

Colorado Municipal Government & Home Rule

New Municipal Attorneys Workshop
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STATE OF COLORADO MUNICIPALITIES

108 HOME RULE
MUNICIPALITIES

153 STATUTORY
TOWNS

11 STATUTORY
CITIES

1 TERRITORIAL
CHARTER CITY

Statutory Municipalities

State statutes control:

- Creation
- Organization
- Powers

Limited to 3 forms of governance

- Towns
- Cities with mayor-council or council-manager form

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Home Rule Municipalities

Organized and derive power from Colorado Constitution, Art. XX, § 6

Plenary authority on matters of local concern through charter

“[A]ll other powers necessary, requisite or proper for the government and administration of its local and municipal matters”

“[F]ull right of self-government in both local and municipal matters”

Charter is a document of limitation, not authorization

State statutes apply in absence of local charter or ordinance

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Article XX, § 6 – Key Enumerated Powers

General powers (corporate identity, property, gifts, works, roads, issuance of bonds, eminent domain) (via § 1)

Officers and employees (creation, powers, duties, terms)

Police and municipal courts (jurisdiction, powers, duties, judges)

Municipal elections (all matters)

Municipal obligations

Municipal taxation

Fines and penalties for local violations

Title 31, Colorado Revised Statutes

C.R.S. § 31-1-101 - definitions

C.R.S. § 31-1-102(1):

*[I]t is the intent of the general assembly that the provisions of this title shall apply to home rule municipalities **except insofar as superseded by charter or ordinance passed pursuant to such charter** and to all statutory cities and towns and shall be available to special territorial charter cities and towns unless in conflict with the charters thereof.”*

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Title 31, Colorado Revised Statutes

Article 2, Part 2 – home rule organization and amendment

Article 4 – organization and structure, officers, recalls

Article 10 – Municipal Election Code of 1965

Article 11 – initiative, referenda, referred measures

Article 12 – Municipal Annexation Act of 1965, disconnection

Article 15 – general and special powers, ordinance processes, public improvements (urban renewal, improvement districts, etc.), planning and zoning

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Title 29, Colorado Revised Statutes

Local Government Audit Law (C.R.S. § 29-1-601)
Local Government Budget Law (C.R.S. § 29-1-101)
Intergovernmental agreements (C.R.S. § 29-1-201)
Sales and use taxes (Article 2)
Housing and housing authorities (Article 4)
Land use (Article 20 and Article 35)
Collective bargaining for public safety (Article 5)
Public employee speech (Article 33)
Firearms (Article 11.7)



Title 24, Colorado Revised Statutes

Open Meetings Law (C.R.S. § 24-6-402)

Governmental Immunity (Article 10)

Law Enforcement Integrity (Article 31, Part 9)

Colorado Anti-Discrimination Act (Article 34, Parts 3-8)

Areas/Activities of State Interest (Article 65.1)

Vested Property Rights (Article 68)

Publication of Legal Notices (Article 70)

Public records (Article 72)

Data protection, immigration (Articles 73-74)

Access to public benefits/lawful presence (Article 76.5)

Construction contracts (Article 91)

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Other Important Statutes

C.R.S. § 2-4-401 (Definitions)

Title 8 – Labor and Industry

Title 13 - Courts and Court Procedure (especially Article 10, Municipal Courts, and C.R.S. § 13-21-131, regarding deprivation of rights actions)

Title 16 – Criminal Proceedings (but see C.R.S. § 16-1-102, limited application to municipal courts)

Title 18, Article 18 – Criminal Code, Offenses – Government Operations

Title 30 – Counties

Title 32 – Special Districts

Title 39 – Taxation

Title 42 – Vehicles and Traffic

Title 44 – Regulated Substances (Alcohol, Tobacco, Natural Medicine)

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History of Colorado Home Rule

- 1902: Voters adopt Article XX allowing home rule for larger cities
- 1912: Voters amend Article XX, Section 6 to specify powers and expand home rule to municipalities with populations over 2,000
- 1950: Voters amend Article XX to allow governing bodies to initiate amendments
- 1960s: Failed efforts to amend Article XX to allow the General Assembly to dictate areas of statewide concern instead of courts
- 1970: Voters add Article XX, Section 9 to remove population limit

Home Rule Misconceptions

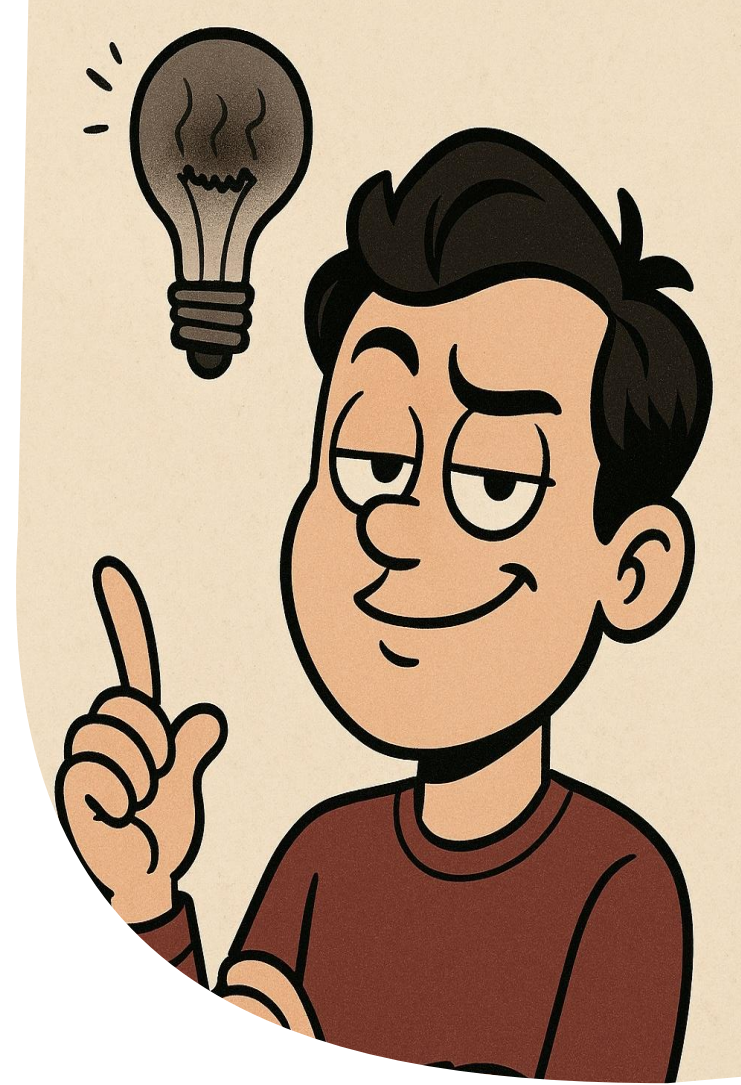
Home rule municipalities can do anything

Home rule overrides other constitutional provisions

Home rule requires a population minimum

County home rule is the same as municipal home rule

A “matter of local concern” is forever local

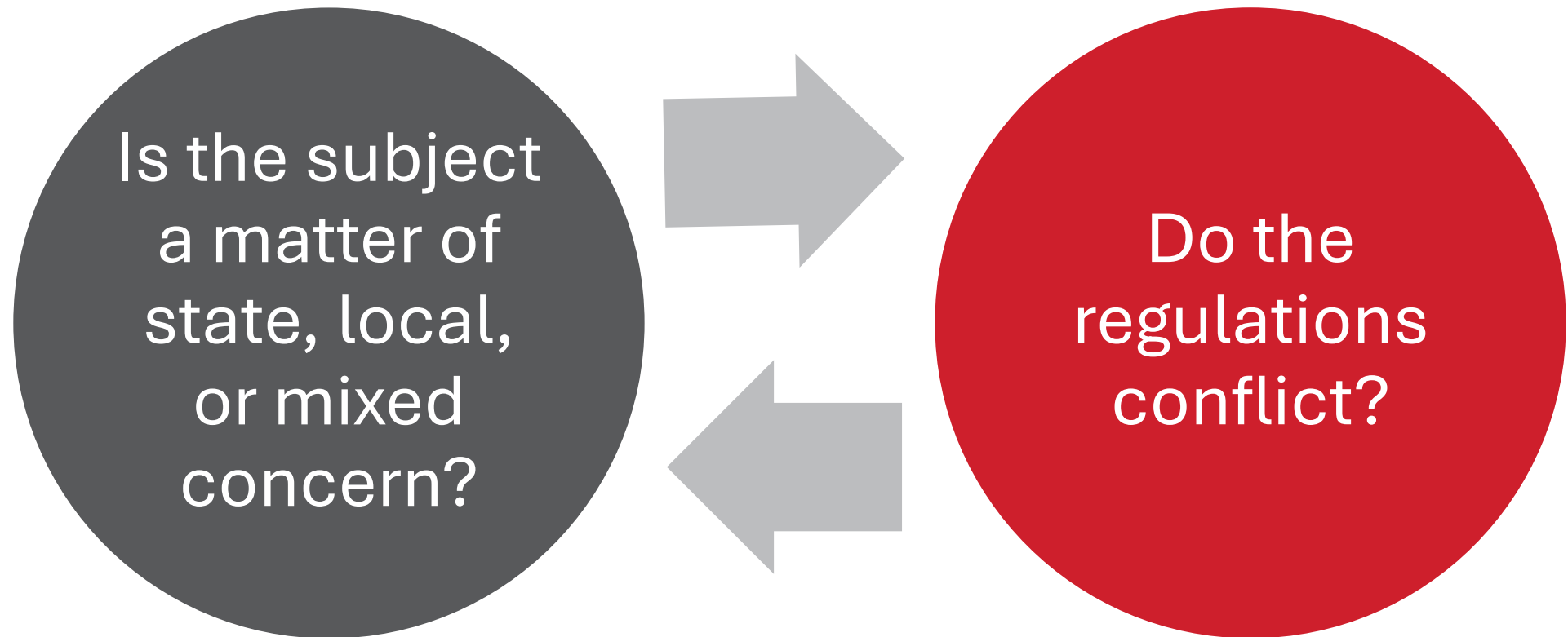


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Evaluating Home Rule Questions



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Area of Concern

Denver v. State factors:

- Need for uniformity
- Extraterritorial impact
- Historical considerations
- Constitutional commitment

Also:

- Need for state-county cooperation
- Legislative declaration



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Whose concern? Rent control

Town of Telluride v. Lot Thirty-Four Venture, LLC, 3 P.3d 30 (Colo. 2000)

Affordable housing ordinance vs. state rent control prohibition

- **Uniformity:** landlord-tenant law; both had interested in quality/quantity of affordable housing
- **Extraterritorial impact:** growth affects neighbors
- **History:** none in Colorado (but other states regulate statewide)
- **Constitution:** rent and economic regulation not addressed

Outcome: “rent control” was matter of mixed concern

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Whose concern? Photo radar

City of Commerce City v. State, 40 P.3d 1273 (Colo. 2002)

Statutory restriction of local use of red light/speeding cameras

- **Uniformity:** driver expectations; mix of state and local roads; reliance on state records (i.e., cooperation)
- **Extraterritorial impact:** citations issued to non-residents; driver expectations
- **History:** none for new technology; historic local enforcement of traffic laws
- **Constitution:** fines/penalties; municipal courts

Outcome: “regulation of automated vehicle identification systems to enforce traffic laws” was matter of mixed concern

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Types of Conflict (Preemption)

Express:

Does the legislation directly prohibit local regulation of a given issue?

Implied:

Does legislation impliedly intend to occupy a given field by reason of a dominant state interest?

Operational conflict:

Does the local regulation materially impede or destroy a state interest?

Conflict in Action - Sex Offenders

City of Northglenn v. Ibarra, 62 P.3d 151 (Colo. 2003)

- Ordinance prohibited sex offenders from sharing residence
- State interest in uniformly placing and supervise delinquent children in state-created foster families
- Ordinance preempted because it regulated a matter of statewide concern

Ryals v. City of Englewood, 364 P.3d 900 (Colo. 2016)

- Ordinance imposed distance restrictions that prohibited sex offenders
- Sex offender residency is a matter of mixed concern, but no conflict

Conflict in Action? Penalties

Westminster/Aurora Municipal Court Cases (2025) (pending)

- General Assembly modified state misdemeanor penalties (2021) without mentioning municipal penalties for similar ordinance violations
- Municipal courts and procedures are governed by separate standards
- If penalties are a matter of mixed concern, is there an operational conflict?

Important Resources

CML Publications

- Colorado Municipal Government: An Introduction
- Colorado Municipal Clerks Reference Guide
- Open Meetings, Open Records
- Beer and Liquor Book
- Home Rule Handbook
- Home Rule Matrix
- Annexation in Colorado
- Taxes and Fees
- TABOR: A Guide to the Taxpayer's Bill of Rights

McQuillin's The Law of Municipal Corporations

Colorado Land Planning & Development Law

Legislative Council Staff

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Thank you!



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