

1972 WL 25217 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 23, 1972

*1 The Honorable Forest Edwards
Mayor of Johnston
Johnston, South Carolina

Dear Mayor Edwards:

In regard to your question as to whether or not a municipality has an absolute obligation to provide city water and sewerage for individual houses, discretion as to the extension of such water and sewerage systems rests with the municipal authorities, unless there is a specific statutory provision to the contrary.

Article XIII, Section 5 of the Constitution of South Carolina provides only that a city or town may, as opposed to being required to, acquire and operate waterworks systems for individuals and businesses for reasonable compensation. Section 59–481 of the South Carolina Code of Laws contains similar stipulations as to municipal sewerage systems. Thus, it appears that the only limitation placed upon a municipal authority's power to control its water and sewerage systems is that the compensation for water and sewerage services be reasonable.

As to a municipality's discretion in the extension of its water and sewerage services, [i]n the management and operation of its plant, a city is not exercising its governmental or legislative powers, but its business powers, and may conduct it in the manner which promises the greatest benefit to the city and its habitants in the judgment of the city council So when a municipality owns a water or light plant or other public utility, the question of the extension of the system is within the sound discretion of the authorities of the municipality, . . . McQUILLIN, MUNICIPAL CORPORATIONS § 35.27 at 437 (1970).

The Town of Johnston, therefore, has no absolute obligation to provide city water and sewerage for individual houses.
Sincerely,

Elizabeth Crum
Legal Assistant

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