

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 04-110

Extending Sewer Service to Rural Area

QUESTION

Must residents of Rutherford County who are located within an area designated as a rural area under the county growth plan ask for annexation and build to City of Murfreesboro standards if they wish to obtain municipal sewer service?

OPINION

Since the city is not required by law to provide sewer service outside its boundaries, no statute or legal principle would prohibit it from specifying requirements that an area outside its boundaries must request annexation and build to city specifications as a condition to extending sewer service to that area. Unless the growth plan is amended to include the area within the city's urban growth area, however, the territory must be annexed by referendum.

ANALYSIS

This opinion concerns whether residents of Rutherford County who are located within an area designated as a rural area under the county growth plan must ask for annexation and build to City of Murfreesboro standards if they wish to obtain municipal sewer service. Under a county growth plan, territory within a county is divided into three components: urban growth boundaries, planned growth areas, and rural areas. Generally, the urban growth boundaries of a municipality ultimately included in a growth plan must identify territory contiguous to the existing boundaries of a municipality likely to be developed in the next twenty years and for which the municipality will be able to provide urban services. Tenn. Code Ann. § 6-58-106(a)(1). Generally, the planned growth area of a county is required to identify unincorporated parts of the county that are not within urban growth boundaries but are likely to develop over the next twenty years and that reflect the county's duty to manage natural resources and urban growth. Tenn. Code Ann. § 6-58-106(b)(1). Finally, each rural area must generally identify unincorporated parts of the county that are not within urban growth boundaries or a planned growth area and are to be preserved for uses other than high density commercial, industrial or residential development. Tenn. Code Ann. § 6-58-106(c)(1). This Office noted that extension of sewer service to a rural area does not clearly violate the requirement under Tenn. Code Ann. § 6-58-107 that all land use decisions made by the legislative body and the municipality's or county's planning commission shall be consistent with the county growth plan. Op. Tenn. Att'y Gen. 01-096 (June 12, 2001).

Under Tenn. Code Ann. § 6-58-111(d), if a city wishes to annex territory beyond its urban growth boundary under the county plan, it must either propose an amendment to its urban growth boundary under the county growth plan or may annex the territory by referendum as provided in Tenn. Code Ann. §§ 6-51-104 and 6-51-105. The request asks whether residents in a rural area may be required to “request” annexation and build to city standards in order to obtain city sewer service. Unless the growth plan is amended, the city could only annex territory in the rural area by referendum.

A city is authorized, but not required, to extend sewer service beyond its boundaries. Tenn. Code Ann. § 7-51-401 provides as follows:

- (a) Except as provided in § 7-82-302, each county, utility district, municipality or other public agency conducting any utility service specifically including waterworks, water plants and water distribution systems and sewage collection and treatment systems *is authorized* to extend such services beyond the boundaries of such county, utility district, municipality or public agency to customers desiring such service.
- (b) Any such county, utility district, municipality or public utility agency shall establish proper charges for the services so rendered so that any such outside service is self-supporting.
- (c) No such county, utility district, municipality or public utility agency shall extend its services into sections of roads or streets already occupied by other public agencies rendering the same service, so long as such other public agency continues to render such service.

Tenn. Code Ann. § 7-51-401 (emphasis added). We assume that the area to which sewer service would be extended is not presently served by the county system. Op. Tenn. Att’y Gen. 01-125 (August 7, 2001). Since the city is not required by law to provide sewer service outside its boundaries, no statute or legal principle would prohibit it from specifying requirements that an area outside its boundaries must request annexation and build to city specifications as a condition to extending sewer service to that area.

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