

Governance

Overview of Local Government Authority

Vermont is a Dillon's Rule state, meaning municipalities receive all of their legal authority from the Vermont Legislature. Under Dillon's Rule, so named after Judge John F. Dillon, the chief justice of the Iowa Supreme Court who developed this famous rule in 1868, local governments have three sources of power: 1) those granted in express words; 2) those necessarily or fairly implied in or incident to the powers expressly granted; and 3) those essential to the declared objects and purposes of the corporation. Therefore, if a municipality wants to exercise authority beyond what is already granted by state law, it must obtain permission from the Legislature. The Legislature can grant municipalities new legal authority by either expanding current law, creating new authority, or approving a municipal governance charter. This is opposed to Home Rule states whose state constitutions grant municipalities the authority to govern themselves as they see fit so long as they obey state and federal laws.

Municipal Governance Charters

Governance charters are, in effect, a constitution for the municipality that provides a framework for self-rule. Once a municipality has been granted a governance charter by the state, that charter becomes the primary source of power and structure for the local government. Where the charter provides for procedures other than those established by statute, the provisions of the charter will generally prevail unless the statute or charter specifically provides otherwise. The reason for this general principle is that a charter is a legislative enactment and, as such, it has the same status as a statute. When two statutes conflict, the more specific statute will prevail over the more general one. *Looker v. City of Rutland*, 144 Vt. 344 (1984); *Village of St. Johnsbury v. Thompson*, 59 Vt. 300 (1887). Municipalities choose to adopt charters for various reasons. Primarily, it gives the local government the flexibility to design a system of self-governance suited to its particular needs

and concerns. A charter may also diverge from state law by allowing such things as voter initiatives and recall of elected officials, allowing local governments to fill in what they may perceive as gaps in state law.

Statutory Officials and their Powers

Generally, and absent a governance charter, the structure of municipal government in Vermont is flat. Elected offices such as legislative bodies (city councils, selectboards, trustees), town clerks, town treasurers, auditors, and listers are equal in the eyes of Vermont law. The legislative body may be in a leadership position, but it may not always be in control. Cooperation among independent, elected officials is in the best interest of the municipality and its voters. A brief overview of municipal statutory positions:

- **Legislative/governance bodies** serve all of the executive, legislative, and judicial functions of government (excepting those committed by law to any other particular official). The legislative body acts as a group by majority vote, not individually, and has authority over all appointed officials and employees. Adopting a town manager form of government alters this structure of local government and can ease the burden of day to day operational management. For an overview on municipal charters, see our VLCT Quick Guide to Charter Procedure in the resources section below.
- **Municipal clerks and treasurers** also have a central role in municipal operations, so much so in fact that they are often the face of the municipality as they're the ones that interact most often with the public. Clerks have authority over many operations, such as administering property tax payments, fees, other payments (utilities), recording and certifying land and vital records, processing licenses, overseeing oaths and polling places, among other duties. Treasurers pay orders drawn on them by those municipal officials authorized by law to do so; keep a record of the taxes voted; and keep an account of the moneys, bonds, notes, and evidences of debt paid to them, and moneys paid out for the various municipal departments.
- **Other statutorily defined municipal officials** such as auditors, listers and assessors, delinquent tax collectors, administrative (zoning) officers, town health officers, and others all have equally important roles to fill in ensuring the effective and efficient operation of municipal government. Their authority and responsibilities are specifically designated by Vermont law. See [Title 24](#) of the Vermont Statutes for information on the

duties, powers, and responsibilities of municipal officers.