

# WYOMING

## CONSTITUTIONAL AND STATUTORY PROVISIONS

### Wyoming Constitution

- WYO. CONST. art. XIII, § 1. Incorporation; alteration of boundaries; merger; consolidation; dissolution; determination of local affairs; classification; referendum; liberal construction.

- (a) The legislature shall provide by general law, applicable to all cities and towns,
- (i) For the incorporation of cities,
  - (ii) For the methods by which city and town boundaries may be altered, and
  - (iii) For the procedures by which cities and towns may be merged, consolidated or dissolved; provided that existing laws on such subjects and laws pertaining to civil service, retirement, collective bargaining, the levying of taxes, excises, fees, or any other charges, whether or not applicable to all cities and towns on the effective date of this amendment, shall remain in effect until superseded by general law and such existing laws shall not be subject to charter ordinance.
- (b) All cities and towns are hereby empowered to determine their local affairs and government as established by ordinance passed by the governing body, subject to referendum when prescribed by the legislature, and further subject only to statutes uniformly applicable to all cities and towns, and to statutes prescribing limits of indebtedness. The levying of taxes, excises, fees, or any other charges shall be prescribed by the legislature. The legislature may not establish more than four (4) classes of cities and towns. Each city and town shall be governed by all other statutes, except as it may exempt itself by charter ordinance as hereinafter provided.
- (c) Each city or town may elect that the whole or any part of any statute, other than statutes uniformly applicable to all cities and towns and statutes prescribing limits of indebtedness, may not apply to such city or town. This exemption shall be by charter ordinance passed by a two-thirds (2/3) vote of all members elected to the governing body of the city or town. Each such charter ordinance shall be titled and may provide that the whole or any part of any statute, which would otherwise apply to such city or town as specifically designated in the ordinance shall not apply to such city or town. Such ordinance may provide other provisions on the same subject.

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An approved charter ordinance, after becoming effective, shall be recorded by the clerk in a book maintained for that purpose with a certificate of the procedures of adoption. A certified copy of the ordinance shall be filed with the secretary of state, who shall keep an index of such ordinances. Each charter ordinance enacted shall prevail over any prior act of the governing body of the city or town, and may be repealed or amended only by subsequent charter ordinance, or by enactments of the legislature applicable to all cities and towns.

- (d) The powers and authority granted to cities and towns, pursuant to this section, shall be liberally construed for the purpose of giving the largest measure of self-government to cities and towns.

## HOME RULE STRUCTURE, INCLUDING LACK OF IMMUNITY FROM STATE PREEMPTION

Art. 13, section 1(b) of the Wyoming Constitution is widely known as “the home rule amendment.”<sup>1</sup> The amendment specifies that all cities and towns are empowered to determine their local affairs and government, but the state legislature may trump any such ordinances through statutes that are uniformly applicable to all cities and towns.<sup>2</sup> The amendment is less generous in granting fiscal authority to municipalities. The amendment appears to abolish Dillon’s Rule as a canon of construction, commanding that local powers be “liberally construed.”

Despite the home rule amendment, the Wyoming Supreme Court has occasionally used language redolent of Dillon’s Rule, referring to municipalities as “largely the creatures of the sovereign state and in need of specific delegations of powers.”<sup>3</sup> The court has likewise noted that “[e]ven after enabling legislation is passed and local regulation is authorized, the local grants of power with regard to matters of statewide concern can be preempted by . . . subsequent state legislation . . . .”<sup>4</sup> This statement would seem to imply that with respect to matters of local concern, local regulation cannot be supplanted, but there are no cases deciding as much.

In sum, the promise of home rule in Wyoming appears to be largely unfulfilled, in part due to resistance from the state supreme court.<sup>5</sup>

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<sup>1</sup> *Police Protective Ass'n v. City of Rock Springs*, 631 P.2d 433, 435 (Wyo. 1981).

<sup>2</sup> WYO. CONST. art. XIII, § 1(b); *Police Protective Ass'n*, 631 P.2d at 439 (holding that state civil service protection system may trump those of cities with populations greater than 4,000).

<sup>3</sup> *Cheyenne Airport Bd. v. Rogers*, 707 P.2d 717, 726 (Wyo. 1985); see also Thomas S. Smith, *No Home on the Range for Home Rule*, 31 LAND & WATER L. REV. 791, 791-92 (1996) (arguing that the Wyoming Supreme Court “inexplicabl[y] . . . ignores” the home rule amendment and “instead views local governments as creatures of the state—unable to act without legislative empowerment”).

<sup>4</sup> *Rogers*, 707 P.2d at 726.

<sup>5</sup> Smith, *supra* note 3, at 798-99 (reviewing Wyoming Supreme Court’s “nullification” of home rule through judicial decision).