

§ 160A-314. Authority to fix and enforce rates.

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished or to be furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

- (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.
- (2) The fees established under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.
- (3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.
- (4) A city may adopt an ordinance providing that any fee imposed under this subsection may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment, may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee.

This subdivision applies only to the Cities of Creedmoor, Durham and Winston-Salem, the Towns of Bolton, Butner, Fairmont, Garner,

Kernersville, Knightdale, La Grange, Morrisville, Pembroke, Proctorville, Rowland, St. Pauls, Stem, Wendell, and Zebulon, and the Village of Clemmons.

- (5) A city shall not impose a stormwater utility fee on a runway or taxiway located on military property.
- (6) For all airports other than those covered by the exemption in subdivision (5) of this subsection, a city shall list separately the amount of a stormwater utility fee levied on airport runways and taxiways from the amount levied on the remainder of the airport property. An airport shall be exempt from paying a stormwater utility fee levied on its runways and taxiways. To qualify for an exemption under this subdivision, an airport shall use the amount of savings realized from this exemption for attracting business to the airport and shall provide certification to the city that the savings realized shall be used for this purpose. Except as otherwise prohibited under federal law, and upon request, an airport shall provide the levying city with evidence that the full amount of savings realized from the exemption authorized under this subdivision has been used or encumbered for the purpose set forth in this subdivision. Any amount of savings realized from the exemption authorized under this subdivision that is not used or encumbered for the purpose set forth in this subdivision shall be remitted to the city to be used in accordance with applicable law governing the use of stormwater utility fee proceeds. Savings realized from the exemption authorized under this subdivision shall be in addition to, and not in lieu of, any local funding provided by the city to the airport.

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons. A city may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds accruing due to imposition of a surcharge imposed on another local government located within the State for use of the disposal facility, as authorized by G.S. 160A-314.1, to be used to support the other services supported by the city's general fund.

(a3) Revisions in the rates, fees, or charges for electric service for cities that are members of the North Carolina Eastern Municipal Power Agency must comply with the public hearing provisions applicable to those cities under G.S. 159B-17.

(b) A city shall have power to collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A city may also discontinue service to any customer whose account remains delinquent for more than 10 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the city to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(b1) A city shall not do any of the following in its debt collection practices:

- (1) Suspend or disconnect service to a customer because of a past-due and unpaid balance for service incurred by another person who resides with the customer after service has been provided to the customer's household, unless one or more of the following apply:
 - a. The customer and the person were members of the same household at a different location when the unpaid balance for service was incurred.
 - b. The person was a member of the customer's current household when the service was established, and the person had an unpaid balance for service at that time.
 - c. The person is or becomes responsible for the bill for the service to the customer.
- (2) Require that in order to continue service, a customer must agree to be liable for the delinquent account of any other person who will reside in the customer's household after the customer receives the service, unless one or more of the following apply:
 - a. The customer and the person were members of the same household at a different location when the unpaid balance for service was incurred.
 - b. The person was a member of the customer's current household when the service was established, and the person had an unpaid balance for service at that time.

(b2) Notwithstanding the provisions of subsection (b1) of this section, if a customer misrepresents his or her identity in a written or verbal agreement for service or receives service using another person's identity, the city shall have the power to collect a delinquent account using any remedy provided by subsection (b) of this section from that customer.

(b3), (b4) Reserved.

(b5) **(Applicable to certain localities)** Except as provided in subsections (a1) and (d) of this section and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

This subsection applies only to the Cities of Creedmoor, Durham and Winston-Salem, the Towns of Butner, Garner, Kernersville, Knightdale, Morrisville, Stem, Wendell, and Zebulon, and the Village of Clemmons.

(c) **(Applicable to other localities)** Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Notwithstanding subsection (b1) of this section, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the owner of the premises served when:

- (1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter.
- (2) Charges made for use of a sewage system are billed separately from charges made for the use of a water distribution system.

(e) Nothing in this section shall repeal any portion of any city charter inconsistent herewith.

- (f) (1) A city may adopt an ordinance providing that a fee charged by the city for sewer services and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the city for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided and shall include a statement containing the name and address of the person against whom the lien is claimed, the name of the city claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. A lien on real property is not effective against an interest in real property conveyed after the fees become delinquent if the interest is recorded in the office of the register of deeds prior to the filing of the lien for delinquent water or sewer services. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service or availability fees and within 180 days of the date of the failure to pay for the service or fees. The lien may be discharged as provided in G.S. 44-48.

The city shall adopt an appeals process providing notice and an opportunity to be heard in protest of the imposition of such liens. The county tax office, once notified of the city's lien, shall include the lien amount on any tax bills printed subsequent to the notification. The county tax office shall add or remove liens from the tax bill at the request of the city (such as in the case of an appeal where the city decides to cancel the lien).

- (2) This section [subsection] applies only to the City of Locust and to the Towns of Bolton, Fairmont, La Grange, New London, Pembroke, Proctorville, Rowland, St. Pauls, and Stanfield.

(g) A city may require system development fees only in accordance with Article 8 of Chapter 162A of the General Statutes. (1971, c. 698, s. 1; 1991, c. 591, s. 1; c. 652, s. 4; 1991 (Reg. Sess., 1992), c. 1007, s. 46; 1995 (Reg. Sess., 1996), c. 594, s. 28; 2000-70, s. 4; 2005-441, ss. 3(a), (b), 4; 2009-302, s. 3(a), (b); 2010-59, ss. 1, 2; 2011-109, s. 1; 2012-55, s. 2; 2012-167, s. 2; 2013-413, s. 59.4(d); 2017-44, ss. 1, 2(a)-(c); 2017-132, s. 2; 2017-138, s. 4(a).)