



City Home Rule Issue Brief

As one of the first home rule states, local and state officials must understand the key legal concept of home rule

One of AWC's core principles is to protect local control and oppose preemption of city powers. One of the powers that AWC works to protect is home rule authority to ensure that cities preserve and enhance their local powers to meet their needs.

First class and code cities have broad home rule powers granted in both the state constitution and statute. Cities may determine structure and regulate under their police powers, as long as they do not conflict with the constitution or laws.

Article XI of the state constitution provides that cities may:

Sec. 10 "Frame a charter for its own government, consistent with and subject to the Constitution and laws of this state" (first class cities); and

Sec. 11 "Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws."

Code cities

In 1966, the legislative Municipal Code Committee's report recommended that "Dillon's Rule" which limits municipal powers to only those granted by the Legislature be specifically rejected in Washington. This report's recommendations related to city powers became the framework for adopting the code city form of government with broad home rule powers.

RCW 35A.11.020 includes broad language that the "legislative body of each code city shall have all powers possible for a city or town to have under the constitution of this state and not specifically denied to code cities by law."

What does this mean?

In Washington, it means that the 204 code and first class cities have broad home rule powers and have been granted all powers available to other classes of cities. Statutes make clear that a specific grant of municipal power in a statute is in addition to, or explanatory of the powers of code cities, not a limitation.

Strong cities need:

Respect city local authority with regards to revenue, taxes, licensing, and home rule authority.

- **Sustain local authority** – Before looking to the Legislature to pass legislation for a new specific authority, ask if there is a statute that otherwise prohibits you from taking the action. If you are challenged, ask to be shown exactly where the constitution or statutes specifically say you cannot exercise local authority.
- **Promote fiscal home rule** – Powers of cities related to issues such as taxation, eminent domain, franchises, and debt generally have specific preemptions in statute, and courts follow Dillon's Rule on these topics. Cities need to work with the Legislature to clarify or grant additional authority, especially related to fiscal home rule.
- **Remind courts of city powers** – If a power is challenged, remind the courts of the Legislature's intent that cities have broad general powers, unless specifically denied.
- **Determine cases that support city powers** – The court track record on recognizing city home rule powers is inconsistent and Dillon's Rule is sometimes used to justify a court's decision in a case. Learn more about the cases that challenged city powers based on preemption arguments, particularly where decisions support the powers of cities to regulate its government operations.
- **Exercise home rule authority** – First class and code cities should confidently exercise their broad home rule authority to operate and regulate within their cities, as long as not specifically prohibited.

More details

AWC's ad hoc committee on municipal finance

In 2012, AWC formed an ad hoc committee on municipal finance made up of city elected officials, city managers, finance directors, and intergovernmental relations directors. The group

was charged with considering short and long-term strategies to address the challenges of current revenue options.

UW law professor Hugh Spitzer has presented twice to the committee about his research on home rule powers.

more details on back

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More details cont.

Based on the recommendations of the committee, AWC has been educating city officials and others about city home rule powers.

Next steps include researching statutes that might lead to confusion on city powers or unreasonably limit authority as targets for clarification or repeal. When they are challenged, cities need to educate courts and others about city home rule powers, especially related to structure, administration, exercising regulatory authority, and providing city services.

What about the powers of second class cities and towns?

Second class cities and towns have more limited powers than code cities and first class cities. For example, neither class can adopt the power of local initiative or referendum, and they must operate under the mayor-council form of government.

Courts still apply Dillon's Rule of "show me where the Legislature says I can" interpreting the powers of second class cities and towns.

What does it take to change a form of government?

Changes in the form of government must be submitted to city voters for approval. A change in the form of government to a code city can start with a resolution of the legislative body to submit a proposed change to city voters at the next general or special election. An election may also start with a petition, signed by at least ten percent of the votes cast in the last general city election.

City classifications impact authority and structure

There are four classes of cities and towns (first class, code, second class, and town), plus one unclassified city operating under a pre-statehood territorial charter, each with unique characteristics that impact its authority and structure.

Number of cities by classification and form of government

Class	All Cities	Mayor-Council	Council-Manager	Commission
First	10	6	4	0
Second	7	7	0	0
Town	69	69	0	0
Code	194	145	48	1
Unclassified	1	1	0	0
Total	281	228	52	1

Graphic: Source www.mrsc.org 1/2017

For more information, see:

Bright Rights, Big City: Washington Cities Have Broader Powers Than They Often Think, Hugh Spitzer, CityVision May/June 2016

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