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NAVIGATING STATE LAW IN LOCAL CLIMATE ACTION

GEORGIA

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Vincent M. Nolette, Daniel J. Metzger & Olivia N. Guarna

Columbia Law School, Sabin Center for Climate Change Law
Edited by Amy E. Turner

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Sabin Center for Climate Change Law Columbia Law School
435 West 116th Street
New York, NY 10027
Tel: +1 (212) 854-3287
Email: columbiaclimate@gmail.com
Web: https://climate.law.columbia.edu/
Bluesky: @sabincenter.bsky.social
Blog: http://blogs.law.columbia.edu/climatechange

About the Authors: Vincent M. Nolette is the Equitable Cities Climate Law Fellow at Columbia Law School's Sabin Center for Climate Change Law. Daniel J. Metzger is a Senior Fellow for Smart Surfaces at the Sabin Center. Olivia N. Guarna is the Sabin Center's Climate Justice Fellow. Amy E. Turner is the Director of the Cities Climate Law Initiative at the Sabin Center for Climate Change Law. Part of their work supports the Sabin Center's Cities Climate Law Initiative, which provides resources to efficiently and effectively address legal questions confronting the urban climate transition.

About this Document: This is an excerpt of a longer report, *Navigating State Law in Local Climate Action*, which covers nineteen states. The excerpt below contains the report's introduction, along with information and analysis related only to Georgia. The full report, as well as other state-specific reports, are available in Columbia Law School's Scholarship Archive.

INTRODUCTION

Local governments are well-positioned to lead the fight against climate change by reducing community-wide greenhouse gas emissions, promoting renewable energy resources, and otherwise advancing climate mitigation and adaptation goals. Many local governments have already taken actions, and there is more they can do. In taking action to mitigate and adapt to the climate crisis, local governments must be aware of and act consistently with preemptive state laws that limit their authority. This report provides state-by-state information, resources, and analysis for nineteen states on key state-local preemption issues.

1. CROSS-CUTTING THEMES

The courts, constitutions, and statutes of each state handle the balance of power between the state and its local governments differently. But broadly, all seek to offer local governments some degree of autonomy, usually expressed as a variety of "home rule," while preserving ultimate authority in the state itself. The specific ways in which the states wield their authority are similarly varied, but they usually include both instances where the state passes laws that withdraw whole fields from local regulatory authority, and ones in which states broadly regulate in an area but allow local governments latitude to regulate so long as there is no conflict between the two. The sections below provide general background on the kinds of considerations that shape the relationship between states and local governments, and the chapters that follow expand on each in the context of particular states.

2. SCOPE

The states covered in this report are ones within which the authors have ongoing research projects and partnerships. They represent several of the "swing" states that are the most closely politically divided, ones where control of the state is split between political parties, and others—like Texas and Florida—where legislatures have taken particularly noteworthy steps to preempt local climate law. For each state covered, the chapters highlight the sources of local authority to regulate and the limits imposed by the state, including: (1) constitutional and statutory delegations of home rule authority and police powers to local governments; (2) state law governing the nature and content of home rule charters, as well as preemption of local law generally; (3) a catalog of current state laws that may preempt local climate action; (4) leading case law on home rule and preemption of local law; (5) where applicable, information on recent and ongoing litigation; (6) a summary of how the state handles building codes; (7) discussion of legal considerations related to public utilities; (8) helpful secondary sources; and (9) additional relevant information.

Many of the issues presented in each state's preemption case law section in this report arise outside the environmental, energy, and climate context. This is intentional, as case law that specifically discusses climate-related preemption measures is too limited to fully illustrate the doctrines through which courts would likely

consider those cases. We would not be able to explain state-specific preemption doctrines by only examining cases that are topically relevant.

These resources are intended to help local governments, policymakers, city attorneys, academics, advocates, and other stakeholders craft resilient climate policies, anticipate and respond to preemption challenges, and mobilize public engagement. The information provided is not exhaustive—it is intended instead as a starting point and a guide to the topics most relevant to state-local preemption. Links to publicly available versions of the constitutional provisions, statutes, and cases cited are provided where those are available.

3. HOME RULE AND THE POLICE POWER

Determining whether a local government may take a particular action involves a two-part inquiry, asking first whether the locality has the authority to legislate on a given issue, and second whether the state has preempted local governments from exercising that authority. The scope of local governments' authority to legislate is significantly shaped by the extent to which their states have allowed for home rule.

Home rule is a constitutional or statutory delegation of authority from a state to its local governments, permitting them to govern within their jurisdictions and adopt laws, regulations, and policies across a broad range of subjects.[1] In the vast majority of states, this "commitment to local lawmaking capacity [is] codified in [state] constitutions and statutes."[2] The core purpose of home rule is to empower local governments to act independently on local matters, so long as their actions are not inconsistent with state law, the state constitution, or their own home rule charters.[3] Today, all but three states provide some level of home rule—forty-one via the state's constitution and six through statute.[4]

Local action in states without a home rule system is cabined by an approach that was first described by Iowa Supreme Court Chief Justice John Dillon, and which has come to be known as Dillon's Rule. Under that approach, courts considering the scope of local governments' authority recognize only those powers that "are essential to municipal government or that the state has explicitly given to them, including any powers that are necessary for or implied by those explicitly given powers."[5] When Dillon's Rule applies, local governments' ability to regulate is more restricted.

[1] *See* Paul Diller, *Intrastate Preemption*, 87 B.U. L. REV. 1113, 1124 (2007) (describing home rule as "a system of state and local relations that gives some degree of permanent substantive lawmaking authority to localities beyond that which was provided by the traditional Dillon's Rule regime."); NAT'L LEAGUE OF CITIES, PRINCIPLES OF HOME RULE FOR THE 21ST CENTURY (2020), https://perma.cc/A3VP-NXZZ.
[2] Richard Briffault, *The Challenge of the New Preemption*, 70 STAN. L. REV. 1995, 2011 (2018), https://perma.cc/3B53-S66J.
[3] *See* NAT'L LEAGUE OF CITIES, *supra* note 1.
[4] *See* Briffault, *supra* note 2.
[5] *See City of Clinton v. Cedar Rapids & Missouri Railroad Co.*, 24 Iowa 455 (1868).

Home rule's "primary purpose and [] principal effect . . . has been to undo Dillon's Rule" and empower local governments to legislate proactively, without prior state approval.[6] However, even in states with expansive home rule systems, local authority is limited by the almost absolute power of state preemption.[7]

4. PREEMPTION

Broadly speaking, preemption is a legal doctrine that allows the federal or a state government to restrict or eliminate the authority of lower levels of government in a specific policy area.[8] There are three ways a state can preempt local action: (1) expressly through clear statutory language (known as "express preemption"); (2) by demonstrating the state's legislative intent to occupy a whole field of regulation (known as "field preemption"); or (3) by enacting state laws that conflict with local ones (known as "conflict preemption").[9] State governments can employ all or a mixture of preemption methods, depending on the state.

While related, home rule and preemption are distinct legal doctrines. Strong home rule increases baseline local authority but it does not limit a state's power to preempt particular laws or fields of regulation. Further, a municipality is generally only affected by preemption to the extent that its actions cross into areas of state concern. Home rule should be viewed as a source of local initiative, while preemption as a legal boundary.

Many state courts liberally construe home rule authority and avoid finding preemption under certain conditions. A few states, like Ohio, have even reined in state power in order to protect local lawmaking.[10] In *City of Canton v. State*, the Supreme Court of Ohio held that "a state law preempting local regulation cannot merely block local action but must include some substantive replacement regulation."[11] Home rule has developed differently in each state, resulting in a patchwork of fifty distinct and nuanced systems of local power.

5. KEY ENVIRONMENTAL, ENERGY, AND CLIMATE CASES

In most states, there is relatively little preemption case law specific to environmental issues. Where there are cases, they are not broadly applicable because of each state's unique home rule and preemption frameworks. As a result, many of the issues discussed in each state's preemption case law section fall outside the environmental, energy, and climate context. That said, some state courts have decided significant preemption disputes in the environmental, energy, and climate sectors. Even though each state's decisions are not binding on other states, courts in states in which there is little applicable case law may find these examples persuasive:

[6] *See* Briffault, *supra* note 2, at 2012.
[7] *Id*.; Diller, *supra* note 1, at 1126–27.
[8] *See* *Arizona v. United States*, 567 U.S. 387, 398–99 (2012) (explaining the principle of supremacy).
[9] *See* *Holt's Cigar Co. v. City of Philadelphia*, 608 Pa. 146, 153 (2011).
[10] *See, e.g.*, *City of Canton v. State*, 95 Ohio St. 3d 149, 151–52 (Ohio 2002).
[11] *See* Briffault, *supra* note 2, at 2013; *City of Canton*, 95 Ohio St. 3d at 152–53.

- **Buildings:** *Glen Oaks Village Owners, Inc. v. City of New York*, No. 42, 2025 WL 1458090 (N.Y. May 22, 2025) (holding that New York State's climate law, the Climate Leadership and Community Protection Act (CLCPA), does not field preempt Local Law 97, New York City's building performance standards);
- **Oil & Gas:** *Wallach v. Town of Dryden*, 23 N.Y.3d 728 (2014) (holding that New York's Oil, Gas and Solution Mining Law does not preempt local zoning laws that ban oil and gas production activities, including hydrofracking);
- **Renewable Energy:** *Town of Copake v. New York State Off. of Renewable Energy Siting*, 191 N.Y.S.3d 181 (N.Y. App. Div. 3d Dept. 2023) (upholding the discretionary authority of New York State's Office of Renewable Energy Siting to override local restrictions on major renewable energy facilities when such a restriction is "unreasonably burdensome in view of the CLCPA targets and the environmental benefits" of the facility); and
- **Utilities:** *StopAquila.Org v. Aquila*, 180 S.W.3d 24 (Mo. Ct. App. 2005) (holding that state public utilities law does not preempt local zoning law); *PPL Electric Utilities v. City of Lancaster*, 214 A.3d 639 (Pa. 2019) (state public service law field preempted a municipal ordinance that imposed additional controls on state-regulated public utilities for the use of the municipality's rights-of-ways); *Boston Edison Co. v. City of Boston*, 459 N.E.2d 1231, 1234 (Mass. 1984) (holding that local ordinances that regulate utilities are broadly preempted by comprehensive state legislation that occupies the field of utility regulation); *Boston Gas Co. v. City of Somerville*, 652 N.E.2d 132 (Mass. 1995) (holding a local ordinance was preempted by state law governing the sale of gas and electricity by public utilities because the ordinance imposed additional requirements on gas companies that were inconsistent with the state law).

6. THE POLITICS OF PREEMPTION

Preemption exists in every state and, as a legal concept, is content neutral. States have used their preemptive powers across diverse subject matters including, for example, laws that restrict local taxation authority,[12] ones that regulate alcohol ordinances,[13] and others that occupy the field of firework regulation.[14] Historically, preemption "consisted of a judicial determination of whether a local law conflicted with preexisting state law."[15] Over the past two decades, though, state legislatures have aggressively and frequently used preemption to enact sweeping statutes barring "local efforts to address a host of local actions."[16] This trend, sometimes referred to as "New Preemption," is characterized deregulatory action against larger, often progressive cities—either to prevent the enactment of certain ordinances or to retaliate against those already passed.[17] A quintessential example of this style of preemption occurred in 2016, when Alabama enacted legislation preempting local

[12] *See, e.g.*, *Mayor of Ocean Springs v. Homebuilders Ass'n of Mississippi*, 932 So. 2d 44 (Miss. 2006).
[13] *See, e.g.*, *State v. Williams*, 283 N.C. 550 (1973).
[14] *See, e.g.*, *People v. Bahnke*, 2024 WL 647931 (Mich. App. Feb. 15, 2024).
[15] *See* Briffault, *supra* note 2, at 1997.
[16] *Id*.
[17] *See generally* Briffault, *supra* note 2.

minimum wage regulation just two weeks after Birmingham passed an increase.[18] On the climate front, one of the most replicated state preemption laws has been the so called "ban on natural gas bans," which swept through conservative states after Berkeley, California enacted an ordinance prohibiting natural gas piping in new construction in 2019.[19] Recent preemption of local climate-related laws fits squarely within the framework of New Preemption, with conservative-led states increasingly targeting climate-related initiatives led by progressive city governments.

* * *

There is an observable trend towards state governments seeking to preempt local climate-related actions, but how and to what extent states will succeed in that effort depends on specific circumstances and varies significantly by state. The following chapters offer a state-by-state primer on state preemption of local action in nineteen states, with particular attention to climate considerations.

[18] *See* Yuki Noguchi, *In Battle Pitting Cities Vs. States Over Minimum Wage, Birmingham Scores A Win*, NAT. PUB. RADIO (July 27, 2018), https://perma.cc/82SY-KUXS.

[19] Berkeley's ordinance was later repealed after losing a federal preemption challenge in federal court. *See Cal. Restaurant Ass'n v. City of Berkeley*, 89 F.4th 1094 (9th Cir. 2024); BERKELEY, CAL., CITY CODE § 12.80 (repealed by Ord. No. 7907-NS (2024)).

GEORGIA

1. DELEGATION OF HOME RULE AUTHORITY AND POLICE POWER

Georgia's delegation of home rule authority to municipalities is contemplated by the state constitution and by the state's Municipal Home Rule Act. While Georgia municipalities can legislate on matters that "do not rise to the level of affecting state legislation" or that relate to amending the municipality's own charter, *see* *Camden Co. v. Sweatt*, 315 Ga. 498, 506–07 (2023), Georgia courts generally construe the scope of municipal authority narrowly. *See* *H.G. Brown Fam. Ltd. v. City of Villa Rica*, 278 Ga. 819, 819–20 (2005) ("A municipality's allocations of power from the state must be strictly construed.").

1.1 Constitutional Provisions

Ga. Const. art. IX, § II, ¶ II: "The General Assembly may provide by law for the self-government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to municipalities may be dealt with without the necessity of action by the General Assembly." Although the state's constitution does not create municipal home-rule authority in Georgia, it does allow the state legislature to delegate such power to local governments. *Id*. Georgia's constitution was amended in 1954, allowing the General Assembly to enact municipal self-government (hence, municipal home rule being "contemplated by" but not "derived from" the state constitution). The General Assembly acted on that amendment by passing two home rule acts, one in 1962 and the second in 1965, the latter being the "Municipal Home Rule Act," which gave local governments the broad grant of authority to pass clearly reasonable ordinances.

Ga. Const. art. IX, § II, ¶ III-V (The Supplementary Powers provision): "In addition to and supplementary of all powers possessed by or conferred upon any county, municipality, or any combination thereof, any county, municipality, or any combination thereof may exercise the following powers and provide the following services [in sixteen areas,]" including public safety, garbage and waste services, public health facilities and services, parks and recreation, water management, public transportation, street and road construction and maintenance, air quality control, and building codes.

1.2 Statutory Provisions

Ga. Code. Ann. § 36-35-3(a): Under Georgia's Municipal Home Rule Act, local governments can adopt "clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section. This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to repeal, modify, or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6." Although the Municipal Home Rule Act does not expressly delegate local

governments the authority to enact ordinances to protect the safety, health, and welfare of its residents (i.e., the police power), in *Executive Town & Country Services v. Young*, the Georgia Supreme Court referred to the home rule powers delegated by statute as "police powers." 376 S.E.2d 190, 191 (Ga. 1989).

Georgia has placed limitations on municipal home rule. Under Ga. Code. Ann. § 36-35-6, some subject matters are reserved exclusively to the General Assembly: "The power granted to municipal corporations in subsections (a) and (b) of Code Section 36-35-3 shall not be construed to extend to [elective offices and salaries, elections and appointments, criminal law, any form of taxation not authorized by the constitution or state law, activities otherwise regulated by the Georgia Public Service Commission, restriction on eminent domain, the courts, public schools, and private or civil relationships][20] or to any other matters which the General Assembly by general law[21] has preempted or may hereafter preempt; but such matters shall be the subject of general law or the subject of local Acts of the General Assembly to the extent that the enactment of such local Acts is otherwise permitted under the Constitution[.]"

2. HOME RULE CHARTERS

The Municipal Home Rule Act was intended in part "to authorize municipalities to amend their charters by their own actions." *Kemp v. City of Claxton*, 496 S.E.2d 712, 715 (Ga. 1998); *see also Sadler v. Nijem,* 251 Ga. 375, 376 (1983). As noted by *Kemp v. City of Claxton*, "[p]rior to . . . the Home Rule Act of 1965, city charters were amendable only by acts of the General Assembly." 496 S.E.2d at 715. Now, Georgia cities can adopt a charter to expand their own authority in governing many of their local affairs. Hundreds of cities and towns in Georgia have charters that were approved by the General Assembly, including Atlanta and Savannah.

3. PREEMPTION OF LOCAL LAW

Georgia courts recognize that "state law may preempt local law expressly, by implication, or by conflict." *See Franklin County v. Fieldale Farms Corp.*, 507 S.E.2d 460, 461 (Ga. 1998); *City of Buford v. Georgia Power Co.*, 581 S.E.2d 16, 17 (Ga. 2003) (expressing that the "legislature may preempt local enactments expressly, or preemption may be implied by the comprehensive nature of a state statute"). The Georgia Constitution's Uniformity Clause states that "[l]aws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws." Ga. Const. art. III, § VI, ¶ IV(a). In other words, "local laws are preempted by state laws that regulate the same subject matter. . . [but] if the local

[20] *See Home Rule and Ordinances*, NEW GEORGIA ENCYCLOPEDIA, (June 8, 2017), https://perma.cc/Q4TF-RR8H.
[21] General law is defined in the Georgia Constitution as a law with a "uniform operation throughout this state." Ga Const. art. III, § VI, ¶ IV(a).

law does not conflict with the state law and the state law so authorizes, the local government may act despite the state law."[22] *See, e.g.*, *Hill v. Tschannen*, 264 Ga. App. 288 (2003).

3.1 Express Preemption

Express preemption occurs when the state legislature includes explicit preemptive language in state statutes. For example, Georgia has expressly preempted local governments from regulating minimum wages and employee benefits: "Any and all wage or employment benefit mandates adopted by any local government entity are hereby preempted." Ga. Code Ann. § 34-4-3.1(b)(1).

3.2 Field Preemption

Field preemption occurs when the state has regulated so extensively in a subject matter as to exclude local regulation. In Georgia, field preemption can be express or implied. *See* *Gebrekidan v. City of Clarkston*, 784 S.E.2d 373, 376 (Ga. 2016). For example, the state has preempted the field of coin operated amusement machines. In *Gebrekidan*, the Georgia Supreme Court held that "where the state statutory scheme is as comprehensive as [the laws related to coin operated amusement machines], we presume that the General Assembly meant to occupy the entire field of regulation on the subject, and thus that the gaps the legislature left were intended to be unregulated matters rather than spaces for local governments to fill by local regulation." *Id*. at 379.

3.3 Conflict Preemption

In Georgia, local laws cannot conflict with general state laws. A conflict exists "where a local ordinance directly contradicts a general law in relevant part . . . but it also may arise where the local ordinance impairs or detracts from the general law's operation, rather than augmenting and strengthening it." *Gebrekidan*, 784 S.E.2d at 377. For example, in *Willis v. City of Atlanta*, Georgia's Supreme Court held that a city ordinance prohibiting underage individuals from the premises of any business that sold alcohol for retail or business conflicted with a general law related to underage individuals handling alcohol as part of their employment. 684 S.E.2d 271 (Ga. 2009).

3.4 State Laws with Potential for Local Climate Preemption

Building Electrification. Ga. Code. Ann. § 46-1-6: This law states that "no government entity of this state shall adopt any policy that restricts or prohibits, or has the effect of restricting or prohibiting, based on the type or source of energy or fuel to be delivered or the appliance to be used: (1) connection or reconnection of a customer to an electric utility, gas company, or [petroleum] service; (2) sales of liquefied petroleum gas; or (3) sales of other liquefied petroleum products." In other words, this law prohibits local Georgia governments from

[22] Marisa P. Ahlzadeh and Fanny Chac, *PREEMPTION: Executive Order by the Governor to Ensure a Safe & Healthy Georgia*, 37 GA. ST. U. L. REV. 95, 99 (2020), https://perma.cc/MVD7-6SBY.

enacting ordinances or adopting building code provisions that restrict or prohibit energy hookups to buildings based on the type of fuel or energy source.

Restrictions on Gas-Powered Lawn Equipment. Ga. Code. Ann. § 36-60-30(d): "Any local prohibition or regulation regarding the use, disposition, or sale or any imposition of any restriction, fee imposition, or taxation at the retail, manufacturer, or distributor setting shall not create differing standards for or distinguish gasoline-powered leaf blowers from any other gasoline-powered, electric, or similar such equipment or any other type of leaf blower. Nothing in this subsection shall apply to the use of gasoline-powered leaf blowers on property owned by a county or municipality." This law preempts local bans on, and regulation of, gas-powered leaf blowers by preventing local governments from regulating them differently than other types of leaf blowers (i.e., electric leaf blowers).

4. CASE LAW ON HOME RULE AND PREEMPTION OF LOCAL LAW

Local authority in Georgia does not fall neatly into the category of purely home rule or Dillon's rule. As noted above, while the Municipal Home Rule Act delegates broad authority to municipalities to legislate on their local affairs so long as the laws do not conflict with state general laws or the state constitution, Georgia courts have generally construed the scope of municipal authority narrowly. *See* *H.G. Brown Fam. Ltd. v. City of Villa Rica*, 278 Ga. 819 (2005).

The following cases provide a look at how Georgia courts have construed local home rule authority and state preemption of local law.

- *Franklin County. v. Fieldale Farms Corp.*, 507 S.E.2d 460 (Ga. 1998): Fieldale Farms Corporation (Fieldale) applied for and received a permit from the state Environmental Protection Division to apply waste generated by a municipal wastewater treatment plant on private farmland. Subsequently, Franklin County adopted a Land Disposal Ordinance "to regulate the disposal of industrial, hazardous, and biomedical waste." *Id*. at 461. The farm applied for a county permit, which the county denied. *Id*. In response, Fieldale brought an action against the county seeking declaratory judgment, injunction, and mandamus. In explaining state preemption of local laws, the Supreme Court affirmed that "state law may preempt local law expressly, by implication, or by conflict[,]" *Id.*, but "when a local law does not impair a general law's operation but rather augments and strengthens it," there is no conflict. *Id.* at 463 (cleaned up). The county's ordinance dealt with the same subject as general law and would be preempted unless it fell into the Uniformity Clause exception. *Id*. Determining that the language and legislative history of the state statute implicitly preempted the county ordinance, the court concluded that Franklin County "sought to establish a duplicate permit system that is not authorized by law." *Id*. at 464.

- *City of Buford v. Georgia Power Co.*, 581 S.E.2d 16 (Ga. 2003): In response to the City of Buford's enactment of an ordinance that established a one-year moratorium on the construction of electric power substations within 500 feet of residentially zoned property, Georgia Power Company sought declaratory

judgment and an injunction against the city's enforcement of the ordinance. *Id*. at 17. A Georgia statute expressly preempts local ordinances that "expand[] the power of regulation over any *business activity* regulated by the Public Service Commission [PSC] beyond that authorized by charter or general law or by the Constitution." *Id.* While Georgia's Supreme Court determined that Buford had authority to exercise police powers with respect to public utilities, such authority was limited to a utility's use of municipal property. *Id.* The substation in question would not have been located on city property. Buford argued that its regulation of substations was not expressly preempted because there were no PSC rules and regulations relating to the placement of substations, and thus construction of substations was not within the "business activity of Georgia [P]ower [Company]." *Id*. The court rejected that argument, and determined that the "breadth and scope of the legislature's delegation of authority to the PSC" evidenced the legislature's intent to preempt municipal regulation of electric power substations. *Id*. at 18.

- *H.G. Brown Fam. Ltd. v. City of Villa Rica*, 278 Ga. 819 (2005): The City of Villa Rica purchased a right-of-way from the appellant. At the execution of the contract, the city officials present did not constitute a quorum as defined by the City's charter. Nor was the contract reviewed by the city attorney and presented to the city council for approval, both of which are required by the City's charter. *Id*. at 819. Thereafter, the City failed to perform its obligation under the contract to reclaim wetlands on property owned by appellant. In response to the appellant requesting compliance, the city claimed that the entire contract was *ultra vires* because it was not properly approved or recorded by the council. *Id*. In denying the city mandamus relief that would have validated the contract, Georgia's Supreme Court explained that, "[w]here a city charter specifically provides how a municipal contract shall be made and executed, the city may only make a contract in the method prescribed; otherwise, 'the contract is invalid and unenforceable.' A municipality's method of contracting, once prescribed by law or charter, is absolute and exclusive." *Id*. at 820. Because the city failed to follow the charter prescribed contract procedure, the Court ruled the contract null and void. *Id*. at 821.

5. BUILDING CODES

Georgia has adopted model codes as "state minimum standard codes," which automatically apply to all Georgia municipalities and counties. Ga. Code. Ann. § 8-2-20, -25. In addition to those "mandatory" codes, the state has also adopted "optional" codes that are selected at the state level but only enforceable in counties or municipalities that actually adopt them. *Id.* § 8-2-25(b). The codes are adopted by the Georgia Department of Community Affairs (DCA). The current mandatory codes adopted by DCA are mostly the 2018 editions of the International Code Council (ICC) model codes, but Georgia still uses the 2015 version of the International Energy Conservation Code (IECC).[23]

Local amendments to the statewide codes are permitted provided they are more stringent than the state minimum, and are based on "local climatic, geologic, topographic, or public safety factors" reflected in a finding

[23] *Construction Codes*, GEORGIA DEPT' OF COMM. AFF., https://perma.cc/B7UH-DYEG.

by the local governing body. *Id.* § 8-2-25(c)(1). To adopt an amendment to the state minimum code, a local government must submit to the DCA the proposed amendment, legislative findings, and "such other documentation as the local governing body deems helpful in justifying the proposed amendment." *Id.* The Department then issues a comment recommending whether or not the amendment should be adopted—and in the event that the DCA recommends that the amendment should not be adopted, a local government can vote to reject that decision and adopt the amendment anyway. *Id.*

For example, the City of Atlanta's local building code includes provisions of the optional statewide codes that have been adopted, as well as some local amendments to the state minimum codes.[24] The city's amendments to the state minimum codes have included, for instance, enhanced noise limitations, *see* Atlanta, Georgia Ordinance 18-O-1659 (Nov. 28, 2018), and requirements that buildings be wired for security cameras that can be integrated into the police department's integrated system, *see* Atlanta, Georgia Ordinance 23-O-1402 (Oct. 11, 2023). Atlanta also requires its largest buildings (over 25,000 square feet) to measure their energy and water consumption. *See* Atlanta, Georgia Code § 8-2222. On June 2, 2025, Atlanta passed a "cool roof" ordinance, amending its building code to require all building types and zoning districts to achieve higher roof reflectivity standards, effective in 2026.[25]

6. ELECTRIC UTILITY CONSIDERATIONS

What is the relevant utility regulatory body in the state? Who and what does it regulate? The Georgia Public Service Commission (PSC) is responsible for regulating investor-owned utilities, among other entities.[26] One of the PSC's primary roles is to determine how much Georgia Power can charge for electricity (i.e., rate-making). Ga. Code Ann. § 46-2-23(a). Each of Georgia's 52 municipally-owned electric power companies has a retail service monopoly on their statutorily prescribed service area and are largely free from regulation by the Georgia Public Service Commission (GPSC), including for ratemaking, except that the PSC involves itself in their territorial disputes. *See generally* Ga. Code. Ann. § 46-3-1 to -15. Ga. Code. Ann. §§ 46-3-4 & 46-3-5 set out the rules related to the geographic service areas for electric providers, including municipally-owned electric utilities.

What authority, if any, do municipalities have over utilities? Municipalities have limited authority over investor-owned electric utilities, as the legislature "has broadly delegated" authority to the PSC, *see City of Buford*, 581 S.E.2d at 18; Ga. Code Ann. § 46–2–20(a), though municipalities may exercise control over utilities through their franchising power.

Can cities enter into franchise agreements with utilities? Yes, municipalities have the power "to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power

[24] Atlanta's building code amendments are codified as Appendix A to the city's Land Development Ordinance: https://library.municode.com/ga/atlanta/ordinances/code_of_ordinances?nodeId=929868.
[25] *See* Atlanta, Ga., Ord. No. 25-O-1310 (June 2, 2025), https://perma.cc/7486-VDKK.
[26] The Georgia Power Company is the state's only investor-owned utility and largest electricity provider, serving the most people in Georgia. *See Electric Utility Regulation in Georgia*, EJ Green Book, https://perma.cc/5WNL-XPLT.

companies, gas companies, steam-heat companies, telephone companies, water companies, and other public utilities for the use and occupancy of the streets of the city, for the purpose of rendering utility services, upon such conditions and for such time as the governing authority of the municipal corporation may deem wise and subject to the Constitution and the general laws of this state." Ga. Code Ann. § 36-34-2(7)(A).

How can cities intervene in Public Service Commission proceedings? A municipality can intervene in a PSC proceeding as of right or by permission. A city has a right to intervene when "a statute confers an unconditional right to intervene by filing a notice of intervention with the commission or hearing officer[.]" Ga. Code Ann. § 46-2-59(b). If intervention by right is not available, a city may be granted permission to intervene by filing "an application for leave to intervene within 30 days following the first published notice of the proceeding. Any such application shall be in writing, shall be verified either by the [city] on information and belief, shall identify the party requesting the intervention, and shall set forth with particularity the facts pertaining to [its] interest and the grounds upon which [its] application for intervention are based." Ga. Code Ann. § 46-2-59(c). The PSC can limit intervention when the party's interest "is adequately represented by other parties" or "will unduly delay the proceedings or prejudice the rights of other parties." Ga. Code Ann. § 46-2-59(e)(2).

Does the state have an obligation to serve statute? Yes, the PSC "may, either by general rules or by special orders in particular cases, require all companies under its supervision to establish and maintain such public services and facilities as may be reasonable and just." Ga. Code Ann. § 46-2-20(c).

Has the state passed enabling legislation for community choice aggregation (CCA)? No, Georgia currently lacks enabling legislation for community choice aggregation.[27]

7. SECONDARY SOURCES

Matthew Daigle et al., *Renewable Energy's Role in Georgia's Energy Regulatory Compact*, GEORGIA STATE COLLEGE OF LAW (Mar. 24, 2023), https://perma.cc/L8XW-S9RV (outlining the "legal and regulatory framework affecting Georgia's [single] investor-owned utility" and how that utility can advance the growth of renewable energy).

Municipalities: Sources and Limits of Power, GEORGIA MUNICIPAL ASSOCIATION (Feb. 20, 2018), https://perma.cc/JP22-L2ED (analyzing the sources of municipal authority and its limits through discussion of constitutional and statutory provisions).

8. MISCELLANEOUS

Municipal electric utilities can offer net metering benefits for solar panel owners, but are not required to do so. *See generally* Ga. Code § 46-3-50 et seq.

[27] *Community Choice Aggregation*, U.S. ENV'T PROTECTION AGENCY, https://perma.cc/8GKA-3GWN.