

NAVIGATING STATE LAW IN LOCAL CLIMATE ACTION NORTH CAROLINA



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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 North Carolina. 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)).

NORTH CAROLINA

1. DELEGATION OF HOME RULE AUTHORITY AND POLICE POWER

All incorporated North Carolina cities are granted some home rule authority under state law. But North Carolina is neither a Dillon’s Rule state nor a true home rule state. Cities operate somewhere in between, having been granted limited statutory authority to adopt ordinances under the police power. Statutory provisions expressly provide that delegated home rule powers and city charter provisions are to be broadly construed. Still, because cities remain dependent on the state for their authority, they are limited in their autonomy as compared to cities in other states.

1.1 Constitutional Provisions

North Carolina does not grant home rule authority through constitutional provisions. Instead, the state delegates the grant of municipal authority through statute. [Article VII, section 1 of the North Carolina Constitution](#) does, however, give the General Assembly the ability to establish local home rule, stating in part that, “[t]he General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.”

1.2 Statutory Provisions

[N.C. Gen. Stat. § 160A-4](#): “It is the policy of the General Assembly that the cities of the state should have adequate authority to execute the powers, duties, privileges, and immunities conferred upon them by law. To this end, the provisions of this Chapter and of city charters shall be broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect: Provided, that the exercise of such additional or supplementary powers shall not be contrary to State or federal law or to the public policy of this State.”

[N.C. Gen. Stat. § 160A-174](#): “(a): A city may by ordinance define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances.”

[N.C. Gen. Stat. § 153A-4](#): “It is the policy of the General Assembly that the counties of this State should have adequate authority to exercise the powers, rights, duties, functions, privileges, and immunities conferred upon them by law. To this end, the provisions of this Chapter and of local acts shall be broadly construed and grants of power shall be construed to include any powers that are reasonably expedient to the exercise of the power.”

2. HOME RULE CHARTERS

North Carolina cities are incorporated, and their charters created, through acts of the General Assembly. State law, however, delegates the power to amend a city charter to the city council or its voters. [N.C. Gen. Stat. § 160A-101–11](#). The charter provisions that can be amended are listed in [N.C. Gen. Stat. § 160A-101](#), which includes choosing the form of government and the mode of electing the city council.²⁰

3. PREEMPTION OF LOCAL LAW

North Carolina statutes delegating authority to local governments explicitly note that local laws are subject to express, field, and conflict preemption. [N.C. Gen. Stat. § 160A-174\(b\)\(2\)–\(5\)](#).

3.1 Express Preemption

Under state statute, cities cannot enact an ordinance when the state has “expressly forbidden” the subject from local regulation. [N.C. Gen. Stat. § 160A-174\(b\)\(4\)](#). For example, the General Assembly has expressly preempted local governments from regulating wage requirements: “The provisions of this Article supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to compensation of employees, such as the wage levels of employees, hours of labor, payment of earned wages, benefits, leave, or well-being of minors in the workforce.” [N.C. Gen. Stat. § 95-25.1](#).

3.2 Field Preemption

Cities cannot enact an ordinance when the state has “clearly show[n] a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation,” in other words, when the state has occupied an entire field of regulation. [N.C. Gen. Stat. § 160A-174\(b\)\(5\)](#). For example, the General Assembly has expressed its clear intent to occupy the entire regulatory field relating to firearms, thereby preempting local regulation of firearms: “[i]t is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided by this section.” [N.C. Gen. Stat. § 14-409.40\(a\)](#). Additional examples of field preemption are highlighted in [Craig v. County of Chatham](#) (discussed below), where the Supreme Court of North Carolina determined that the state Swine Farm Siting Act and the Animal Waste Management Systems regulation constituted a comprehensive regulatory scheme that preempted a county’s zoning ordinance for swine farms. 356 N.C. 40 (2002).

²⁰ See generally Frayda S. Bluestein & Robert P. Joyce, *Forms of North Carolina Government*, UNIV. OF NORTH CAROLINA, <https://perma.cc/4AXD-M2QP>.

3.3 Conflict Preemption

In North Carolina, “[a] city ordinance shall be consistent with the Constitution and laws of North Carolina and the United States.” [N.C. Gen. Stat. § 160A-174\(b\)](#). Cities cannot enact an ordinance that “makes unlawful an act, omission, or condition which is expressly made lawful[,]” [N.C. Gen. Stat. § 160A-174\(b\)\(2\)](#), nor “enact an ordinance that makes lawful an act, omission, or condition which is expressly made unlawful,” [N.C. Gen. Stat. § 160A-174\(b\)\(3\)](#).

3.4 State Laws with Potential for Local Climate Preemption

Building Electrification. [N.C. Gen. Stat. § 160A-203.3](#): This law blocks cities from adopting an ordinance that prohibits, or has the effect of prohibiting, “(1) The connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service[, or] (2) The sale, purchase, or installation of an appliance utilized for cooking, space heating, water heating, or any other appliance included under the definition of “white goods” pursuant to G.S. 130A-290(a).”²¹

Oil & Gas Activities. [N.C. Gen. Stat. § 113-415.1](#): This law makes preemptable any “local zoning or land-use ordinance [that] imposes[] requirements, restrictions, or conditions that are generally applicable” to oil and gas exploration, development, and production activities and prescribes the procedure and criteria by which North Carolina’s Oil and Gas Commission may preempt such ordinances.

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

City and county ordinances must be consistent with the laws and constitutions of North Carolina and the United States. [N.C. Gen. Stat. § 160A-174\(b\)](#). But even despite [N.C. Gen. Stat. § 160A-4](#)’s language indicating that courts should construe local authority broadly, judicial decisions have not been entirely consistent in their view of local authority. Compare [Homebuilders Ass’n of Charlotte v. City of Charlotte](#), 336 N.C. 37 (1994) (applying a rule of broad construction) with [Smith Chapel Baptist Church v. City of Durham](#), 350 N.C. 805, 810–11 (1999) (refusing to apply a rule of broad construction). One commenter has helpfully summarized that “North Carolina courts have generally recognized, albeit belatedly and inconsistently at times, that Dillon’s Rule no longer applies . . . [but a] local government may not use its general authority or a rule of broad construction to circumvent limitations specifically imposed by statute.”²² In [BellSouth Telecommunications v. City of Laurinburg](#), the North Carolina Court of Appeals acknowledged the nuanced history of courts applying N.C. Gen. Stat. § 160A-4, but

²¹ In 2021, the Governor vetoed a bill with similar language. [House Bill 220](#) would have, among other things, established a ban on building electrification requirements. The bill read: “A city shall not adopt an ordinance that prohibits or has the effect of prohibiting, the connection, reconnection, modification, or expansion of any energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service.”

²² David W. Owens, *Local Government Authority to Implement Smart Growth Programs: Dillon’s Rule, Legislative Reform, and the Current State of Affairs in North Carolina*, 35 WAKE FOREST L. REV. 671, 699 (2000).

maintained that the line of cases implicating the statute were “consistent statements of law.” 168 N.C. App. 75, 82–83 (N.C. App. 2005).

North Carolina’s Supreme Court has determined that the statutory requirement to broadly construe local power is a rule of statutory construction and not a “general directive” to give statutes broad constructions. See [Lanvale Properties, LLC v. County of Cabarrus](#), 366 N.C. 142, 154 (N.C. 2012). Instead, courts should broadly construe statutes only when they are ambiguous, otherwise a plain and unambiguous statute should be given its plain meaning. *Id.*

In sum, cities in North Carolina can be understood to operate in a more constrained environment than many other home rule states. The cases below provide more detail on how North Carolina courts balance local authority derived from state statute against the state’s power to preempt “inconsistent” local laws:

- [Schroeder v. City of Wilmington](#), 282 N.C. App. 558 (2022): The City of Wilmington enacted a zoning ordinance in January 2019 that, among other things, restricted short-term rentals through a registration and lottery process. *Id.* 562. The plaintiffs, who lost in the initial lottery, challenged the ordinance as beyond Wilmington’s authority and in violation of N.C. Gen. Stat. § 160A-424(c), which prohibits cities from requiring rental property registration. The trial court determined that Wilmington’s ordinance was “unambiguously” preempted. *Id.* at 564. On appeal, the court affirmed that the registration requirement was invalid but reversed the trial court’s decision, holding that other provisions of the law were severable and remained enforceable. *Id.* at 573.
- [King v. Town of Chapel Hill](#), 367 N.C. 400 (2014): In 2012, the Town of Chapel Hill enacted an ordinance that aimed to minimize the adverse effects of nonconsensual towing, including adding storage and payment requirements and maximum fees for towed vehicles (Towing Ordinance). *Id.* at 402. Chapel Hill also passed an ordinance prohibiting adults from using a cellphone while driving a car on public streets or in a “vehicular area” (Mobile Phone Ordinance). *Id.* at 402–03. The plaintiff operated a towing business in Chapel Hill and sought declaratory judgment to invalidate both ordinances, arguing that Chapel Hill lacked authority to enact either. To determine whether each was preempted, the Supreme Court’s analysis was guided by the proposition that looking toward the plain language of a statute is the first step in “ascertain[ing] the extent of a legislative grant of power.” *Id.* at 404–05. The court determined that, based on the municipal police powers ([N.C. Gen. Stat. § 160A-174](#)) and its broad construction of that statute, municipalities have the general power to regulate nonconsensual towing to protect citizen health, safety, and welfare, but that certain provisions of the ordinance (like the prohibition on charging credit card fees) exceeded that power. *Id.* at 407–09. Regarding the Mobile Phone Ordinance, the court concluded, based on the state’s existing regulation of motor vehicles, that the General Assembly “inten[ded] to provide a complete and integrated regulatory scheme to the exclusion of local regulation.” *Id.* at 412.
- [State v. Williams](#), 283 N.C. 550 (1973): In this case the North Carolina Supreme Court considered whether a local ordinance that made drinking alcoholic beverages in public places illegal was “consistent with the

general laws of North Carolina.” *Id.* at 551–52. The local ordinance included beer among the alcoholic beverages it regulated, and under that provision the defendants had been arrested for openly possessing beer on a public street. *Id.* at 550. State law did not define beer as an alcoholic beverage though, and the state law’s implementing regulation permitted the personal use of beer “without restriction.” *Id.* at 554. Accordingly, the court ruled that state law preempted the local rule because (1) the local ordinance restricted what state law permitted by prohibiting the consumption of alcohol in public; and (2) the state had provided a “complete and integrated regulatory” scheme with respect to alcoholic beverages (i.e., the state had field preempted the local law).

4.1 Other Relevant Cases

[*Craig v. County of Chatham*](#), 356 N.C. 40 (2002) (concluding that state swine farm regulations comprised a “complete and integrated regulatory scheme” on a statewide basis, thus preempting local ordinances).

[*Lanvale Properties, LLC v. County of Cabarrus*](#), 366 N.C. 142, 154 (2012) (holding that a county’s residential development ordinance was beyond its authority and explaining that “[w]hen the language of a statute is clear and unambiguous, there is no room for judicial construction, and the courts must give it its plain and definite meaning”) (cleaned up).

[*Town of Washington v. Hammond*](#), 76 N.C. 33, 36 (1877) (holding that state law preempted an ordinance that made certain property damage a misdemeanor and expressing that “[t]he true principle is that municipal by-laws and ordinances must be in harmony with the general laws of the State, and whenever they come in conflict with the general laws, the by-laws and ordinances must give way”).

5. BUILDING CODES

Building codes in North Carolina are governed by [N.C. Gen. Stat. § 143](#). Under the statute, the North Carolina Building Code Council (BCC) adopts codes applicable statewide, periodically updates those codes, and holds at least one public hearing for each update. [N.C. Gen. Stat. § 143-138](#). The codes currently in place are primarily the 2018 versions of the International Code Council (ICC) model codes.²³ The implementation of the 2024 statewide building code has been postponed, as detailed in a letter from the State Fire Marshal.²⁴ State law does not explicitly allow for local amendments to the state code, but it does allow a municipality to adopt local fire prevention codes and local floodplain management regulations. [N.C. Gen. Stat. § 143-138\(e\)](#). Local floodplain regulations are only enforceable if they are approved by the BCC. *Id.*

²³ *Codes – Current and Past*, N.C. OFF. OF STATE FIRE MARSHAL, <https://perma.cc/N6NC-KW2H>.

²⁴ Press Release, *North Carolina Delays Implementation of 2024 State Building Code*, N.C. Off. of St. Fire Marshal (Apr. 7, 2025), <https://perma.cc/NXW9-4ALS>; Letter from Brian Taylor, State Fire Marshal to North Carolina Code Officials (Mar. 31, 2025), <https://perma.cc/6TUS-LJ53>.

In 2024, however, North Carolina passed a law that largely freezes updates to the state Residential Building Code, as well as residential portions of the Energy, Fuel Gas, and Mechanical Codes, until the first full six-year revision becomes effective on January 1, 2031. [N.C. Gen. Stat. § 143-138\(d\)](#). This does not preclude local governments from adopting fire prevention codes and floodplain management regulations. Some amendments, including a special review of energy, fuel gas, and mechanical codes applicable to residential construction, still had to be completed by January 1, 2026.

6. ELECTRIC UTILITY CONSIDERATIONS

What is the relevant utility regulatory body in the state? Who and what does it regulate? The North Carolina Utilities Commission (NCUC) regulates the rates of investor-owned utilities. [N.C. Gen. Stat. §§ 62-2, -3\(23\)](#). There are three investor-owned energy utilities operating in North Carolina: Duke Energy Carolinas, Duke Energy Progress, and Dominion Energy.²⁵ NCUC does not regulate the rates of municipally-owned electric utilities or rural electric cooperatives, [N.C. Gen. Stat. § 62-3\(23\)\(d\)](#), and has limited authority over them.²⁶ Part of the NCUC’s authority includes overseeing compliance with North Carolina’s Clean Energy and Energy Efficiency Portfolio Standard (CEPS) for all electric suppliers. See N.C. Gen. Stat. Ann. §§ [62-133.8](#), [62-133.9](#). The Tennessee Valley Authority (TVA) provides power to two small areas in western North Carolina.²⁷

What authority, if any, do municipalities have over utilities? The state has delegated to the NCUC practically all control over public utilities. While municipalities have the power to adopt reasonable zoning regulations that promote the health, safety, and general welfare of the community, in at least one case such regulation has been overridden by the NCUC’s “authority and duty to compel the provision of adequate services at reasonable rates[.]” [State ex rel. Utilities Comm’n. v. Town of Kill Devil Hills](#), 670 S.E.2d 341, 347 (N.C. App. 2009).

Can cities enter into franchise agreements with utilities? Yes, pursuant to [N.C. Gen. Stat. § 160A-319](#), municipalities have the authority to grant franchises with utilities for a period not to exceed sixty years. See also [Duke Power Co. v. City of High Point](#), 205 S.E. 2d 774, 781 (N.C. App. 1974).

Further, an electric utility “has power to contract with any person or corporation, the owner of any lands or of any franchise or easement therein, over which its lines are proposed to be erected, for the right-of-way for planting, repairing and preservation of its poles or other property, and for the erection and occupation of offices at suitable distances for the public accommodation” [N.C. Gen. Stat. § 62-182](#). On the other hand, a public right-of-way, such as a public street, becomes “immediately available for use by any public utility” after “recordation of a subdivision map or plat reflecting its dedication.” [N.C. Gen. Stat. § 62-182.1](#).

²⁵ *North Carolina Energy Providers Map*, NC SUSTAINABLE ENERGY ASS’N, <https://perma.cc/6TSL-9CSN>.

²⁶ See [N.C. Gen. Stat. § 62-110.2](#) (service territory issues); [N.C. Gen. Stat. § 62-110.1](#) (certification authority for electric generation facilities and certain electric transmission lines); [N.C. Gen. Stat. § 62-350](#) (pole attachment disputes); [N.C. Gen. Stat. § 117-18.1](#) (subsidiary business activities of electric membership corporations); [N.C. Gen. Stat. § 62-50](#) (safety of gas pipeline facility).

²⁷ *TVA Power Service Area*, TENN. VALLEY AUTH., <https://perma.cc/6KES-Y9SM>.

How can cities intervene in Utilities Commission proceedings? Under the NCUC Rules, “[a]ny person having an interest in the subject matter of any hearing or investigation pending before the Commission may become a party thereto . . . by filing a verified petition with the Commission giving . . . [among other things] [a] clear and concise statement of the nature of the petitioner’s interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding [and a] statement of the exact relief desired.” [NCUC Rules, R1-19](#). (cleaned up) However, intervention may be limited where a party’s interests “are adequately represented by existing parties” or where intervention “will cause undue delay or prejudice.” *Id.*

Does the state have an obligation to serve statute? Yes, North Carolina’s obligation to serve statute states that “[e]very public utility shall furnish adequate, efficient, and reasonable service.” [N.C. Gen. Stat. § 62-131\(b\)](#).

Has the state passed enabling legislation for community choice aggregation (CCA)? No, North Carolina currently lacks enabling legislation for community choice aggregation programs.²⁸

7. SECONDARY SOURCES

David W. Owens, *Local Government Authority to Implement Smart Growth Programs: Dillon’s Rule, Legislative Reform, and the Current State of Affairs in North Carolina*, 35 WAKE FOREST L. REV. 671, 699 (2000), <https://perma.cc/VUV4-FDYB> (tracing the evolution in legislative intent and judicial review of the state’s delegation of authority to local governments after adopting a rule of broad construction for some local governmental powers and implications for local government authority).

Alexandra Franklin, *See Green: North Carolina’s Clean Energy Plan, the Social Cost of Carbon, and a Way Forward Under a Least-Cost Framework*, 99 N.C. L. Rev. F. 59 (2021), <https://perma.cc/XN6K-FCGH> (providing background on utility commissions in traditionally regulated states and North Carolina’s utility commission, and analyzing how North Carolina’s public utility system must adapt to accommodate the state’s Clean Energy Plan).

8. MISCELLANEOUS

North Carolina residents can adopt or amend city charters through local ballot initiatives. See [N.C. Gen. Stat. § 160A-104](#). An initiative petition must have the signatures of a “number of qualified voters of the city equal to at least ten percent (10%) of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections or 5,000, whichever is less.” *Id.*

²⁸ *Community Choice Aggregation*, U.S. ENV’T PROTECTION AGENCY, <https://perma.cc/8GKA-3GWN>.