

Effective 5/10/2016

10-2-502.7 Court action.

- (1) After the filing of a petition under Section 10-2-502.5 and a response to the petition, the court shall, upon request of a party or upon its own motion, conduct a court hearing.
- (2) At the hearing, the court shall hear evidence regarding the viability of the disconnection proposal.
- (3) The burden of proof is on the petitioner to prove, by a preponderance of the evidence:
 - (a) the viability of the disconnection;
 - (b) that justice and equity require that the territory be disconnected from the municipality;
 - (c) that the proposed disconnection will not:
 - (i) leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years;
 - (ii) make it economically or practically unfeasible for the municipality to continue to function as a municipality; or
 - (iii) leave or create one or more islands or peninsulas of unincorporated territory; and
 - (d) that the county in which the area proposed for disconnection is located is capable, in a cost-effective manner and without materially increasing the county's costs of providing municipal services, of providing to the area the services that the municipality will no longer provide to the area due to the disconnection.
- (4) In determining whether the petitioner has met the petitioner's burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall consider all relevant factors, including the effect of the proposed disconnection on:
 - (a) the municipality or community as a whole;
 - (b) adjoining property owners;
 - (c) existing or projected streets or public ways;
 - (d) water mains and water services;
 - (e) sewer mains and sewer services;
 - (f) law enforcement;
 - (g) zoning; and
 - (h) other municipal services.
- (5) The court's order either ordering or rejecting disconnection shall be in writing with findings and reasons.

Amended by Chapter 406, 2016 General Session