

Home Rule Summary

General Overview

“In Colorado, municipal “home rule”...is a form of government under the control of local citizens rather than state government, with powers and authority derived from the municipality’s locally enacted charter and ordinances, rather than state statutes. It affords citizens of cities and towns who adopt a local charter freedom from the need for state enabling legislation and protection from state interference in “local and municipal matters”.¹ Although adopting a home rule charter enables a municipality to have more power than a statutory municipality, “the powers of home rule municipalities may still be limited by their charters, federal law, the state constitution, court decisions, and at times, legislation enacted by the General assembly on matters determined to be of legitimate state concern.”²

Through case law in disputes over home rule authority, the courts have created three classifications regarding whether a particular matter is one of “local and municipal” concern:

- A. Matters of local and municipal concern
- B. Matters of statewide concern
- C. Matters of mixed statewide and local concern

Procedures for Adopting a Home Rule Charter

Adopting a home rule Charter involves three primary steps:

1. Submission to the governing body of a petition signed by not less than 5 percent of the registered electors of the municipality, or by ordinance of the governing body
2. Conducting an election to elect the Charter Commission
3. Conducting an election to approve the proposed home rule Charter

For detailed list of the procedures, please see the “Tentative Home Rule Timeline” on page 4 of this summary.

Advantages and Disadvantages of Home Rule

CML’s *Home Rule Handbook* includes three pages (9-11) describing the advantages and disadvantages of Home Rule. Excerpting from the *Handbook*, some of the key advantages of Home Rule include the following:

¹ Colorado Municipal League, *Home Rule Handbook for Colorado’s Cities & Towns* (January 2017), 1, Hereafter abbreviated *HRH*. Note: staff has ordered copies of this Handbook for each member of the Board of Trustees.

² *HRH*, 6.

Finance and Taxation³

- Have available broader and more flexible taxing powers, including: the ability to collect, administer and enforce sales and use taxes; the ability to determine what transactions are subject to or exempt from sales and use taxes; the ability to establish procedures for the adoption, amendment, increase or decrease of taxes; authority to levy taxes not available to statutory municipalities, such as lodging taxes, admissions taxes and other excise taxes; and the ability to provide property tax increase limits different from those provided for in the statutes, subject to voter approval.
- Within limits, establish a tax base that is not uniform with the State of Colorado tax base (numerous home rule municipalities have a broader tax base, with fewer tax exemptions). Examples include:
 - Business/consumer use tax (owed on the business purchase of assets, equipment and supplies where sales taxes have not been paid)
 - Pollution tax
 - Tax on manufacturers equipment
 - Computer software
 - Interstate telecommunications
 - Taxes due on the tangible personal property included in the purchase of an existing business within Erie.
 - Occupational privilege tax (employment head tax)
 - Maintenance services (copier or medical equipment maintenance service agreement where parts/equipment replacement could be taxed)
- Simplify or otherwise revise procedures for budget and appropriation adoption, amendment and transfer of funds.
- Establish maximum debt limitations.

³ Staff Comments on Impact of Home Rule on Tax-Related Activities:

Benefits and costs on tax-related activities of the Town resulting from going to home rule depends in part on how these activities are administered. Earlier collection of tax remittances would be an insignificant benefit. There is currently an approximate 15-day delay between the due date of the returns and remittance by the State to the Town. As a result, the investment earnings on this acceleration of receipts would not be significant, especially in light of the fact that the State charges the Town nothing for administering collection of the Town's sales tax.

The Town would need a significant retail sales tax base to justify establishing an in-house collection and audit function. The State currently performs these activities, including performing audits when requested (although how quickly a request for an audit might be honored is unknown). The State also performs periodic audits of major out-of-state vendors, from which the Town currently benefits. This is not to say that as a statutory town Erie does not need to do more to ensure that it is collecting amounts due, and this activity will grow as the Town in turn grows, but there is no need to rush to self-collection. (Note: The State could continue to collect sales tax on behalf of Erie should it change to home rule.)

- Establish limitations for the repayment of municipal bonds.

Land Use

- Have greater control over zoning issues, including restriction or elimination of nonconforming uses, permitting, sign codes and basic zone district regulations.
- Modify the composition and powers of the Planning Commission and Board of Adjustment.

Elections

- Establish procedures and dates for municipal elections differing from those established by state statute, including such matters as regular and special election dates and the dates when elected officials will take office.
- Establish procedures for initiative, referendum, and recall.
- Modify procedures for filling vacancies in elective offices.
- Specify the minimum age for elected officials.

Administration/Governance

- Determine the form of government and administrative structure, including the size of the governing body, the powers of elected and appointed officials, the terms of office of elected officials and whether they are elected from districts or at-large; quorums and voting requirements; the manner of filling vacancies; and the respective powers of elected and appointed officials, boards and commissions, and staff.
- Establish procedures for the adoption of ordinances and resolutions; determining whether actions need be taken by ordinance, resolution, or motion; procedures for notice, hearing, publication or posting of ordinances; publishing ordinances by title only; and determination of the effective date of ordinances.
- Establish procedures pertaining to regular and special meetings and executive sessions.
- Determining the jurisdiction of municipal courts (e.g. increased nuisance abatement authority).
- Establish procedures for the sale or disposal of public property and the awarding of contracts.
- Determine the qualifications of municipal officers and employees.
- Establish maximum terms for franchises.

Disadvantages of Home Rule

- The possibility of a restrictive charter that could make Town business cumbersome
- Adopting a home rule charter can be costly and burdensome
- Some may see the ability of a home rule charter to provide more municipal authority over certain matters as a disadvantage