

§ 160A-58.56. Provision of water and sewer service.

(a) The municipality shall provide water and sewer service to the annexed area as required by plans for extension under G.S. 160A-58.53(3) within three and one-half years of the effective date of the annexation ordinance except as provided in subdivision (b)(4) of this section. If (i) the residents in the existing city boundaries are served by a public water or sewer system, or by a combination of a public water or sewer system and one or more nonprofit entities providing service by contract with the public system, (ii) the annexing municipality does not provide that service within the existing city boundaries, (iii) the area to be annexed is in an area served by the public water or sewer system, and (iv) the municipality has no responsibility through an agreement with the public water or sewer system to pay for the extension of lines to areas annexed to the city, the city shall have no financial responsibility for the extension of water and sewer lines under this section. For purposes of this provision, "public water or sewer system" means a water or sewer authority formed under Article 1 of Chapter 162A of the General Statutes; a metropolitan water or sewerage district formed under Article 4 or Article 5 of Chapter 162A of the General Statutes; a county water or sewer district formed under Article 6 of Chapter 162A of the General Statutes; a sanitary district formed under Article 2 of Chapter 130A of the General Statutes; a county-owned water or sewer system; a municipal-owned water or sewer system; a water or sewer utility created by an act of the General Assembly; or a joint agency providing a water or sewer system by interlocal agreement under Article 20 of Chapter 160A of the General Statutes.

(b) Prior to the adoption of the annexation ordinance, the municipality shall offer to each eligible property owner of real property located within the area proposed to be annexed an opportunity to obtain water or sewer service, or both, at no cost other than periodic user fees based upon usage as follows:

- (1) After passage of the resolution of intent, the property owner of real property located within the area proposed to be annexed shall be notified in writing, as provided in G.S. 160A-58.55(d), within five business days of the passage of the resolution of intent, of the opportunity to have water and sewer lines and connections installed at no cost to the property owner. The notice shall state that a request for extending water and sewer lines does not waive the right to contest the annexation. The property owners of real property located within the area proposed to be annexed shall be allowed 65 days from the date of the passage of the resolution of intent to respond yes or no to the opportunity. Any property owner of a parcel that is an existing customer of the municipality's water or sewer, whether provided by the municipality or by a third party under contract with the municipality, shall be deemed to respond yes to the opportunity, whether or not the property owner returns the notification.
- (2) At the close of the 65-day period, the municipality shall determine if the eligible property owners of a majority of the parcels to be annexed have responded favorably. A majority of the property owners of a single parcel of real property must respond favorably before the municipality may count that parcel of real property as responding favorably.
- (3) If the property owners of a majority of the parcels located within the area proposed to be annexed respond favorably, the municipality shall do all of the following:
 - a. Provide water and sewer lines, service lines, and connections at no cost other than periodic user fees to all real property for which an

owner responded favorably if the annexation ordinance is adopted. The right to receive water and sewer lines shall run with the land.

- b. Notify, within five days of the close of the 65-day period under subdivision (2) of this subsection, those property owners of real property located within the area proposed to be annexed who failed to respond or responded negatively that the property owners of a majority of the parcels located within the area proposed to be annexed responded favorably and offer a second opportunity for that property owner to respond favorably within 30 days.
- (4) If the property owners of a majority of the parcels located within the area proposed to be annexed fail to respond favorably to the offer to obtain water and sewer services made under this section, the municipality may nevertheless proceed with the annexation. If the municipality proceeds with the annexation when the property owners of a majority of the parcels located within the area proposed to be annexed fail to respond favorably to the offer to obtain water and sewer services, the municipality is not required to provide water and sewer services to any property owners in the area that is annexed. If the municipality does provide water and sewer services, and if a property owner requests those services, the municipality may charge the property owner for the connection to a residential lot as provided in subsection (d) of this section during the first five years following the effective date of the annexation. After five years, and only if connection is requested by a property owner in accordance with subsection (e) of this section, the municipality may charge for the connection according to the municipality's policy.

(c) The process required by subsection (b) of this section shall be completed by the municipality at least 30 days prior to the public hearing. The report required by G.S. 160A-58.53 shall include the results of the process required by subsection (b) of this section.

(d) Any property owner of the real property located within the area described in the annexation ordinance may apply to participate in the water and sewer system after the completion of the process required by subsection (b) of this section. For a property owner of real property located within the area described in the annexation ordinance applying within the first year, that property owner may be charged an amount not to exceed fifty percent (50%) of average cost of the installation of the water and sewer for a residential lot. For a property owner of real property located within the area described in the annexation ordinance applying within the second year, that property owner may be charged an amount not to exceed sixty percent (60%) of average cost of the installation of the water and sewer for a residential lot. For a property owner of real property located within the area described in the annexation ordinance applying within the third year, that property owner may be charged an amount not to exceed seventy percent (70%) of average cost of the installation of the water and sewer for a residential lot. For a property owner of real property located within the area described in the annexation ordinance applying within the fourth year, that property owner may be charged an amount not to exceed eighty percent (80%) of average cost of the installation of the water and sewer for a residential lot. For a property owner of real property located within the area described in the annexation ordinance applying within the fifth year, that property owner may be charged an amount not to exceed ninety percent (90%) of average cost of the installation of the water and sewer for a residential lot. Charges pursuant to this section shall be made when the water and sewer connection is operable.

(e) Notwithstanding Article 16 of this Chapter, the municipality may not charge, for any reason, any property owner within the area described in the annexation ordinance, for the installation or use of the water or sewer system unless that property owner is, or has requested to become, a customer of the water or sewer system.

(f) The initial installation of water or sewer connection lines to property shall be completed without charge to the property owner. Title to water or sewer connection lines shall vest in the property owner following completion of the initial installation. The property owner shall be responsible for maintenance and repair of water and sewer connection lines on the owner's property following the initial installation.

(g) If the municipality is unable to provide water or sewer service within three and one-half years, as required by this section, due to permitting delays that are caused through no fault of the municipality, the municipality may petition the Local Government Commission for a reasonable time extension.

(h) For purposes of this section, the following definitions apply:

- (1) "At no cost other than periodic user fees." – The municipality may not charge the property owner who responded favorably under subdivision (b)(3) of this section for any costs associated with the installation of the water or sewer system. The municipality may not charge a property owner who applies to participate in the water and sewer system under subsection (d) of this section prior to the first periodic user fee charge, and on that bill the owner may be charged no more than as provided in subsection (d) of this section.
- (2) "Average installation of a connection for a residential lot." – The average of the cost for residential installations from curb to residence, including connection and tap fees, in the area described in the annexation ordinance. (2011-396, s. 9.)