

1980 WL 120693 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 29, 1980

*1 The Honorable Thomas E. Huff
House of Representatives
Judiciary Committee
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Huff:

You have requested an opinion whether a municipality may extend its water lines outside the municipal boundaries by an act of the city council and without a contract with the potential users, in anticipation of annexation of that area to which service would be extended and furthermore require the city residents to absorb the cost of such extension. It is my opinion that a municipality may not extend its water lines outside the municipal boundaries in that situation.

A municipality is given the power generally to construct and operate a waterworks for the use and benefit of the municipality and its inhabitants. § 5-31-610, [Code of Laws of South Carolina](#), 1976. However, a municipality has no implied authority to extend its water system to users outside the municipality. MCQUILLIN, MUNICIPAL CORPORATIONS, § 35.34; [City of Cornelia v. Wells](#), 181 Ga. 554, 183 S.E. 66 (1934); see [Williamson v. City of High Point](#), 213 N.C. 96, 195 S.E. 90 (1938). However, under certain state statutes a municipality is given the power to furnish water services outside its corporate limits in specific circumstances.

[Section 5-7-60, Code of Laws of South Carolina](#), 1976, permits a municipality to extend water service by contract outside its corporate limits so long as it does not extend into the water service area of another municipality or political subdivision. Section 5-31-1510 authorizes a municipality to extend water and sewage service together to a user outside the municipality upon written request. The user requesting such service must agree to pay the cost of the extension.

Section 5-31-1910 authorizes a city owning a water plant to enter into a renewable two-year contract to provide water service to an area contiguous to the municipality, if the city council determines that such extension is in the best interest of the municipality. The terms, rates, and charges must be fixed by the contract. There are special acts which exempt certain municipalities from the two-year time limitation of the contract and the contiguity requirement. §§ 5-31-1710, 1920, 1930, [Id.](#); see also special provisions set out at Title 59, Article 12, Code of Laws of South Carolina, 1962 (as amended).

The situation which you have described appears not to fall within any of these statutory grants of authority to a municipality insofar as there appears to be no written request by the potential users for the extension and insofar as the municipality proposes to bear the cost of the extension. Therefore, it is my opinion that the city council may not extend its water service outside the municipal boundaries unless it can rely on one of the above specific grants of authority.

Sincerely yours,

Daniel R. McLeod
Attorney General

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