§ 113-415.1. Local ordinances regulating oil and gas exploration, development, and production activities invalid; petition to preempt local ordinance.

(a) It is the intent of the General Assembly to maintain a uniform system for the management of oil and gas exploration, development, and production activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of oil and gas exploration, development, and production activities by means of ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including, but not limited to, those imposing taxes, fees, or charges or regulating health, environment, or land use, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that regulate or have the effect of regulating oil and gas exploration, development, and production activities within the jurisdiction of a local government are invalidated and unenforceable, to the extent necessary to effectuate the purposes of this Part, that do the following:

(1) Place any restriction or condition not placed by this Article upon oil and gas exploration, development, and production activities and use of horizontal drilling or hydraulic fracturing for that purpose within any county, city, or other political subdivision.

(2), (3) Repealed by Session Laws 2015-264, s. 56.2(a), effective retroactively to June 4, 2014.

(4) In any manner are in conflict or inconsistent with the provisions of this Article.

(b), (c) Repealed by Session Laws 2015-264, s. 56.2(a), effective retroactively to June 4, 2014.

(c1) If a local zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, and oil and gas exploration, development, and production activities would be regulated under the ordinance of general applicability, the operator of the proposed activities may petition the Oil and Gas Commission to review the matter. After receipt of a petition, the Commission shall hold a hearing in accordance with the procedures in subsection (d) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the regulation of oil and gas exploration, development, and production activities.

(d) When a petition described in subsection (c1) of this section has been filed with the Oil and Gas Commission, the Commission shall hold a public hearing to consider the petition. The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Commission. The Commission shall give notice of the public hearing by both of the following means:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the activities are to be conducted, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing.

(2) First-class mail to persons who have requested notice. The Commission shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a postage-paid wrapper addressed to the person to be notified at the address that appears on the mailing list maintained by the Commission, in a post office or official depository under the exclusive care and custody of the United States Postal Service.
(e) Any interested person may appear before the Oil and Gas Commission at the
hearing to offer testimony. In addition to testimony before the Commission, any interested
person may submit written evidence to the Commission for the Commission's consideration. At
least 20 days shall be allowed for receipt of written comment following the hearing.

(f) A local zoning or land-use ordinance is presumed to be valid and enforceable to the
extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that
are generally applicable to development, including, but not limited to, setback, buffer, and
stormwater requirements, unless the Oil and Gas Commission makes a finding of fact to the
contrary. The Commission shall determine whether or to what extent to preempt local
ordinances so as to allow for the establishment and operation of the facility no later than 60
days after conclusion of the hearing. The Commission shall preempt a local ordinance only if
the Commission makes all of the following findings:

1. That there is a local ordinance that would regulate oil and gas exploration,
development, and production activities, or use of horizontal drilling or
hydraulic fracturing for that purpose.

2. That all legally required State and federal permits or approvals have been
issued by the appropriate State and federal agencies or that all State and
federal permit requirements have been satisfied and that the permits or
approvals have been denied or withheld only because of the local ordinance.

3. That local citizens and elected officials have had adequate opportunity to
participate in the permitting process.

4. That the oil and gas exploration, development, and production activities, and
use of horizontal drilling or hydraulic fracturing for that purpose, will not
pose an unreasonable health or environmental risk to the surrounding
locality and that the operator has taken or consented to take reasonable
measures to avoid or manage foreseeable risks and to comply to the
maximum feasible extent with applicable local ordinances.

(g) If the Oil and Gas Commission does not make all of the findings under subsection
(f) of this section, the Commission shall not preempt the challenged local ordinance. The
Commission's decision shall be in writing and shall identify the evidence submitted to the
Commission plus any additional evidence used in arriving at the decision.

(h) The decision of the Oil and Gas Commission shall be final unless a party to the
action files a written appeal under Article 4 of Chapter 150B of the General Statutes, as
modified by this section, within 30 days of the date of the decision. The record on appeal shall
consist of all materials and information submitted to or considered by the Commission, the
Commission's written decision, a complete transcript of the hearing, all written material
presented to the Commission regarding the location of the oil and gas exploration,
development, and production activities, the specific findings required by subsection (f) of this
section, and any minority positions on the specific findings required by subsection (f) of this
section. The scope of judicial review shall be as set forth in G.S. 150B-51, except as this
subsection provides regarding the record on appeal.

(i) If the court reverses or modifies the decision of the Oil and Gas Commission, the
judge shall set out in writing, which writing shall become part of the record, the reasons for the
reversal or modification.

(j) In computing any period of time prescribed or allowed by this procedure, the
provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply. (2014-4, s. 14;
2015-264, s. 56.2(a).)