

§ 160A-317. Power to require connections to water or sewer service and the use of solid waste collection services.

(a) Connections. – Except as provided in subdivisions (1) and (2) of this subsection, a city may require an owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the city limits and within a reasonable distance of any water line or sewer collection line owned, leased as lessee, or operated by the city or on behalf of the city to connect the owner's premises with the water or sewer line or both, and may fix charges for the connections. In lieu of requiring connection under this subsection and in order to avoid hardship, the city may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. A city may only require connection of an owner's premises to a sewer line, however, if the city has adequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection. The following provisions apply to a city's authority to require connection of an owner's premises to a water or sewer line:

- (1) A property owner shall be exempt from mandatory connection to a city's sewer if:
 - a. The city has inadequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection.
 - b. The costs of connection, including the costs of underground piping and connections to the dwelling or building, exceed the costs of installing an on-site wastewater system authorized pursuant to Article 11 of Chapter 130A of the General Statutes. Determination of the comparative costs of connection shall be assessed by (i) a licensed soil scientist, as defined in G.S. 89F-3, (ii) an on-site wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes, or (iii) a plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes. If a property owner elects to install an on-site wastewater system in lieu of connection to the city's sewer system pursuant to this subdivision, (i) the on-site wastewater system shall comply with all applicable requirements of Article 11 of Chapter 130A of the General Statutes, and rules adopted thereunder, and (ii) the owner shall have sole responsibility for the system and its use and performance.
- (2) A property owner shall be exempt from a mandatory connection to a city's water supply if adequate water pressure cannot be achieved using the same piping size as the meter provides to the owner's premises. A city is prohibited from requiring a property owner to install a larger meter and corresponding larger piping connection, or imposing an increased fee, to achieve adequate water pressure. For purposes of this subdivision, the term "adequate water pressure" shall mean the average water pressure delivered to all connected customers within a one-quarter mile radius in either direction of the owner's point of connection. In order to establish the adequacy or inadequacy of water pressure for purposes of this subdivision, a property owner shall submit to the city a determination of [the] same prepared by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes. In the event water pressure is determined to be inadequate, a property owner may elect, in lieu of connection to the city's water supply, to install a private drinking water well, as that term is defined under G.S. 87-85, which well shall be approved by the city if the well meets the requirements of Chapter 87 of the General Statutes and rules adopted thereunder. A city,

however, shall have no liability for the quality or quantity of water, or water pressure, from a private drinking water well installed pursuant to this subdivision.

(a1) through (a3) Reserved for future codification purposes.

(a4) System Development Fees. – A city may require system development fees only in accordance with Article 8 of Chapter 162A of the General Statutes.

(b) Solid Waste. – A city may require an owner of improved property to do any of the following:

- (1) Place solid waste in specified places or receptacles for the convenience of city collection and disposal.
- (2) Separate materials before the solid waste is collected.
- (3) Participate in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A city may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the city or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the city or its designee, then ownership of these materials is transferred to the city or its designee.
- (4) Participate in any solid waste collection service provided by the city or by a person who has a contract with the city if the owner or occupant of the property has not otherwise contracted for the collection of solid waste from the property.

(c) A city may impose a fee for the solid waste collection service provided under subdivision (4) of subsection (b) of this section. The fee may not exceed the costs of collection.

(d) In accordance with G.S. 87-97.1, when developed property is located so as to be served by a city water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the city water line and the city shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well.

(e) The owner of real property subject to an agreement under Part 6 of Article 4A or Article 20 of Chapter 160A of the General Statutes that is denied connection to water or sewer by a city may, notwithstanding the agreement, seek to obtain water or sewer from any other unit of local government. If a court order impacts the provision of water or sewer to real property, the owner of real property denied the provision of water or sewer shall have standing to petition the court for an order for appropriate relief and the court shall, as promptly as possible, set any such petition for hearing. For purposes of this subsection, "impacts" shall include any effect or ramification that prevents the owner of real property from seeking voluntary annexation by a city capable of providing water or sewer to that real property. (1917, c. 136, subch. 7, s. 2; C.S., s. 2806; 1971, c. 698, s. 1; 1979, c. 619, s. 14; 1981, c. 823; 1989, c. 741, s. 2; 1991, c. 698, s. 2; 1993, c. 165, s. 2; 1995, c. 511, s. 4; 2015-246, s. 3.5(f); 2017-138, s. 4(b); 2022-49, s. 5(a); 2023-90, s. 10(a); 2023-108, s. 12(a).)