



# LRO SNAPSHOT

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## Dillon Rule and Home Rule: Principles of Local Governance

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The founding document of the United States, the Constitution, is silent on local governments. Instead, the Ninth and Tenth Amendments reserve all other powers not previously delegated or prohibited to the states and the people. Therefore, each state is responsible for granting broad or limited authority to each local branch of government, such as counties, municipalities, school districts, and other political subdivisions.

There are two guiding principles of governance for local governments: the Dillon Rule and Home Rule.

This Snapshot provides a basic overview of these principles.

### What is the Dillon Rule?

The Dillon Rule is the principal that local government only exercises (1) powers expressly granted by the state, (2) powers necessarily and fairly implied from the grant of power, and (3) powers crucial to the existence of local government.

The Dillon Rule is named after Iowa Supreme Court Justice John F. Dillon and is based on a municipal philosophy he expressed in an 1868 case.<sup>1</sup> In the court opinion, Justice Dillon emphasized that local governments are considered an extension of the state and power is distributed to those local governments according to the state constitution.

This philosophy was later reiterated by the United States Supreme Court in 1907<sup>2</sup> and became the guiding principles of local governments across the country.

### What is Home Rule?

Home Rule is granted by state constitution or state statute and allocates some autonomy to a local government, if the local government accepts certain conditions.

Home Rule implies that each level of government has a separate realm of authority. Therefore, state power should not infringe on the authority of local government in certain areas.

Often, local governments initiate this doctrine through an organizational plan called a Home Rule Charter that is adopted by a popular vote of the people.

### What principle does Nebraska follow?

Nebraska is considered a Dillon Rule state, which means that cities, villages, and other political subdivisions only have those powers expressly granted to them by the Legislature. The Nebraska Constitution prohibits the Legislature from passing legislation dealing with local laws and recognizes the necessary role of local government.<sup>3</sup>

However, the Nebraska Constitution authorizes cities with a population of more than 5,000 inhabitants to form a government under Home Rule.<sup>4</sup> This constitutional provision is considered self-executing and does not require additional action by the Legislature.

A city organizing under Home Rule adopts a Home Rule Charter, which must be consistent with and is subject to the Constitution and laws of Nebraska.

Lincoln and Omaha are Nebraska's only Home Rule cities.

### What do other states do?

In other states, Dillon Rule and Home Rule are implemented in a myriad of ways.

In a majority of states, the Dillon Rule reigns and local governments exercise only those expressly granted powers.

There are eight states that apply the Dillon Rule in very limited circumstances and to specific local entities. For example, Indiana only applies the Dillon Rule to townships.

In addition to Nebraska, 31 states provide for Home Rule in their state constitutions. Of these states, 20 recognize Home Rule as a self-executing power and 11 require enabling legislation.

Eight states authorize Home Rule by statute and specifically identify the local governments that can use Home Rule.

Please refer to the maps on the next page for information on specific states.

*Notably, several states employ both the Dillon Rule and Home Rule when empowering their local governments. In these instances, the Dillon Rule applies to all local governments that are not explicitly provided for in the state's constitution or statutes, while Home Rule applies to local governments that are so explicitly prescribed.*

1. Clinton v. Cedar Rapids & M. R. R. Co., 24 Iowa 455.

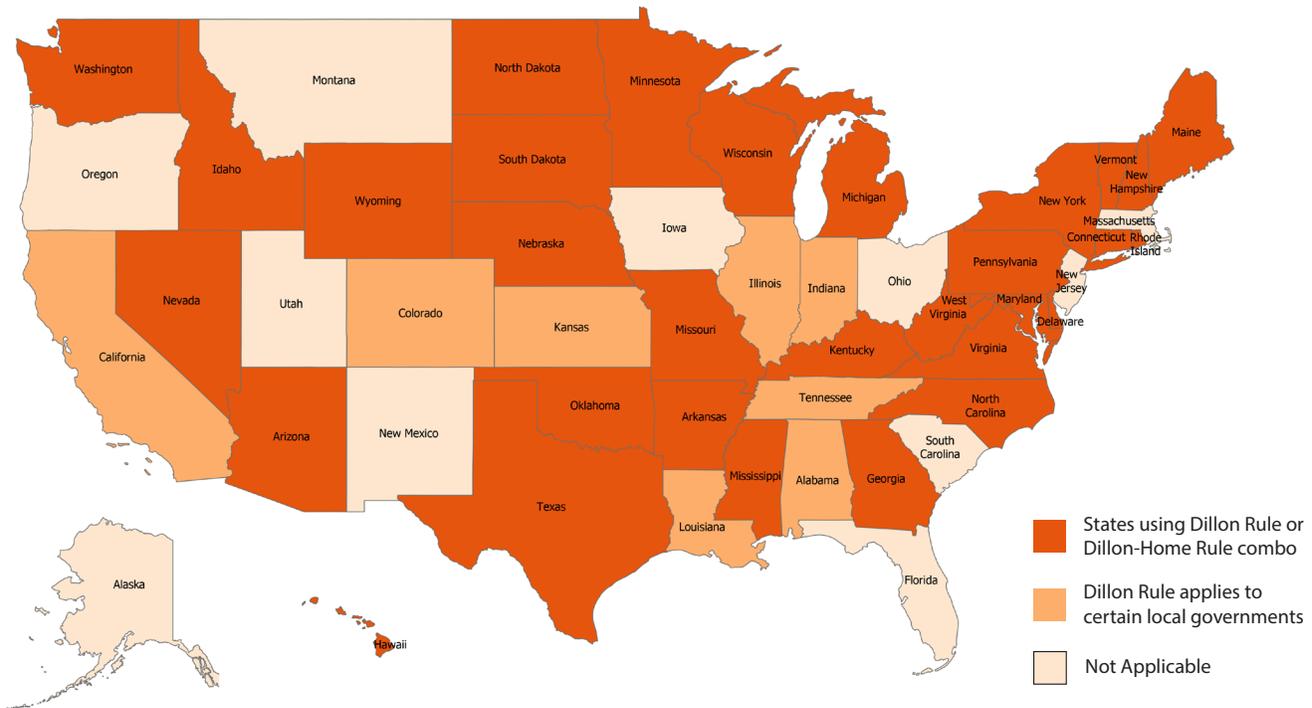
2. Hunter v. Pittsburgh, 207 U.S. 161.

3. Nebraska Constitution Article III, sec. 18.

4. Nebraska Constitution Article XI, sec. 2.



## Dillon Rule and Dillon-Home Rule States



## States providing for Home Rule via Constitution or Statute

