activated until after a CO has been issued and/or it is in compliance with Sec. 20. Properties with water-only meters shall not be granted the annual pool filling permit. There shall be no leak adjustments for service to a water-only meter. (3-19-96) (2-21-06) (12-21-10)

Sec. 20-7-d. Nothing herein shall prohibit the Town from continuing to allow contracts for water use only with accounts for properties where accounts have previously been established prior to February 10, 1996.

Sec. 20-8. Conditions prerequisite to new installations or reinstallations.

All new installations or reinstallations of water service are subject to the following conditions:

- (a) The property line shall be clearly defined by the owner at the point of water service entry so that the meter may be installed outside the property line.
- (b) The owner shall provide on his property a cut-off valve between the structure being serviced and the meter. (12-17-91)
- (c) The owner shall keep access to the meter and backflow device free of all obstructions. Road right of way may be planted with grass only. Plants, shrubs, trees, landscape berms, landscape irrigation, etc. are strictly prohibited in the right of way. (11-2-69, S8) (2-21-06) (7-15-08)
- (d) The Town Council shall establish and may revise from time to time installation and reinstallation charges for various sizes of meters. Copies of such resolutions shall be made available at Town Hall upon request. The current meter charges are as follows:

3/4"	\$800.00
1"	\$1500.00
1 1/2"	\$2500.00
2"	\$3500.00
3"	\$5500.00

- (e) The Town Council shall establish and may revise from time to time unmetered private fire line tie-in fees. Copies of such resolution shall be made available at the Town Hall upon request. The current tie-in fees are as follows:

2"	\$145.00
3"	\$276.00

4"	\$460.00
5"	\$918.00

The owner shall be responsible for costs involved in connections from the water main to property and subject to yearly inspection by Water and Fire Departments. (12-17-91; 3-19-96)

Sec. 20-9. Meter deposits.

The Town Council by resolution shall establish and may revise from time to time meter deposits, which will be required of all water users, such deposit to be paid at the time the contract for water service is made; provided, that this requirement for a deposit may be waived where the contract for water service is with the property owner and where the property owner, in writing, assumes responsibility for payment of all amounts due for water service furnished such property. (11-2-69, S9)

Sec. 20-10. Establishment and revision of water service charges and hydrant charges.

The Town Council by resolution shall establish and may from time to time revise residential and commercial water service charges, including minimum charges for hydrant use. (11-2-69, S10)

Sec. 20-11. Billing date for water service charges; when bills payable; discontinuance of service for failure to pay bill; charges for restoration of service.

Meters will be read each month of the year. Bills for water shall be rendered by the First (1st) day of each month, and said bills shall be payable when rendered at the office of the Town Council and shall become past due after the Fifteenth (15th) day of the month in which they were rendered. No further notice or billing shall be required. Under no circumstances shall a partial payment of a water bill be accepted. (7-15-08)

If a bill is not paid by the Fifteenth (15th) of the month following rendition, a \$10.00 service charge is added to the bill. If the bill is not paid by the First (1st) of the month following rendition, water service will be discontinued and if restored during normal working hours, is due along with the \$10.00 service charge and a \$15.00 reconnection fee. The after-hours (hours other than between 7:30 a.m. and 4:30 p.m., Monday through Friday) reconnection fee is \$30.00 and must be paid along with the past due bill and the \$10.00 service charge by 2:00 p.m. the following business day. If these charges are not satisfied within this timeframe, water service will be disconnected a second time and an additional \$60.00 will be added to the bill. If the total charges are not satisfied by 2:00 p.m. the following business day, the customer shall be mailed a registered or certified letter indicating meter removal and all payments and fees associated with the reinstallation along with all past due bills and an additional \$100.00 reinstallation shall be charged. The Town Council by resolution shall establish and from time to time may revise "turn on" fees and meter reinstallation fees, which shall be charged in addition to

the regular bill and mailing charges, before service is restored. (3-19-96)

Sec. 20-12. Contracting party responsible for water beyond meter.

The Town's contract for water service provides for service of water at the point where the property owner's line is attached to the Town's meter.

Since the operation and condition of the property owners' water lines on private property are beyond the observation and control of the Town, the Town Council shall not be responsible for water used, lost or wasted after passing through the meter, nor will the Town assume the responsibility for billing or collecting from tenants who have not made the required deposit or signed a water contract with the Town. (11-2-69, S12)

Since the Town is purchasing its water from an outside source, the Town of Sullivan's Island shall not be required to make any adjustments to a bill when the water bill and/or sewer bill has been substantially increased due to any excessive water used by the contract owner/property owner when the water has passed through the meter and was subsequently lost or wasted.

The Town, in its sole discretion, may adjust the sewer bill but not the water bill by charging the customer the average monthly sewer bill charge of the previous six (6) months on the account provided the customer can satisfactorily prove to the Town personnel that (1) there was an undetected leak and (2) said excessive water usage did not enter a sanitary sewer and (3) that a reasonable inspection of property would not have discovered said leak

Additionally, an adjustment in the sewer bill will only be made once every three (3) years for a customer and such adjustment would only cover two (2) consecutive months.

No adjustments in the water and/or sewer bill will be made for any leaks in any irrigation system or pool systems. (3-19-96)(8-20-02)

1. Any individual, corporation, customer, contractor, or other entity may appeal any decision of the Sullivan's Island Water and Sewer Department staff or management to the Sullivan's Island Water and Sewer Committee. In addition, any of the Water and Sewer Department's policies or procedures or application of such policies or procedures may also be appealed to the Sullivan's Island Water and Sewer Committee. Any and all such appeals must be directed, in writing, to the Committee Chair with a copy issued to the Committee Members. The Chairman, upon receipt of the written request, will set the matter to be appealed to the Water and Sewer Committee meeting for consideration. The person(s) making the appeal will be given the opportunity to appear before the Water and Sewer Committee to present their appeal. Decisions of the Water and Sewer Committee on all appeals are the final decision of the Town of Sullivan's Island. (4/12/11)

Sec. 20-12-1 Pool filling.

One pool filling per year in accordance with the following:

1. No pool filling permit shall be allowed if an irrigation meter or dock only meter is present. (12-21-10)
2. Customer must apply at Town Hall, pay the fee, and sign liability waiver. Water Department personnel will inspect pool within three (3) business days of the date of permit application. Inspection of pool will consist of verifying that pool is empty and verifying pool dimensions and that pool drainage does not enter sanitary sewer. (12-21-10)
3. With permit approval, users will be required to pay for the water used to fill the pool and will not be assessed for sewer treatment. The dimensions of the pool (length x width x average depth) submitted on permit will be used to calculate the volume of water for the sewer adjustment.
4. If no pool filling permit is obtained sewer treatment charges will not be adjusted and be required to be assessed in accordance with normal billing procedures. (3-19-96)(8-20-02)

Sec. 20-13. Checking of meters.

At the user's request, a meter's accuracy will be checked against a certified meter by the Town for a fee established by resolution of Town Council, which fee will be refunded should it be determined that the meter's measure of water used is excessive or should the check indicate loss of metered water from the meter. (11-2-69, S13)

Sec. 20-14. Declaration of Policy.

Purpose: To achieve the greatest public benefit from domestic water use, sanitation, and fire protection, and to provide water for other purposes in an equitable manner, the Town Council adopts the following concerning the delivery and consumption of water.

This Ordinance is hereby declared necessary for the preservation of public health safety and welfare and shall take effect upon its adoption by the town Council.

Sec. 20-14.1 Drought Response Ordinance

The objective of this Drought Response Ordinance is to establish authority, Ordinance and procedure by which the Town will take the proper actions to manage water demand during a drought-related shortage. The Ordinance satisfies the requirements of the Drought Response Act of 2000 and has the goal of achieving the greatest public benefit from limited supplies of water needed for



domestic water use, sanitation, and fire protection and allocating water for other purposes in an equitable manner.

This Ordinance outlines the actions to be taken for the conservation of water supplied by the Town. These actions are directed both towards an overall reduction in water usage and the optimization of supply.

To satisfy these goals, the Town hereby adopts the following regulations and restrictions on the delivery and consumption of water. This Ordinance is hereby declared necessary for the protection of public health, safety and welfare and shall take effect upon its adoption by the Town.

If it becomes necessary to conserve water in its service area due to drought, the Town is authorized to issue a proclamation (a "Proclamation") that existing conditions prevent fulfillment of the usual water-use demands. The Proclamation is an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection, and other essential needs becomes endangered.

Immediately upon issuance of such a Proclamation, regulations and restrictions set forth under this Ordinance shall become effective and remain in effect until the water supply shortage has ended and the Proclamation rescinded. The drought water usage rates, as set in the latest Water & Sewer Rates and Fee Schedule, shall be in effect during this time. (4/12/11)

Water uses that are regulated or prohibited under this Ordinance are considered to be non-essential and continuation of such uses during times of water supply shortages is deemed to constitute a waste of water, subjecting the offender(s) to penalties.

The Drought Management Plan as outlined in Section I - III is hereby approved. (10/21/03)

#### Sec. 20-14.2 Definition of Terms

For the purposes of this Plan and the Accompanying Ordinance, the following definitions will apply:

**Aesthetic Water Use:** Water use for ornamental or decorative purposes such as fountains, reflecting pools and waterfalls.

**Commercial and Industrial Use:** Water use integral to the production of goods and/or services by any establishment having profit as its primary aim.

**Conservation:** Reduction in water use to prevent depletion or waste of the resource.

**Customer:** Any person, company, or organization using finished water owned or supplied by the Town.

**Domestic Water Use:** Water use for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business,

industry, or institution.

**Drought Alert Phases:** There are four drought alert phases to be determined by the Drought Response Committee for the State of South Carolina. The four phases are:

1. Incipient drought
2. Moderate Drought
3. Severe Drought
4. Extreme Drought

**Drought Response Management Area:** There are four drought management areas corresponding to the major river basins in South Carolina. These four areas are:

1. West or Savannah
2. Central or Santee
3. Northeast or Pee Dee
4. Southern or Ashepoo, Combahee, and Edisto.

In order to prevent overly broad response to drought conditions, drought response measures shall be considered within individual drought management areas or within individual counties, as applicable.

**Drought Response Committee:** A committee composed of State and local representatives created for the purpose of coordinating responses to water supply shortages within Drought Management Areas and making recommendations for action to the South Carolina Department of Natural Resources and/or the Governor. The Committee is composed of State agency representatives from the South Carolina Emergency Management Division of the Office of the Adjutant General, South Carolina Department of Health and Environmental Control, South Carolina Department of Agriculture, South Carolina Forestry Commission, and South Carolina Department of Natural Resources, as well as local committees representing counties, municipalities, public service districts, private water suppliers, agriculture, industry, domestic users, regional councils of governments, commissions of public works, power generation facilities, special purpose districts and Soil and Water Conservation Districts.

**Essential Water Use:** Water used specifically for fire fighting, maintaining in-stream flow requirements and to satisfy Federal, State, or local public health and safety requirements.

**Finished Water:** Water distributed for use after treatment. The terms “water use,” “water user,” and “water customer” refer to finished water use unless otherwise defined.

**Institutional Water Use:** Water used by government, public and private educational institutions, churches and places of worship, water utilities, and organizations within the public domain.

**Irrigation Water Use:** Water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights-of-way, and medians.

**Non-essential Water Use:** Categories of water use other than Essential Water Use. Examples of non-essential water use include landscape irrigation and washing of buildings, parking lots, automobiles, boats, etc.

**Palmer Index:** A measure of the severity of a drought, or a wet spell in an area. Dry conditions are associated with negative values, wet conditions with positive values, and normal conditions have a value of zero.

**Residential Equivalent Unit (REU):** An equivalency unit defined to be equal to one single-family residence. The Town’s allocated water capacity equals 300 gallons per day

per REU.

**SC Department of Natural Resources:** The State Agency with primacy to implement the provisions of the Drought Response Act.

**Water Supply Shortage:** Lack of adequate, available water caused by drought to meet normal demands.

(10/21/03)

### Sec. 20-14.3 Identification of Water Specific Drought or Water Shortage Indicators

- A. Moderate Drought Phase:** Upon notification by the Drought Response Committee and/or Charleston CPW, that a Moderate drought condition is present and is expected to persist and/or upon determination by the Town that a moderate water supply shortage exists based on trigger levels, the Town will seek voluntary reductions from its customers in the use of water for all purposes and voluntary reductions on using water during certain peak water demand periods. Specifically, the goal during this phase is to achieve a reduction of 20% in residential water use and 15% in other water uses such as commercial, industrial, institutional and irrigation; with an overall reduction of >15% water use. To accomplish this, the Town will take the following actions:
- 1) Issue a Proclamation to be released to local media, The Town's customers and to the South Carolina Department of Natural Resources Drought Information Center that Moderate drought conditions are present.
  - 2) Provide written notification to the South Carolina Department of Natural Resources Drought Information Center and routinely publish in The Charleston Post & Courier and the Moultrie News the voluntary conservation measures that the customers are requested to follow during Moderate drought conditions, including:
    - a. Reduce residential water use to 65 gallons per person per day or a maximum of 200 gallons per household per day whichever is less;
    - b. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard surfaced areas;
    - c. Eliminate the washing down of buildings for purposes other than immediate fire protection;
    - d. Eliminate the flushing of gutters;
    - e. Eliminate the domestic washing of motorbikes, boats, cars, etc.;
    - f. Eliminate the use of water to maintain fountains, reflection ponds and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life;
    - g. Reduce watering of lawns, plants, trees, gardens, shrubbery and flora on private or public property to the minimum necessary. Encourage outdoor watering to be done during off-peak hours.
    - h. Reduce the amount of water obtained from fire hydrants for

- construction purposes, fire drills or for any purpose other than fire-fighting or flushing necessary to maintain water quality; and
- i. Limit normal water use by commercial and individual customers including, but not limited to, the following:
    - i. Stop serving water in addition to another beverage routinely in restaurants;
    - ii. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support aquatic life;
    - iii. Cease water service to customers who have been given a 10-day notice to repair one or more leaks and have failed to do so.
  - 3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
  - 4) Cease to install new irrigation taps on the water system.
  - 5) Continue to encourage and educate customers to comply with voluntary water conservation.

**B. Severe Drought Phase:** Upon notification by the Drought Response Committee and/or Charleston CPW, that a Severe drought condition is present and is expected to persist and/or upon determination by the Town that a severe water supply shortage exists based on trigger levels, Town will seek voluntary reduction in the use of water for all purposes and mandatory restrictions on non-essential usage and restrictions on times when certain water usage is allowed. Specifically, the goal during this phase is to achieve a reduction of 25% in residential water use, 20% in all other water use categories, and a reduction in overall water use of >20%. To accomplish these goals, the TOWN will take the following actions:

- 1) Issue a Proclamation to be released to the local media, The Town's customers and to the South Carolina Department of Natural Resources Drought Information Center that Severe drought conditions are present.
- 2) Provide written notification to the South Carolina Department of Natural Resources Drought Information Center and routinely publish in the Charleston Post & Courier and the Moultrie News the voluntary conservation measures and mandatory restrictions to be placed on the use of water supplied by the utility, including:
  - a. Voluntary reduction of residential water use by the utility's customers to 55 gallons per person per day or a maximum of 170 gallons per household or REU per day whichever is less.
  - b. Control landscape irrigation by the utility's customers by staggering watering times.
  - c. Mandatory restrictions on the use of water supplied by the utility for activities including:
    - i. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard

- surfaced areas;
    - ii. Eliminate the washing down of buildings for purposes other than immediate fire protection;
    - iii. Eliminate the flushing of gutters;
    - iv. Eliminate domestic washing of motorbikes, boats, cars, etc.;
    - v. Eliminate the use of water to maintain fountains, reflection ponds and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life;
    - vi. Eliminate filling or maintaining public or private swimming pools;
    - vii. Eliminate obtaining water from fire hydrants for construction purposes, fire drills or any purpose other than fire-fighting or flushing necessary to maintain water quality; and
  - d. Limit use of water by commercial and individual customers including, but not limited to, the following:
    - i. Serve water only upon request in addition to another beverage routinely in restaurants;
    - ii. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support aquatic life;
    - iii. Limit irrigating golf courses and any portion of its grounds to existing surface water supplies;
    - iv. Cease water service to customers, where appropriate, who have been given a 10-day notice to repair one or more leaks and have failed to do so; and
    - v. Limit expanding commercial nursery facilities, placing new irrigated agricultural land in production or planting or landscaping when required by site design review process.
- 3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
- 4) Continue to cease installation of new irrigation taps on the water system.
- 5) Publicize widely the penalties to be imposed for violations of mandatory restrictions and the procedures to be followed if a variance in the restrictions is requested.
- 6) Expand the use of education and public relations efforts and emphasize the penalties associated with violating the mandatory restrictions.
- 7) Provide written notification monthly to the South Carolina Department of Natural Resources Drought Information Center regarding the success of the voluntary and mandatory restrictions.

**C. Extreme Drought Phase:** Upon notification by the Drought Response

Committee and/or Charleston CPW, that an Extreme drought condition is present and is expected to persist and/or upon determination by the Town that an extreme water supply shortage exists based on the trigger levels, the Town will impose mandatory restrictions in the use of water for all purposes and on the times when certain water usage is allowed. Specifically, the goal during this phase is to achieve a reduction of 30% in residential water use, 25% in all other categories of water uses and a reduction in overall water use of >25%. To accomplish these goals, the Town will take the following actions:

1. Issue a Proclamation to be released to the local media, the Town's customers and to the South Carolina Department of Natural Resources Drought Information Center that Extreme drought conditions are present;
2. Provide written notification to the South Carolina Department of Natural Resources Drought Information Center and routinely publish in the Charleston Post & Courier and the Moultrie News the mandatory restrictions to be placed on the use of water supplied by the utility, including:
  - a. Limiting residential water use to 45 gallons per person per day or a maximum of 150 gallons per household or REU per day whichever is less.
  - b. Eliminate landscape irrigation by the utility's customers.
  - c. Mandatory restrictions on the use of water supplied by the utility for activities including:
    - i. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard surfaced areas;
    - ii. Eliminate the washing down of buildings for purposes other than immediate fire protection;
    - iii. Eliminate the flushing of gutters;
    - iv. No domestic washing of motorbikes, boats, cars, etc.;
    - v. Eliminate the use of water to maintain fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life.
    - vi. Eliminate filling or maintaining public or private swimming pools;
    - vii. Eliminate obtaining water from fire hydrants for construction purposes, fire drills, or any purpose other than firefighting or flushing necessary to maintain water quality; and
  - d. Limit normal water use by commercial and individual customers including, but not limited to, the following:
    - i. Stop serving tap water in addition to another beverage routinely in restaurants;
    - ii. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the

- minimum amount required to support fish and wildlife;
    - iii. Limit irrigating golf courses and any portion of their grounds to existing surface water sources;
    - iv. Cease water service to customers who have been given a 10-day notice to repair one or more leaks and have failed to do so; and
    - v. Limit expanding commercial nursery facilities, placing new irrigated agricultural land in production, or planting or landscaping when required by site design review process.
- 3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
- 4) Continue to cease installation of new irrigation taps on the water system.
- 5) Publicize widely the penalties to be imposed for violations of mandatory restrictions (Section F. of the Drought Response Ordinance) and the procedures to be followed if a variance (Section G of the Drought Response Ordinance) in the restrictions is requested.
- 6) Expand the use of education and public relations efforts as conducted under the Moderate and Severe drought phase and emphasize the penalties associated with violating the mandatory restrictions.
- 7) Provide written notification monthly to the South Carolina Department of Natural Resources Drought Information Center regarding the success of the mandatory restrictions.

(10/21/03)

Sec. 20-14.4 Rationing

If a drought threatens the protection of public health and safety, the Town is hereby authorized to ration water. (10/21/03)

Sec. 20-14.5 Enforcement of Restrictions

If any customer of the Town fails to comply with the mandatory water use restrictions of this Ordinance, the customer shall be given a written notice of such failure to comply, which cites the date of said violation, and shall be assessed surcharges in accordance with the following schedule:

First violation - \$50.00 surcharge shall be added to the customer's water bill.

Second violation - an additional \$150.00 surcharge shall be added to the customer's water bill.

Third violation - the customer's water service shall be terminated and restored only after payment of a surcharge of \$300.00 in addition to all previously assessed surcharges.

Law enforcement agencies and other authorized agencies or designated employees in the respective jurisdiction that is being supplied water by the Town shall diligently enforce the provisions of the Drought Response Ordinance.

(10/21/03)

Sec. 20-14.6 Variances

Customers, who in their belief are unable to comply with the mandatory water use restrictions of this Drought Response Ordinance, may petition for a variance from restrictions by filing a petition with the Town within ten (10) working days after the issuance of the Proclamation requiring water use restrictions.

All petitions for variance shall contain the following information:

- A. Name and address of the petitioner
- B. Purpose of water usage
- C. Special provision from which the petitioner is requesting relief
- D. Detailed statement as to how the curtailment declaration adversely affects the petitioner
- E. Description of the relief desired
- F. Period of time for which the variance is sought
- G. Economic value of the water use
- H. Damage or harm to the petitioner or others if petitioner complies with the Ordinance

(10/21/03)

Sec. 20-15. Same -- Prohibited acts when proclamation in effect.

Immediately upon the issuance of a proclamation as provided for in Section 20-14, and so long as the same may be in force, it shall be unlawful for any person to do such of the following acts as may be prohibited in such proclamation:

- (a) Washing of automobiles.
- (b) Sprinkling of private or public lawns.
- (c) Sprinkling of streets.
- (d) Washing of pavements.
- (e) Use of water in public or private swimming pools.
- (f) Use of water in flushing of sewers.
- (g) In all public drinking places and soda fountains, sanitary cups shall be used instead of utensils which require washing with water.
- (h) All unusual water requirements, such as jetting of piling or well points. (11-2-69, S15; 3-19-96)

Sec. 20-16. Violations.

Any person violating any provision of this chapter or any provision relative to which a proclamation has been issued as provided in Section 20-14, when declared to be in force by the Clerk of the Town Council, shall be punished as provided in Section 1-7. (11-2-



69, S16)

**ORDINANCE NO. 20-17**

<b>TOWN OF SULLIVAN'S ISLAND</b>	)	<b>TO PROVIDE FOR THE ISSUANCE AND SALE</b>
	)	<b>OF THE GENERAL OBLIGATION BOND OF 2003</b>
<b>COUNTY OF CHARLESTON</b>	)	<b>OF THE TOWN OF SULLIVAN'S ISLAND,</b>
	)	<b>SOUTH CAROLINA IN THE PRINCIPAL</b>
<b>STATE OF SOUTH CAROLINA</b>	)	<b>AMOUNT OF TWO MILLION TWO HUNDRED</b>
	)	<b>FIFTY THOUSAND DOLLARS (\$2,250,000); TO</b>
	)	<b>PRESCRIBE THE PURPOSES FOR WHICH THE</b>
	)	<b>PROCEEDS SHALL BE EXPENDED; TO</b>
	)	<b>PROVIDE FOR THE PAYMENT THEREOF; AND</b>
	)	<b>OTHER MATTERS RELATING THERETO.</b>

**Ordinance 20-17 (continuation of page 17 on next page)**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:**

As an incident to the enactment of this Ordinance and the issuance of the bonds provided for herein, the Town Council of the Town of Sullivan's Island, South Carolina (hereinafter called the Town Council), the governing body of the Town of Sullivan's Island, South Carolina (hereinafter called the Town), finds that the facts set forth herein exist and the statements made with respect thereto are true and correct.

**WHEREAS**, by virtue of the Municipal Bond Act (Article 5, Chapter 21, Title 5 Code of Laws of South Carolina 1976, as amended), as amended and continued by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended (the Municipal Bond Act, as so amended and continued, being hereinafter called the Enabling Act), the Town Council is authorized to issue general obligation bonds of the Town for any purpose which is a public purpose and a corporate purpose of the Town in any amount not exceeding the constitutional debt limit applicable to the Town; and

**WHEREAS**, pursuant to the authorizations of Article X of the South Carolina Constitution and the Enabling Act, the Town Council desires to obtain funds for the purpose of defraying a portion of the costs, including costs of issuance, of acquiring, designing, constructing, improving, expanding, renovating, surveying and equipping various Town improvements, including improvements to the existing sewer and water systems (the Project); and

**WHEREAS**, to obtain such funds the Town intends to issue its \$2,250,000 General Obligation Bond of 2003 (the Bond).

**NOW, THEREFORE**, on the basis of the foregoing authorizations and for the purpose of raising the sum of Two Million Two Hundred Fifty Thousand (\$2,250,000) Dollars to be expended for the purposes set forth above, the Town Council enacts this Ordinance to effect the issuance and sale of the Town's \$2,250,000 General Obligation Bond of 2003.

**ARTICLE I**

**DEFINITIONS**

**Section 1**                      **Defined Terms.**

The terms defined in this Article (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Ordinance shall have the respective meanings specified in this Article.

"Bond" shall mean the General Obligation Bond of 2003 of the Town authorized to be issued hereunder in the principal amount of Two Million Two Hundred Fifty Thousand (\$2,250,000) Dollars.

"Bond Registrar" shall mean the Original Purchaser.

"Books of Registry" shall mean the registration books maintained by the Bond Registrar in accordance with Section 7 of Article II hereof.

"Clerk" shall mean the Clerk of Council of the Town, or in his or her absence, the acting Clerk of Council.

"Closing Date" shall mean the date upon which there is an exchange of the Bond for the proceeds representing the purchase of the Bond by the Original Purchaser.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Construction Fund" shall mean the Series 2003 Bond Construction Fund established pursuant to the provisions of Section 2 of Article IV hereof.

"Enabling Act" shall mean the Municipal Bond Act (Article 5, Chapter 21, Title 5, Code of Laws of South Carolina 1976, as amended), as amended and continued by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended.

"Interest Payment Date" shall mean any April 1 or October 1 commencing April 1, 2004.

"Mayor" shall mean the mayor, or in his absence, the mayor pro tempore, of the Town.

"Ordinance" shall mean this Ordinance as from time to time amended or supplemented by one or more supplemental ordinances enacted in accordance with the provisions of Article VII hereof.

"Original Purchaser" shall mean the first purchaser of the Bond from the Town.

"Paying Agent" shall mean the Original Purchaser.

"Private Business Use" shall mean use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Project" shall mean the acquiring, designing, constructing, improving, expanding, renovating, surveying and equipping of various municipal improvements, including improvements to the Town's water and sewer systems.

"Town" shall mean the Town of Sullivan's Island, South Carolina, a body politic and corporate and a municipal corporation under the laws of the State of South Carolina.

"Town Council" shall mean the Town Council of the Town and any successor governing body of the Town.

Section 2            General Rules of Interpretation.

Except as otherwise expressly provided or unless the context otherwise requires, words importing persons include firms, associations, and corporations and the masculine includes the feminine and neuter.

**ARTICLE II**

**ISSUANCE OF BONDS**

Section 1            Authorization of Bonds, Denominations and Maturities.

Pursuant to the provisions of the Enabling Act and for the purposes set forth above, there shall be issued the Two Million Two Hundred Fifty Thousand (\$2,250,000) Dollars General Obligation Bond of 2003 of the Town of Sullivan's Island. The Bond shall be

originally dated the date of its delivery and shall be in fully-registered form. The Bond shall mature on October 1 in annual series or installments, as follows:

<u>Year</u>	<u>Principal Amount</u>
2004	\$110,000
2005	115,000
2006	120,000
2007	125,000
2008	130,000
2009	135,000
2010	140,000
2011	145,000
2012	155,000
2013	160,000
2014	170,000
2015	175,000
2016	180,000
2017	190,000
2018	200,000

Section 2      Optional Prepayment of Bond.

The Bond shall be subject to prepayment at the option of the Town in whole or in part at any time on or after October 1, 2013 , at the prepayment prices (expressed as a percentage of principal amount) set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Period</u> <u>(Dates Inclusive)</u>	<u>Redemption Prices</u>
October 1, 2013 through September 30, 2014	103%
October 1, 2014 through September 30, 2015	102%
October 1, 2015 through September 20, 2016	101%
October 1, 2016 and thereafter	100%

Section 3      Interest Rate on Bond.

The Bond shall bear such rate of interest, payable on the Interest Payment Dates, beginning April 1, 2004, as shall, at the sale of the Bond, reflect the lowest net interest cost to the Town, at a price of not less than par and accrued interest to the date of delivery, but any premium offered must be paid in cash as a part of the purchase price.

For the purposes of this Section 3, interest cost shall mean the aggregate of interest on the Bond from the dated date of the Bond, less any sum named by way of premium.

Section 4      Medium of Payment.

Both the principal of and interest on the Bond shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

Section 5      Place of Payments.

Principal of and interest on the Bond, when due, shall be payable at the principal office of the Paying Agent.

Section 6            Execution of Bond.

The Bond shall be executed in the name of the Town by the Mayor; by his manual signature, and attested by the Clerk, by her manual signature, and the seal of the Town shall be impressed or reproduced on the Bond. The Bond shall be executed in respect of any manual signature by the person or persons holding office when the Bond is ready for delivery. The execution of the Bond in this fashion shall be valid and effectual notwithstanding changes in the personnel of any of the above offices subsequent to their execution. No authentication of the Bond is required.

Section 7            Form of Bond; Designation of Bond Registrar.

(a)        The Bond shall be issued in fully registered form, and all principal and interest due thereunder shall be payable only to the registered owner thereof. Town Council hereby directs the Bond Registrar to maintain, at the Town's expense, the Books of Registry for the registration or transfer of the Bond.

(b)        The form of the Bond and assignment provisions to be endorsed thereon shall be substantially as set forth in Exhibit A attached hereto and made a part of this Ordinance.

(c)        A copy of the approving legal opinion to be rendered may be attached to the back of the Bond, and preceding the same, a certificate of authentication shall appear, which shall be signed on behalf of the Town by a facsimile of the signature of the Clerk. Such certificate of authentication shall be in form substantially as follows:

**IT IS HEREBY CERTIFIED** that the following is a true and correct copy of the complete legal opinion of Messrs. Haynsworth Sinkler Boyd P.A., Attorneys and Counselors at Law, Charleston, South Carolina, the original of which was manually executed, dated, and issued as of the date of the delivery of an payment for the Bond, and a copy of which is on file with the Paying Agent.

TOWN OF SULLIVAN'S ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Clerk of the Town Council of  
the Town of Sullivan's Island,  
South Carolina

Section 8            Registration and Transfers of Bond; Persons Treated as Owners.

(a)        The Bond shall be fully-registered and may not be transferred except by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of such registered Bond, the Town shall execute and deliver, subject to the provisions of Section 10 of this Article, in the name of the transferee, a new registered Bond of the same aggregate principal amount as the unpaid principal amount of the Surrendered Bond.

(b)        Any bondholder requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. Any purported assignment in contravention of the foregoing requirements shall be, as to the Town, absolutely null and void. The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of and interest on the Bond shall be made only to or upon the order of the registered owner or his legal representative. All such payments shall be valid and effective to satisfy and discharge the liability of the Town

upon such Bond to the extent of the sum or sums so paid. No person other than the registered owner shall have any right to receive payments, pursue remedies, enforce obligations or exercise or enjoy any other rights under the Bond against the Town. Notwithstanding the foregoing, nothing herein shall limit the rights of a person having a beneficial interest in the Bond as against a person (including the registered owner) other than the Town, as in the case where the registered owner is a trustee or nominee for two or more beneficial owners of an interest in the Bond.

- (c) Except as set forth herein the Bond may not be exchanged.

Section 9            Mutilated, Lost or Stolen Bond.

In the event the Bond is mutilated, lost, stolen or destroyed, the Town may execute a new Bond of like date, maturity, interest rate, as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Paying Agent, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Town and the Paying Agent evidence of such loss, theft, or destruction satisfactory to the Town and the Paying Agent, together with indemnity satisfactory to them, provided that in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event the Bond shall have matured, instead of issuing a duplicate Bond, the Town may pay the same without surrender thereof. The Town and the Paying Agent may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 10            Regulations with Respect to Transfers.

In all cases in which the privilege of transferring the Bond is exercised, the Town shall execute and deliver the Bond in accordance with the provisions of this Ordinance. Any Bond surrendered in any such transfers shall forthwith be cancelled by the Paying Agent. There shall be no charge for such transfer of the Bond except that the Paying Agent and the Bond Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such transfer.

**ARTICLE III**

**SECURITY FOR BOND**

Section 1            Pledge of Full Faith, Credit, and Taxing Power.

For the payment of the principal of and interest on the Bond when due, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the Town are irrevocably pledged, and there shall be levied and collected annually by the Treasurer of Charleston County, in the same manner as other Town taxes are levied and collected, a tax, without limit, on all taxable property in the Town, sufficient to pay the principal and interest of the Bond when due, and to create such sinking fund as may be necessary therefor.

Section 2            Levy and Collection of Taxes.

The Auditor and Treasurer of Charleston County, South Carolina, shall be notified of this issue of the Bond and directed to levy and collect, respectively, upon all taxable property in the Town, an annual tax, without limit, sufficient to meet the payment of the principal of and interest on the Bond when due, and to create such sinking fund as may be necessary therefor.

**ARTICLE IV**

**SALE OF BOND; DISPOSITION OF PROCEEDS OF SALE**

Section 1            Sale of Bond.

The Bond shall be sold at public sale, at not less than par and accrued interest to the date of delivery. Bids shall be received until such time and date at such place as may be selected by the Mayor. The Bond shall be advertised for sale in THE POST & COURIER, a newspaper published in the City of Charleston, South Carolina, and having general circulation in the State of South Carolina, which shall appear at least once, not less than ten days before the date set for such sale. The form of such Notice, and the conditions of sale, shall be substantially those set forth in Exhibit B attached hereto and made a part and parcel hereof.

Section 2            Disposition of Proceeds of Sale of Bond.

(a)            There is hereby created a separate account to be named the "Series 2003 Bond Construction Fund" (the Construction Fund) to be held by the Financial Services Officer of the Town.

(b)            The proceeds derived from the sale of the Bond issued pursuant to this Ordinance shall be deposited with the Financial Services Officer of the Town and shall be expended and made use of by the Town Council as follows:

(i)            Any premium shall be applied to the payment of the first installment of principal of the Bond; and

(ii)           The remaining proceeds shall be deposited in the Construction Fund to be used to defray the cost of issuing the Bond and to pay the cost of the Project.

(c)            Amounts in the Construction Fund shall be disbursed for costs and expenses of the Project upon the filing in the official records pertaining to the Construction Fund of a certificate of the Town describing such disbursement, setting forth the portion, if any, of the Net Proceeds of the Bond to be used for a Private Business Use or to make or finance a loan to other than a state or local governmental unit and certifying that there has been compliance with Sections 3 and 4 of Article V hereof relating to the Private Business Use limitation and the private loan limitation. Amounts, if any, remaining in the Construction Fund shall, upon receipt from the Town certifying that no further amounts are required to be disbursed for costs and expenses of the Project, be transferred into the Sinking Fund Account, shall be invested at a yield not in excess of the yield of the Bond and shall be used to pay debt service on the Bond on the Interest Payment Date next succeeding the date of transfer and the Construction Fund shall be closed.

(d)            No purchaser or holder of the Bond shall be liable for the proper application of the proceeds thereof.

**ARTICLE V**

**TAX EXEMPTION OF BOND**

Section 1            Exemption from State Taxes.

Both the principal of and interest on the Bond shall be exempt from all state, county, municipal, school district and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes.

Section 2            Federal Guarantee Prohibition.

The Town shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bond to be "Federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations promulgated thereunder.

Section 3            Private Business Use Limitation.

The Town shall assure that (i) no portion of the proceeds of the Bond in excess of ten percent (10%) of the proceeds of the Bond is used for Private Business Use if, in addition, the payment of more than ten percent (10%) of the principal or ten percent (10%) of the interest due on the Bond during the term thereof is, under the terms of the Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Town, in respect of property or borrowed money used or to be used for a Private Business use; and (ii) in the event that both (a) in excess of five percent (5%) of the proceeds of the Bond are used for a Private Business Use, and (b) an amount in excess of five percent (5%) of the principal or five percent (5%) of the interest due on the Bond during the term thereof is, under the terms of the Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for such Private Business Use or in payments in respect of property used or to be used for such Private Business Use or is to be derived from payments, whether or not to the Town, in respect of property or borrowed money used or to be used for such Private Business Use, then such excess over such five percent (5%) of the proceeds of the Bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the facilities financed with the proceeds of the Bond.

Section 4            Private Loan Limitation.

The Town shall assure that no portion of the proceeds of the Bond in excess of five percent (5%) of the net proceeds of the Bond is used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

Section 5            No Arbitrage.

The Town shall not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bond which, if such action had been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

Section 6            Tax Exemption of Bond

The Town makes the following findings with respect to the Bond:

- (a)        The Bond is not a private activity bond as defined in Section 141 of the Code.
- (b)        The Town does not reasonably anticipate the amount of "qualified tax-exempt obligations" (other than private activity bonds which are not qualified 501(c)(3) bonds as defined in Section 145 of the Code) which will be issued by the Town during the calendar year ending December 31, 2003 to exceed \$10,000,000.



(c) No other obligations of the Town have been designated as "Qualified Tax-Exempt Obligations" by the Town during the calendar year ending December 31, 2003.

(d) For purposes of this Article V, the Town and all subordinate entities thereof are treated as a single issuer.

On the basis of the foregoing, the Town hereby designates the Bond as a "Qualified Tax-Exempt Obligation" within the meaning of Section 265(b)(3)(B) of the Code.

## ARTICLE VI

### DEFEASANCE

#### Section 1        Release of Ordinance.

(a) If the Bond shall have been paid and discharged, then the obligations of the Town under this Ordinance, and all other rights granted thereby shall cease and determine. The Bond shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(i) If the Paying Agent shall hold, at the stated maturity of the Bond, in trust and irrevocably appropriated thereto, moneys for the full payment thereof; or

(ii) If default in the payment of the principal of the Bond or the interest thereon shall have occurred, and thereafter tender of such payment shall have been made, and the Paying Agent shall hold, in trust and irrevocable appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or

(iii) If there shall have been deposited with the Paying Agent, in an irrevocable trust, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America the principal of and interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same time, shall be sufficient to pay, when due, the principal and interest due and to become due on the Bond through and including the maturity thereof.

(b) In addition to the above requirements of payments (i), (ii), or (iii), in order for this Ordinance to be discharged, all other fees, expenses and charges of the Paying Agent and the Bond Registrar have been paid in full at such time.

(c) Notwithstanding the satisfaction and discharge of this Ordinance, the Paying Agent shall continue to be obligated to hold in trust any moneys or investments then held by the Paying Agent for the payment of the principal of and interest on the Bond, to pay to the owners of Bond the funds so held by the Paying Agent as and when such payment becomes due.

(d) Any release under this Section shall be without prejudice to the right of the Paying Agent and the Bond Registrar to be paid reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges and other disbursements and those of their respective attorneys, agents and employees, incurred on and about the administration of trusts by this Ordinance created and the performance of the power and duties under this Ordinance of the Paying Agent and the Bond Registrar.

#### Section 2        Deposit of Moneys.

Any moneys which at any time shall be deposited with the Paying Agent by or on behalf of the Town for the purpose of paying and discharging the Bond shall be and are

hereby assigned, transferred, and set over to the Paying Agent in trust for the holder of the Bond, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the holders of such bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of the Paying Agent to transfer such funds to the Town.

Section 3            Notice of Release of Ordinance.

(a)        The Town shall give the Paying Agent irrevocable instructions to mail, as soon as practicable, a notice to the owner of a defeased Bond that (i) the deposit required by subparagraph (a) (iii) of Section 1 of this Article has been made with the Paying Agent and (ii) the Bond is deemed to have been paid in accordance with this Article and stating such maturity dates upon which moneys are to be available for the payment of the principal of and interest on such Bond.

(b)        The Town covenants and agrees that any moneys which it shall deposit with the Paying Agent shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Article.

**ARTICLE VII**

**AMENDING AND SUPPLEMENTING OF ORDINANCE**

Section 1            Amending and Supplementing of Ordinance Without Consent of Holder of Bond.

(a)        The Town, from time to time and at any time and without the consent or concurrence of any holder of the Bond, may enact an ordinance amendatory hereof or supplemental thereto, if the provisions of such supplemental ordinance shall not materially adversely affect the rights of the holder of the Bond, for any one or more of the following purposes:

1.        To make any changes or corrections in this Ordinance as to which the Town shall have been advised by counsel that the same are verbal corrections or changes or are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or omission or mistake or manifest error contained in this Ordinance, or to insert in this Ordinance such provisions clarifying matters or questions arising under this ordinance as are necessary or desirable;

2.        To add additional covenants and agreements of the Town for the purpose of further securing the payment of the Bonds;

3.        To surrender any right, power or privilege reserved to or conferred upon the Town by the terms of this Ordinance;

4.        To grant or confer upon the bondholders any additional right, remedies, powers, authority or security that lawfully may be granted to or conferred upon them; or

5.        To make such addition, deletions or modifications as may be necessary to assure compliance with Section 148(f) of the Code relating to required rebate to the United States or otherwise as may be necessary to assure exemption from federal income taxation of interest on the Bond.

(b)        The Town shall not enact any supplemental ordinance authorized by the foregoing provisions of this Section unless in the opinion of counsel (which opinion may be combined with the opinion required by Section 4 hereof) the enactment of such supplemental ordinance is permitted by the foregoing

provisions of this Section and the provisions of such supplemental ordinance do not adversely affect the rights of the holder of the Bond.

Section 2            Amending and Supplementing of Ordinance With Consent of Holder of Bond.

(a)        With the consent of the holders of the Bond the Town Council from time to time and at any time may enact an ordinance amendatory hereof or supplemental hereto for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Ordinance, or modifying or amending the rights and obligations of the Town under this Ordinance, or modifying or amending in any manner the rights of the holders of the Bond; provided, however, that without the specific consent of the holder of the Bond, no supplemental ordinance amending or supplementing the provision hereof shall change the fixed maturity date of the Bond or reduce the principal amount of any Bond or the dates for the payment of interest thereon or the terms of the redemption thereof. Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the holder of the Bond of the enactment of any supplemental ordinance authorized by the provisions of Section 1 of this Article.

(b)        It shall not be necessary that the consent of the holder of the Bond approve the particular form of wording of the proposed amendment or supplement or of the supplemental ordinance affecting such amending or supplementing hereof pursuant to this Section. The Town shall mail a notice at least once, not more than thirty (30) days after the effective date of such amendment or supplement of such amendment or supplement postage prepaid, to the holder of Bond at his address, if any, appearing upon the Books of Registry and to the Paying Agent, but failure to mail copies of such notice to any of the holders shall not affect the validity of the supplemental ordinance effecting such amendments or supplements or the consents thereto. Nothing in this paragraph contained, however, shall be construed as requiring the giving of notice of any amendment or supplement of this Ordinance authorized by Section 1 of this Article. No action or proceeding to set aside or invalidate such supplemental ordinance or any of the proceedings for its adoption shall be instituted or maintained unless such action or proceeding is commenced within sixty (60) days after the mailing of the notice required by this paragraph.

Section 3            Notation Upon Bond: New Bond Issued Upon Amendments.

Any Bond delivered after the effective date of any action taken as provided in this Article may bear a notation as to such action, by endorsement or otherwise and in form approved by the Town. In that case, upon demand of the holder of any Bond outstanding after such effective date and upon the presentation of the Bond for such purpose at the principal office of the Paying Agent, and at such additional office, if any, as the Town may select and designate for that purpose, a suitable notation shall be made on such Bond. If the Town shall so determine, a new Bond, so modified as in the amendments or supplements made pursuant to this Article, shall be prepared, executed and delivered, and upon demand of the holder of any Bond then outstanding shall be exchanged without cost to such holder for the Bond then outstanding, upon surrender of such outstanding Bonds.

Section 4            Effectiveness of Supplemental Ordinance.

Upon the enactment (pursuant to this Article and applicable law) by the Town Council of any supplemental ordinance amending or supplementing the provisions of this Ordinance and the delivery to the Paying Agent and the Town of an opinion of bond counsel that such supplemental ordinance is in due form and has been duly enacted in accordance with the provisions hereof and applicable law and that the provisions thereof are valid and binding upon the Town, or upon such later date as may be specified in such supplemental ordinance, (a) this Ordinance and the Bond shall be modified and amended in accordance with such supplemental ordinance, (b) the respective rights, limitations of rights, obligations, duties and immunities under this Ordinance of the Town, the Paying Agent, and the holder of the Bond shall thereafter be determined, exercised and enforced under this Ordinance subject in all respects to such modifications and amendments, and (c) all of the terms and conditions of any such supplemental ordinance shall be a part of the terms and conditions of the Bond and of this Ordinance for any and all purposes.

Section 5            Supplemental Ordinance Affecting Paying Agent or Bond Registrar.

No supplemental ordinance changing, amending or modifying any of the rights, duties and obligations of any Paying Agent or Bond Registrar appointed by or pursuant to the provisions of this Ordinance may be enacted by the Town Council or be consented to by the holders of the Bond without written consent of such Paying Agent or Bond Registrar affected thereby.

## ARTICLE VIII

### MISCELLANEOUS

Section 1            Execution of Closing Documents and Certificates.

The Mayor and the Clerk are fully authorized and empowered to take such further action and to execute and deliver such closing documents and certificates as may be necessary and proper in order to complete the issuance of the Bond herein authorized and the action of such officers or any one or more of them in executing and delivering any of such documents, in such form as he or they shall approve, is hereby fully authorized.

Section 2            Mayor Pro Tempore May Act in Mayor's Absence; Acting Clerk may Act in Clerk's Absence.

In the absence of the Mayor, the Mayor Pro Tempore is fully authorized to exercise all powers vested in the Mayor under this Ordinance. In the absence of the Clerk, the Acting Clerk of the Town Council is fully authorized to exercise all powers and take all actions vested in the Clerk under this Ordinance.

Section 3            Benefits of Ordinance Limited to the Town and Holder of the Bond.

With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Bond is intended or should be construed to confer upon or give to any person other than the Town and the holder of the Bond, any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Town and the holder from time to time of the Bond as herein and therein provided.

Section 4            Ordinance Binding Upon Successors or Assigns of the Town.

All the terms, provisions, conditions, covenants, warranties and agreements contained in this Ordinance shall be binding upon the successors and assigns of the Town and shall inure to the benefit of the holder of the Bond.

Section 5            No Personal Liability.

No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the Town contained in this Ordinance or the Bond, against any member of the Town Council, any officer or employee, as such, in his or her individual capacity, past, present or future, of the Town, either directly or through the Town, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Ordinance and the Bond are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such, past, present or future, of the Town, either directly or by reason of any of the obligations, covenants, promises or agreements entered into between the Town and the bondholder or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this Ordinance and the execution of the Bond, and as a condition of, and as a part of the consideration for, the adoption of this Ordinance and the execution of the Bond, expressly waived and released. The immunity of member, officers and employees of the Town under the provisions contained in this Section shall survive the termination of this Ordinance.

Section 6            Effect of Saturdays, Sundays and Legal Holidays.

Whenever this Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank

holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 7            Partial Invalidity.

(a) If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the Town or any Paying Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreement or portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bond, but the holders of the Bond shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

(b) 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 in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such 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 herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 8            Law and Place of Enforcement of the Ordinance.

This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina, and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in such State.

Section 9            Effect of Article and Section Headings and Table of Contents.

The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 10          Repeal of Inconsistent Resolutions and Ordinances.

All ordinances and resolutions of the Town Council, and any part of any resolution or ordinance, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 11          Continuing Disclosure.

(a) The Town hereby covenants to file with a central repository for availability in the secondary bond market when requested;

(i) An annual, independent audit, within thirty (30) days of the Town's receipt of the audit; and

(ii) Event specific information, within thirty (30) days of and event adversely affecting more than five (5%) percent of revenue.

(b) The Town Council hereby authorizes the Mayor to execute and deliver the continuing disclosure agreement with respect to the Bond in substantially the form presented at second reading of this Ordinance.

Section 12          Codification.

This Ordinance shall be forthwith codified in the Code of Sullivan's Island Ordinances in the manner required by law and the name shall be indexed under the general heading "Bond Issue 2003 \$2,250,000 General Obligation Bond."

Section 13      Notice of Enactment of Ordinance.

Upon enactment of this Ordinance, as authorized by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended, notice, substantially in the form attached hereto as Exhibit C, of the enactment of this Ordinance shall be published once in The Post & Courier, a newspaper published in Charleston, South Carolina of general circulation in the Town.

**THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING.**

**SIGNED, SEALED, AND DELIVERED AS OF THIS 6th DAY OF October, A.D., 2003.**

(SEAL)

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J. Marshall Stith, Mayor  
Town of Sullivan's Island, South Carolina

ATTEST:

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Ellen McQueeney  
Town Clerk

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Sullivan's Island, South Carolina

Final Reading: 9-16-04

APPROVED AS TO FORM:

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Lawrence A. Dodds  
Town Attorney