



## Cities and Towns – Ready for Self-Governance

*“Ask most Vermonters what is special about their form of government and they will inevitably say ‘local control’ – the Town Meeting Day tradition, the Norman-Rockwell image of average residents running their own affairs. Hogwash! It’s all a myth. Vermonters have less control over their communities than most Americans. Power in Vermont is held not by town selectboards or city councils but by the Legislature. That’s because, unlike 42 other states, Vermont has no home-rule allowing communities a great deal of say over what happens within their borders.” Burlington Free Press Editorial, May 11, 2003.*

Vermonters are passionate believers in “real democracy,” a concept that is much sought after around the world. When Vermonters come together at their annual town meetings, they may feel they are functioning as autonomous, self-governing bodies whose existence is independent of other jurisdictions, and may believe that the State of Vermont has accorded their city or town the ability to govern itself. However, they only practice local self-governance in instances in which the legislature has deigned to allow it. Vermont is neither as independent nor self-directed as the myth would have you believe, for Vermont is a “Dillon’s Rule” state.

Vermont does not have initiative, referendum, or home rule. It has neither a regular schedule for revisiting the state Constitution, nor a robust tradition of considering constitutional amendments, as is the case in many states. Essentially, all governance power is lodged in the 180-member legislature and the governor, all of whom who are elected biennially. In some election years, many legislators face no opposition, as is the case this year. Thus, despite its tradition and reputation of direct democracy and robust local control, Vermont has one of the most centralized governments in the country.

**Dillon’s Rule.** “Towns are creatures of the state” is a concept given force of law by the Vermont Constitution. The reference is to an 1872 ruling by Iowa Supreme Court Justice John F. Dillon which said that municipal corporations may exercise only those powers specifically granted to them or that are necessary and essential to the declared purposes of the municipal corporation. Vermont statutes specifically grant municipalities the authority to carry out certain endeavors, mandate them to carry out an ever increasing list of responsibilities, and pre-empt them from addressing others.

Yet, cities and towns are also independent and general units of government. They must find ways to accomplish all the mandates that are handed down from the legislature and state administration, whether funded or unfunded. It is at the local level where all the puzzle pieces – such as public safety, emergency management, transportation, land use, water and environmental quality – must fit together. The range of responsibilities undertaken by local governments ranges widely from small to large municipalities, all within the parameters of state statute, regulation, guidance or enforcement action.

**Municipal Governance Charters.** Over the years, at least 51 cities and towns have adopted governance charters at the local level and sought approval for them from the legislature. Additionally, 46 incorporated villages have governance charters. These charters enable municipalities to deviate from general statute in specific instances, when the voters in a municipality have voted to change or adopt a charter, and when that locally voted amendment has been reviewed, dissected, frequently amended, and finally approved by the legislature. Once the legislators have commenced reviewing a charter adopted by the voters, they may amend any part of it they choose.

Every year, voters approve charter amendments that have been passed in other municipalities and that fall squarely within the realm of municipal government best practices, but are not authorized in general statute. And every year, those charter amendments need to be remitted to the legislature for their review, possible amendment, and approval, although most legislators who vote on them have no connection to the petitioning town or any particular expertise in municipal government. Only after a charter amendment has been approved by the legislature does it take effect at the local level. Not all locally voted charter amendments have been ratified at the legislature and it has not always been the case that the committees were respectful of locally voted decisions. The table below indicates the number of charter amendments approved (many with legislative amendments) and the number rejected in recent years.

Legislative Session	Charters Approved	Charters Rejected
2016	10	3
2015	12	3
2014	9	0
2013	9	2

Given the enormous scope of issues that the legislature must address, it seems there must be a more effective way for cities and towns to incorporate governance changes that have been approved by their voters without involving the legislature. Despite the fact that addressing local governance issues in piecemeal fashion is neither efficient nor fair, bills addressing the process for amending charters or providing for expanded authority for municipalities generally have been ignored. Different approaches to providing municipalities with some self-governance authority have been offered in the form of bills, constitutional amendments, and, most recently, House Resolutions, to absolutely no avail. Frequently, the few legislators intrepid enough to offer them have been roundly criticized by their colleagues. The reins of power are hard to give up.

**Emerging Trends.** The debate about whether or not voters may exercise democracy on issues of municipal governance has raged between local government officials and state legislators for almost 150 years. According to “Home Rule In America, A Fifty-State Handbook” (Congressional Quarterly Press), *“What local governments may or may not do is a worthy topic because people live and confront the problems of daily life at the community level. People have established and operated cities, towns and villages throughout history for the individual and collective benefits to be achieved by living in an organized community with powers of government.”*

In Vermont, this centralized and essentially unchallenged system of government not only perpetuates the status quo but also short-changes Vermonters. On a regular basis, it misses opportunities for breaking down silos, harnessing creativity, taking advantage of emerging trends, effecting constructive and timely change, instituting efficiencies, eliminating obsolete practices, and cementing partnerships with local governments.

Municipal governments have demonstrated their willingness to take on difficult issues and lead the way on a number of fronts. Local government is closest to the people and survey after survey has reported that

our citizens' highest level of confidence is in the local level of government, most recently according to a 2015 Gallup Poll (<http://www.gallup.com/poll/5392/Trust-Government.aspx>). Rutland's Project Vision breaks down barriers and addresses opiate addiction by involving public safety, corrections, and human services interests to reduce adverse impacts on the community. It is working and has been touted around the country.

At least 63 municipalities have adopted conflict of interest policies and 23 of 53 charter cities and towns have incorporated conflict of interest policies or recall of elected officials in their governance charters. Several municipalities are implementing the recommendations of President Obama's Taskforce on 21<sup>st</sup> Century Policing in Vermont. Three towns have developed stormwater utilities to manage stormwater runoff from all properties in their communities and a fourth is in the process of doing so.

In many arenas, Vermonters are reorienting their focus to build on the strengths of their neighbors. We all know new Vermonters who have moved here to participate in the local economy and who bring entrepreneurial energy to their new communities. At least 65 community-supported agriculture enterprises (CSAs) operate around the state and 51 towns host farmers' markets according to the National Organic Farming Association. Vermont is ranked second in the country in craft breweries per adult of legal drinking age. Farm-to-table restaurants are immensely popular, the state's dairy industry is crowding out national competitors in the high-value-added market of artisan cheeses, Vermont artisan wood crafts bring top dollar around the country, and the "Think Globally Act Locally" philosophy pops up in all kinds of issues on which Vermonters take stands.

**Effecting Constructive Change.** Our economy is returning to a more local focus through processes and technologies unimaginable when Vermont's cities and towns were created two hundred plus years ago. We, and especially our children, live in the local community and global cyberspace simultaneously. As such, we need to revisit the premises that centralized government decision-making produces the most effective government or that a top down governance structure produces any real partnership. Even with Vermont's restrictions on municipal governance, cities and towns have developed innovative programs to address the many disruptive changes that mark our moment in history.

In 2016, when more than half of Vermont's population resides in cities and towns where voters have approved charters governing themselves and the legislature has agreed, it is high time to accord those municipalities – which are some of the oldest in the nation – a measure of self governance.

We believe that state and local governments need to be equal partners in delivering services to Vermonters in innovative, effective, efficient, and non-duplicative ways. There are instances where the state should be the entity to deliver a service and where consistency is paramount: human services, climate change and environmental integrity, and civil rights protection. There are instances where municipalities are the best entities to deliver services: downtown development, wastewater and water supply, recreation and quality of life opportunities, land use planning, fire protection. And there are instances where a partnership will best serve the needs of Vermonters: education, siting renewable energy generation and transmission facilities, maintaining and improving transportation networks.

Let us re-evaluate whether state government can or should establish restrictions around local governments' authority to make decisions about their own governance. Let us consider what is the appropriate scope and size of state government, which services might be better provided locally or regionally, and where partnerships produce the most effective results.

**Municipal Self Governance Today.** In remarkably creative ways, 44 states have established some form of constitutional or legislative home rule. Examples include statutory, constitutional, and judicial variants. A common approach is to reserve in the state's constitution those powers that are wholly municipal in

character, and not denied by general law or charter. Another not uncommon approach is to grant full home rule authority to municipalities with a certain population or with a particular form of government. All recognize that changing times and particular characteristics of a municipality may lead its citizens to develop new, creative, and successful resolutions to problems that are particular to themselves.

Much has changed even since the turn of the last century. We have fundamentally evolved the way and speed at which we communicate; renewed our focus on growing local economies, innovation, foods, and action; increased the services residents expect from local and state governments; developed more and new programs to address environmental or societal needs; and grown the taxes most of us pay to sustain all that. Vermonters should demand a full discussion of the governance structure in Vermont. Let's get to it!

**VLCT supports:**

1. decision-making at the local level, including allowing the adoption of local fees and taxes;
2. full implementation of municipal governance charter provisions following adoption by local voters;  
and
3. a home rule amendment to the Vermont Constitution.

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