

Home Rule, Dillon's Rule, and the Legal Shape of Local Governance

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Public policy in [common law democracies](#) such as the United States is dictated by many factors, which you might call streams or strands. While on the one hand the vox populi may insist on a certain action, governing coalitions of political leaders may deign another direction, or policy researchers may conclude a third option is better yet. All such options, however, are constrained by the legal parameters of governance as defined by constitutional, statutory, and case (jurisprudence, or *stare decisis*) law. Where these streams meet, [public policy](#) actions which are popularly supported, politically advantageous, technically effective, and (importantly) legal may occur. Where one of these streams diverges, you may see policy fail in any number of ways. It may simply not occur because the political will is not present, it may be deemed illegal or be otherwise confined by law, or it may fly in the face of what the voters want.

In any case, we can consider public policy within common law democracies through the lens of a quadruple helix. Each of the strands above provides some aspect of DNA for good, effective, possible, and legal public policy. If all intersect, we find good policy. Where one strands RNA does not intersect with the others, we find ruptures which could be considered cancerous to governance in that they fail to address some aspect of what is expected of them.

Local Government and Local Control: The West Coast

Overview

Viewed through this lens, the concept of “[local control](#)” in the United States provides a compelling study of how politics, policy, and law function. Most people, when they think of “local government” are likely to conjure an image of city hall or a town council. In truth there are four (4) different forms of “local government” in Oregon alone. This includes counties, municipalities (cities and towns), [special districts](#) (school districts, water districts, fire districts, etcetera), and [regional governments and councils of governments \(COGs\)](#). In Oregon, there are 36 counties, 242 municipalities, over 1,000 special districts, and 8 regional governments and COGs (1 “regional” and 7 “COGs”) ^{1, 2, 3, 4}. Each operate within its own jurisdiction as an agency of the [State](#) in order to provide service and governance either for a county, city, region, or to manage a specific aspect of infrastructure at the local level. Considering the analogies of the streams converging and the quadruple helix above, understanding the legal parameters of local government and its structures is key to understanding local control.

In this review, we will examine how Oregon defines and structures local government control, and how that compares with the legal frameworks of the states of California and Washington. Key sources will include the state constitutions, [statutes](#), and local charters as well as seminal court decisions and relevant federal laws. Fundamental doctrines such as “home rule” (local self-governance authority), Dillon’s Rule (narrow interpretation of local powers), [preemption](#) (state and federal law overriding local law), and delegation of power are central to understanding the state-local relationships.

¹ National Association of Counties. (2023). *Oregon county profiles*. Retrieved from <https://www.naco.org/>

² League of Oregon Cities. (2023). *City handbook: Chapter 1 — Nature of cities*. Retrieved from <https://www.orcities.org/resources/guides-handbooks/city-handbook>

³ Oregon Secretary of State. (2023). *Blue Book: Special Districts*. Retrieved from <https://sos.oregon.gov/blue-book/Pages/local/other-special.aspx>

⁴ Oregon Legislative Policy and Research Office. (2020). *Local and regional governments in Oregon*. Retrieved from <https://www.oregonlegislature.gov/lpro/publications/Localandregionalgovernments.pdf>

Home Rule vs. Dillon's Rule

Before diving into an examination of local governance on the West Coast, it is prudent to consider the context of States and local government within the United States federal framework. The United States operates under a system of government referred to as “[federalism](#)”, which fundamentally involves division of power between a national (federal) government and regional governments (the states)⁵. This structure is established by the U.S. Constitution which outlines the powers and limitations of each level of government. Over the course of the history of this nation, various federal court rulings and federal statutes have further outlined the relationships in this structure, and have created new concepts such as [federal preemption](#), which restricts state and local governments from engaging in policy areas preserved for federal action (such as immigration)⁶. As such, the Federal Government of the United States wields great authority over a wide range of issues and can prevent states from taking action.

The concept of federal preemption has been litigated through many federal court cases such as *American Insurance Association v. Garamendi* wherein the court found that California's Holocaust Victim Insurance Relief Act, which required insurers to disclose historical records to facilitate Holocaust-era claims, interfered with the federal government's sovereign foreign affairs power and was preempted⁷. Likewise in *Crosby v. National Foreign Trade Council* the court found that Massachusetts' Burma Law, which prohibited state agencies from contracting with companies doing business with Burma, was preempted by federal sanctions against Burma and thus unconstitutional under the [Supremacy Clause](#)⁸.

Dillon's Rule:

While these cases specifically relate to preemption by the federal government of *state* action, other cases have had a similar effect on the relationship between both state and local as well as federal and local governance. Of note, in *City of Clinton v. Cedar Rapids and Missouri River Railroad Company*, the Supreme Court of Iowa found that municipal corporations derive their powers solely from the state legislature and possess only those powers expressly granted, necessarily implied, or essential to their purposes. This decision underscored the subordination of municipalities to state authority, a doctrine later known as "Dillon's Rule"⁹. Though this specific case pertained only to cities within the State of Iowa, the logic structure of Dillon's Rule has been used expansively throughout the United States as a framework for state preemption of municipal governance¹⁰. In short, Dillon's Rule holds that [local governments](#) are agents of the State and therefore bound and confined by state laws and limitations on local agency.

Federal cases such as *Hunter v. City of Pittsburgh*, 207 U.S. 161 (1907) affirmed logic of Dillon's Rule at the federal level. In 1906, the Pennsylvania General Assembly enacted the Contiguous Cities Merger which authorized the consolidations of municipalities in Pennsylvania, allowing for the unification of cities such as Pittsburgh and Allegheny¹¹. The law allowed for a public vote, but combined the votes of both cities into a single total. As such, the

⁵ Cooper, P. (2020), *Local Government Administration: Governance in Communities*. Melvin & Leigh. P 94.

⁶ *ibid*, p. 81.

⁷ *American Insurance Association v. Garamendi*, 539 U.S. 396 (2003).

⁸ *Crosby v. National Foreign Trade Council*, 530 U.S. 363 (2000).

⁹ *City of Clinton v. Cedar Rapids and Missouri River Railroad Company*, 24 Iowa 455 (1868).

¹⁰ Cooper, 2020. p. 78.

¹¹ Sp. Sess., P.L. 7, No. 1

overwhelming support among residents in the much larger Pittsburgh negated “no” votes in the much smaller Allegheny. Residents of Allegheny filed suit against the City of Pittsburgh and state officials under due process (14th Amendment), the Takings Clause (5th and 14th amendments), and as an equal protections violation¹². The Supreme Court of the United States rejected the plaintiffs’ claims and held that municipalities were not sovereign entities and were instead “creatures of the state” and therefore had no authority independent of the state or what the state granted them.

In *Trenton v. New Jersey*, 262 U.S. 182 (1923), the United States Supreme Court reaffirmed that municipalities are creatures of the state with no constitutional protections under the 14th amendment. At issue was the contention that the City of Trenton claimed it had required a perpetual and unrestricted right to divert from the Delaware River free of charge based on a grant originally rewarded to a company by the State in 1852, which the City later purchased and absorbed. The City of Trenton argued that by the State imposing fees on the city in 1907 through the legislative act titled “*An Act to regulate the diversion of waters from streams or lakes...*”¹³, the State violated the Contract Clause of the United States Constitution (Art. I, §10 of the U.S. Constitution) and the City’s rights guaranteed in the 14th Amendment by imposing fees without due process or just compensation. The State argued that the City, rather than being a private individual or corporation, is a political subdivision of the State and not an independent legal entity entitled to federally guaranteed constitutional rights. The Supreme Court agreed with this latter argument, stating that “In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state, but are merely departments of the state,” therefore further enshrining the logic of Dillon’s Rule at the federal level ¹⁴.

Home Rule:

In contrast to Dillon’s Rule, which constrains local governments to powers explicitly granted by the state, the doctrine of Home Rule operates on the presumption that local governments may govern their own affairs unless expressly prohibited by state law. Home Rule authority may be conferred either through constitutional provision or statutory delegation, and its scope varies widely across jurisdictions. The central legal premise is that, absent a direct conflict with state or federal law, municipalities and counties may exercise legislative authority over “municipal affairs”—a term that itself requires judicial interpretation ¹⁵.

The Home Rule movement gained national traction in the late 19th and early 20th centuries in response to the inefficiencies and abuses of centralized state control over cities. Early reforms aimed to allow urban centers to address local problems more responsively without interference from often rural-dominated state legislatures. While some states amended their constitutions to enshrine Home Rule authority directly, others enacted broad statutory frameworks permitting local governments to adopt charters or exercise general [police powers](#) in local matters ¹⁶.

Home Rule comes in several forms. [Structural Home Rule](#) allows local governments to determine their own institutional arrangements (such as the number and type of elected

¹² *ibid*, p. 106.

¹³ 1907 N.J. Laws ch. 252

¹⁴ *Trenton v. New Jersey*, 262 U.S. 182 (1923)

¹⁵ Frug, G. E., & Barron, D. J. (2008). *City bound: How states stifle urban innovation*. Cornell University Press.

¹⁶ Briffault, R. (1990). Our localism: Part I—The structure of local government law. *Columbia Law Review*, 90(1), 1–115.

officials), while [Functional Home Rule](#) authorizes the exercise of substantive powers over policy areas deemed local in nature ¹⁷. [Fiscal Home Rule](#) gives municipalities some discretion over local revenue generation and expenditures, subject to state-imposed limits, while [Personnel Home Rule](#) allows for control over employment and administrative matters. The breadth of local authority depends not only on the type of Home Rule adopted but also on how courts interpret its boundaries—particularly when state legislatures enact laws in areas of overlapping concern.

Despite its empowering rhetoric, Home Rule is not an unqualified grant of sovereignty. Local laws enacted under Home Rule authority remain subordinate to state law when the state legislature expresses a clear intent to preempt local regulation. Courts often apply one of several preemption tests—such as the conflict test or the statewide concern doctrine—to determine when a local law must yield ¹⁸, ¹⁹. Moreover, courts in different jurisdictions disagree on how to resolve close cases: some favor the local ordinance unless clearly overridden, while others presume state law prevails unless the local action fits neatly within the protected domain of municipal affairs.

As a legal doctrine, then, Home Rule represents a spectrum rather than a singular model. Its effectiveness depends on how broadly it is written into a state's constitutional or statutory framework, and how rigorously courts are willing to defend it. It stands as a partial counterbalance to Dillon's Rule, offering local governments a legal foundation for autonomy—but one that exists within the hierarchical structure of state supremacy.

The Federal and the Local

While local governments in the United States are fundamentally creations of their respective states, operating under doctrines such as Dillon's Rule or principles of home rule, their operational landscape is profoundly shaped by the overarching federal constitutional framework and the subsequent actions of the federal government. Though not directly addressed in the U.S. Constitution, local entities are indirectly but significantly impacted by the division of powers, the reservation of certain authorities to the states, and the specific mechanisms the federal government employs to achieve national policy objectives.

The Tenth Amendment, Reserved Powers, and the Anti-Commandeering Doctrine

The [Tenth Amendment to the U.S. Constitution](#) is a critical starting point, stipulating that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people" ²⁰ This [reservation](#) forms the constitutional basis for states to exercise a wide range of powers, often referred to as "police powers." These traditional police powers enable states—and by extension, the local governments they create and empower—to regulate and legislate for the public safety, health, welfare, and morals, as well as to manage economic activity within their jurisdictions ²¹. Much of the day-to-day work of local governments, from providing emergency services and public health oversight to zoning and local business licensing, stems from these delegated police powers.

¹⁷ Richardson, J. J., Gough, M. Z., & Puentes, R. (2003). Is home rule the answer? Clarifying the influence of Dillon's Rule on growth management. Brookings Institution. <https://www.brookings.edu/research/is-home-rule-the-answer/>

¹⁸ Frug, G. E., & Barron, D. J. (2008)

¹⁹ Briffault, R. (1990)

²⁰ U.S. Const. Amend. X

²¹ Chemerinsky, E. (2023). Constitutional law: principles and policies (Seventh edition.). *Aspen Publishing*.

However, the federal structure also imposes limits on how the federal government can interact with state and local entities. The Supreme Court has articulated the "[anti-commandeering doctrine](#)," which generally prohibits the federal government from compelling states or their political subdivisions to enact or enforce federal regulatory programs ²². This doctrine safeguards state sovereignty by preventing the federal government from conscripting state or local officials into administering federal law. Several key Supreme Court cases have delineated the contours of this doctrine. In *New York v. United States* ²³, the Court held that Congress could not compel states to take ownership of low-level radioactive waste or enact specific state legislation as dictated by federal law. Similarly, in *Printz v. United States* ²⁴, the Court invalidated provisions of the Brady Handgun Violence Prevention Act that required local chief law enforcement officers to conduct background checks on prospective gun purchasers, finding it an unconstitutional commandeering of state executive officials. The principle was further affirmed in *Murphy v. NCAA* ²⁵, where the Court struck down a federal law prohibiting states from authorizing sports gambling, viewing it as a direct command to state legislatures. More recently, while upholding the Indian Child Welfare Act on other grounds, the Court in *Haaland v. Brackeen* ²⁶, engaged with anti-commandeering arguments, implicitly reaffirming the doctrine's general vitality. These cases underscore that while federal law is supreme in its sphere, the federal government cannot simply direct state and local governments to carry out federal directives.

Federal Mechanisms for Influencing Local Government

Given these constitutional parameters—the reservation of powers to states and the prohibition on direct commandeering—the federal government utilizes several indirect yet powerful mechanisms to influence local government policy and operations. These primarily include fiscal incentives through grant programs, the promulgation of [federal agency regulations](#), the imposition of mandates (often tied to funding), and the doctrine of federal preemption.

Federal [grants-in-aid](#) are a cornerstone of intergovernmental relations and a primary tool for federal influence. The scale and scope of these programs are immense, with the federal government awarding hundreds of billions of dollars annually to state and local governments ²⁷. These funds support a vast array of local services and infrastructure projects, contributing significantly to healthcare through programs like Medicaid ²⁸, education via the Elementary and Secondary Education Act (ESEA) and its successors ²⁹, social services through initiatives like the

²² Adler, Matthew D. "State Sovereignty and the Anti-Commandeering Cases." *The Annals of the American Academy of Political and Social Science* 574, no. 1 (2001): 158–72. <https://doi.org/10.1177/0002716201574001012>.

²³ *New York v. United States*, 505 U.S. 144 (1992).

²⁴ *Printz v. United States*, 521 U.S. 898 (1997).

²⁵ *Murphy v. National Collegiate Athletic Association*, 584 U.S. ___, 138 S. Ct. 1461 (2018).

²⁶ *Haaland v. Brackeen*, No. 21-376, 599 U.S. ____ (2023).

²⁷ U.S. Government Accountability Office. (2023). Federal grants to state and local governments: A snapshot. <https://www.gao.gov>

²⁸ 42 U.S.C. § 1396 et seq.

²⁹ 20 U.S.C. § 6301 et seq.

Social Services [Block Grant](#) (SSBG) ³⁰, infrastructure development under acts like the Infrastructure Investment and Jobs Act (IIJA) ³¹, and public safety efforts funded by programs such as the Byrne Justice Assistance Grants (Byrne JAG) ³². The constitutional basis for these extensive grant programs is the Spending Clause ³³, empowering Congress to provide for the general welfare, with the Federal Grant and Cooperative Agreement Act providing a statutory framework ³⁴.

However, the Supreme Court, in cases like *South Dakota v. Dole* ³⁵, established that conditions attached to federal funds must be unambiguous, related to the federal interest, not violate other constitutional provisions, and not be unduly coercive—a limit notably applied in *NFIB v. Sebelius* ³⁶. Federal grants typically take the form of block grants for broad policy areas, more common categorical grants for specific purposes, or [pass-through grants](#) distributed by states to localities. Acceptance of these funds subjects local governments to extensive administrative rules, such as the Office of Management and Budget's Uniform Administrative Requirements ³⁷, agency-specific rules, and the principle from *Pennhurst State School & Hospital v. Halderman* ³⁸, requiring knowing and voluntary acceptance of unambiguous conditions. Recent legislation like the Build America, Buy America further adds to compliance requirements ³⁹.

Beyond fiscal leverage, federal agencies play a significant role in shaping local government activities through the promulgation of regulations. Acting under authority delegated by Congress, these agencies issue rules, codified in the Code of Federal Regulations (C.F.R.) and published in the Federal Register, which have the force of law⁴⁰ and can impose obligations on local governments. Key agencies influencing local operations include the Environmental Protection Agency (EPA) with standards for environmental quality, the Department of Housing and Urban Development (HUD) overseeing fair housing and community development, the Department of Transportation (DOT) setting regulations for transport systems, and the Department of Justice (DOJ) enforcing laws like the Americans with Disabilities Act (ADA). The rulemaking process, governed by the [Administrative Procedure Act](#) (APA), typically requires statutory delegation and a notice-and-comment period⁴¹, with final rules subject to judicial review. Historically, courts applied the [Chevron deference doctrine](#) to

³⁰ 42 U.S.C. § 1397 et seq.

³¹ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021).

³² 34 U.S.C. § 10151 et seq.

³³ U.S. Const. art. I, § 8, cl. 1

³⁴ 31 U.S.C. § 6301 et seq.

³⁵ *South Dakota v. Dole*, 483 U.S. 203 (1987).

³⁶ *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012).

³⁷ 2 C.F.R. § 200

³⁸ *Pennhurst State School & Hospital v. Halderman*, 451 U.S. 1 (1981).

³⁹ Build America, Buy America Act, Pub. L. No. 117-58 (2021).

⁴⁰ 5 U.S.C. § 551

⁴¹ 5 U.S.C. § 553

agency interpretations ⁴², but the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo* (2024) has significantly curtailed this deference, potentially leading to more rigorous judicial scrutiny of agency actions ⁴³.

[Federal mandates](#) also serve as directives requiring state or local governments to undertake specific actions or meet certain standards. These can be compulsory requirements, such as direct orders under the ADA or the Voting Rights Act (VRA), or more commonly, [conditions of aid](#), where compliance is a prerequisite for receiving federal funds, as seen in past education laws or the historical linkage of highway funds to the national minimum drinking age ⁴⁴, ⁴⁵. The Unfunded Mandates Reform Act (UMRA) of 1995 was intended to limit the imposition of [unfunded federal mandates](#) ⁴⁶, though its effectiveness remains debated ⁴⁷. Major areas impacted by federal mandates include education — e.g., Individuals with Disabilities Education Act (IDEA), Family Educational Rights and Privacy Act (FERPA), the environment — e.g., Safe Drinking Water Act (SDWA), Resource Conservation and Recovery Act (RCRA), public safety — e.g., Occupational Safety and Health Act (OSHA) in some contexts, drug testing regulations; and healthcare — e.g., Emergency Medical Treatment and Labor Act (EMTALA), Affordable Care Act (ACA) provisions ⁴⁸.

Finally, the doctrine of federal preemption, rooted in the Supremacy Clause of the Constitution ⁴⁹, is a powerful tool by which federal law can override or supersede state and local laws. This principle, affirmed in *McCulloch v. Maryland* ⁵⁰, dictates that valid federal law prevails in any conflict with state or local law. [Preemption can be express](#), where Congress explicitly states its intent to displace state or local law (e.g., in the ADA or ERISA). Alternatively, it can be implied, either through field preemption, where federal regulation is so pervasive as to leave no room for state or local supplementation (e.g., aspects of immigration law as seen in *Arizona v. United States*) ⁵¹, or through [conflict preemption](#), where compliance with both federal and local law is impossible or local law obstructs federal objectives ⁵², ⁵³.

These federal mechanisms—grants, regulations, mandates, and preemption—collectively create a complex web of influence that significantly shapes the authority, responsibilities, and

⁴² *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

⁴³ *Loper Bright Enterprises v. Raimondo*, 603 U.S. (2024).

⁴⁴ Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

⁴⁵ Voting Rights Act of 1965, 52 U.S.C. § 10101 et seq.

⁴⁶ 2 U.S.C. § 1501 et seq.

⁴⁷ Kincaid, J. (1999). The devolution tortoise and the centralization hare. *New England Economic Review*, 1999(3), 13–40.

⁴⁸ See relevant U.S. Code citations for IDEA (20 U.S.C. § 1400), FERPA (20 U.S.C. § 1232g), SDWA (42 U.S.C. § 300f et seq.), RCRA (42 U.S.C. § 6901 et seq.), OSHA (29 U.S.C. § 651 et seq.), EMTALA (42 U.S.C. § 1395dd), and ACA (Pub. L. No. 111–148).

⁴⁹ U.S. Const. art. VI, cl. 2

⁵⁰ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819).

⁵¹ *Arizona v. United States*, 567 U.S. 387 (2012).

⁵² *PLIVA, Inc. v. Mensing*, 564 U.S. 604 (2011)

⁵³ *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000)

operational realities of local governments across the United States, despite their formal status as creations of the states.

Constitutional Foundations of Local Government Authority

Oregon:

Oregon was among the earliest states to constitutionally embrace the concept of home rule for cities. In 1906, the electorate approved a constitutional amendment that would later become Article XI, Section 2 of the Oregon Constitution⁵⁴,⁵⁵. This provision prohibits the Oregon Legislature from interfering in city charters and affirms the authority of local voters to draft, adopt, and amend their own municipal charters. The amendment was revolutionary for its time, signaling a robust and explicit commitment to local self-governance. By placing this power directly in the hands of the electorate of each city or town, Oregon established a legal framework in which municipalities were no longer wholly beholden to the state legislature for their organizational structure or basic governance functions.

Under Article XI, Section 2, the legal voters of every city and town in Oregon are empowered to adopt and amend a municipal charter, subject only to the criminal laws and constitutional limitations of the state⁵⁶. This grants cities substantial autonomy over their governmental form and functions, provided they operate within the boundaries of statewide legal parameters. The significance of this provision lies not merely in the grant of power itself, but in the presumption it creates in favor of local self-determination—an inversion of the presumption found in Dillon’s Rule jurisdictions⁵⁷. It also prevents the legislature from enacting special laws that alter, amend, or repeal local charters, thereby insulating local governance structures from state-level political interference.

For counties, Oregon’s path to home rule followed a statutory rather than constitutional route. While the state constitution’s Article VI, Section 10 directs the legislature to provide for the adoption of county charters⁵⁸, the substance of this authority is implemented through Oregon Revised Statutes (ORS) Chapter 203. These statutes enable counties to adopt home rule charters through a locally initiated process, subject to approval by county voters⁵⁹. Once adopted, a charter serves as the county’s governing document, outlining both structural arrangements and areas of legislative authority. Importantly, the statutory framework established in ORS 203.035 confers broad legislative authority on charter counties over “matters of county concern”⁶⁰. The statute specifies that this authority “shall be as full as the authority granted to the governing body of any county by the Constitution or statutes of this state,” and it further clarifies that powers shall be construed as if each were explicitly enumerated. In practice,

⁵⁴ Or. Const. art. XI, § 2

⁵⁵ League of Oregon Cities. (2023). *Home Rule 101*. <https://www.orcities.org/application/files/4617/1700/1308/Home-Rule-101-updated-8-18-23.pdf>

⁵⁶ Or. Const. art. XI, § 2.

⁵⁷ Frug, G. E. (1980). The city as a legal concept. *Harvard Law Review*, 93(6), 1059–1154.

⁵⁸ Or. Const. art. VI, § 10.

⁵⁹ ORS § 203.030–203.055.

⁶⁰ ORS § 203.035(1).

this creates a default rule in favor of county authority, unless expressly preempted by state law or restricted by constitutional provisions ⁶¹.

Today, all 241 cities in Oregon operate under individual home rule charters ⁶². These charters function as the city's constitution, establishing the structure of government (such as mayor-council or commission systems), delineating powers and responsibilities, and setting procedural rules. Critically, municipal charters can only be adopted or amended through a direct vote of the city's electorate. This requirement reinforces the democratic foundation of local governance in Oregon and underscores the degree of autonomy granted to municipalities under the state's home rule framework.

Similarly, counties that adopt home rule charters under ORS Chapter 203 enjoy substantial flexibility in structuring their governments. The process begins with the appointment or election of a charter committee tasked with drafting a proposed document. This draft is then submitted to county voters for approval ⁶³. If passed, the charter may establish an alternative form of county government, such as a county executive or expanded legislative body, thereby departing from the default commission model imposed by general state law ⁶⁴. Charter counties like Multnomah and Lane have taken advantage of this flexibility to tailor their governance structures to local needs. As a result, Oregon's model offers one of the strongest frameworks for county-level autonomy in the United States—significantly more expansive than the frameworks in Washington or California ⁶⁵.

Taken together, Oregon's constitutional and statutory provisions reflect a deep institutional commitment to local control. The state's home rule system does not merely tolerate local governance—it affirmatively empowers it. By creating parallel tracks of municipal and county home rule, Oregon has constructed a uniquely layered and flexible system of substate governance, one that serves as a potential model for other states grappling with the balance between central authority and local autonomy.

Washington:

Washington State employs a hybrid model of local governance that blends constitutional provisions with statutory frameworks, resulting in a nuanced and often constrained form of home rule. Unlike Oregon's robust constitutional home rule, Washington's approach is characterized by a combination of limited constitutional grants and broader statutory delegations, particularly through the [Optional Municipal Code \(OMC\)](#).

The Washington Constitution provides a foundational, yet limited, basis for municipal home rule. Article XI, Section 10 permits cities with populations exceeding 10,000 to adopt home rule charters, designating them as first-class cities ⁶⁶. However, these charters must

⁶¹ Callies, D. L., Freilich, R. H., & Roberts, T. E. (2012). *Cases and materials on land use* (6th ed.). West Academic.

⁶² League of Oregon Cities. (2023)

⁶³ ORS § 203.040.

⁶⁴ Ibid.

⁶⁵ Krane, D., Rigos, P. N., & Hill, M. B. (2001). *Home rule in America: A fifty-state handbook*. CQ Press.

⁶⁶ Wash. Const. art. XI, § 10.

remain consistent with the state constitution and general laws, thereby limiting the scope of local autonomy ⁶⁷.

Municipal classifications in Washington are delineated by both constitutional and statutory criteria. First-class cities, as noted, have populations over 10,000 and operate under a charter. Second-class cities have populations over 1,500 but do not possess a charter, while towns are municipalities with populations under 1,500 ⁶⁸, ⁶⁹. The most significant statutory development came with the enactment of the Optional Municipal Code in 1967, codified in Title 35A RCW. This code established the "code city" classification, allowing municipalities to exercise the broadest powers of local self-government consistent with the state constitution and general laws ⁷⁰. Code cities, whether charter or non-charter, are granted all powers possible for a city or town to have under the constitution and not specifically denied by law, thereby providing a statutory form of home rule ⁷¹.

At the county level, Washington's constitution was amended in 1948 to allow counties to adopt home rule charters ⁷². This amendment enables counties to frame their own charters, subject to the constitution and general laws of the state. The process involves electing freeholders to draft a proposed charter, which must then be approved by the county's voters. As of 2025, seven counties—King, Clallam, Whatcom, Snohomish, Pierce, San Juan, and Clark—have adopted home rule charters, allowing for greater flexibility in their governmental structures ⁷³. The remaining 32 counties operate under the commission form of government, as prescribed by state law, typically involving a three-member board of commissioners who perform both legislative and executive functions ⁷⁴.

Despite these provisions, Washington's home rule authority is significantly constrained, particularly concerning fiscal matters. The state constitution and statutes do not grant local governments inherent taxing authority; instead, any such powers must be explicitly delegated by the state legislature ⁷⁵. This limitation means that even home rule charter counties cannot impose taxes without specific legislative authorization, representing a substantial constraint on local fiscal autonomy ⁷⁶. Furthermore, Article XI, Section 11 of the state constitution allows local governments to make and enforce local regulations that are not in conflict with general laws. However, the state legislature retains the authority to preempt local regulations, and courts have

⁶⁷ *ibid.*

⁶⁸ Revised Code of Washington (RCW) 35.01.010.

⁶⁹ RCW 35.01.040

⁷⁰ RCW 35A.01.010

⁷¹ RCW 35A.11.020

⁷² Wash. Const. art. XI, § 4

⁷³ Municipal Research and Services Center. (2024). *Home rule counties in Washington State*. <https://mrsc.org>

⁷⁴ RCW 36.32.010

⁷⁵ Wash. Const. art. VII, § 9.

⁷⁶ RCW 84.52.043.

upheld such preemptions when state law is deemed to occupy the field or when local ordinances conflict with state statutes ⁷⁷, ⁷⁸.

In summary, while Washington provides mechanisms for local self-governance through constitutional and statutory means, the extent of local authority is circumscribed by state oversight, particularly in areas of taxation and regulatory preemption. This framework reflects a cautious approach to home rule, balancing local autonomy with state control.

California's Approach to Local Control

California was the second state to adopt home rule provisions in its 1879 Constitution ⁷⁹. The state's framework for local control is characterized by a significant distinction between "charter" local governments, which possess a greater degree of autonomy, and "[general law](#)" local governments, whose powers are more directly prescribed by state statutes ⁸⁰. This bifurcation is central to understanding the scope of local authority in California.

The foundational constitutional provision for local control is Article XI, Section 3(a) of the California Constitution. This section empowers both counties and cities to adopt a charter by a majority vote of their electorate ⁸¹. Once adopted and filed with the Secretary of State, the charter becomes the fundamental governing document for that locality, establishing the structure and powers of the local government ⁸². This constitutional right to adopt a charter forms the bedrock of local self-governance in California, offering a pathway for communities to tailor their governmental frameworks to their specific needs and preferences, distinct from uniform state mandates ⁸³.

The extent of this self-governance, however, varies significantly between municipalities (cities) and counties, and further between charter and general law entities. For municipalities, the distinction is particularly pronounced. [Charter cities](#) derive their power directly from the California Constitution, most notably Article XI, Section 5(a), which grants them control over their "municipal affairs" ⁸⁴. This "[municipal affairs doctrine](#)" means that with respect to matters deemed to be of purely local concern, a charter city's own ordinances and regulations prevail over conflicting general state laws ⁸⁵, ⁸⁶. The authority of a charter city is thus limited primarily by its own charter and by state laws that address matters of "statewide concern," an area where the judiciary often plays a crucial role in drawing the line ⁸⁷.

⁷⁷ Wash. Const. art. XI, § 11

⁷⁸ *Weden v. San Juan County*, 135 Wn.2d 678, 958 P.2d 273 (1998).

⁷⁹ McBain, H. L. (1916). *The law and the practice of municipal home rule*. Columbia University Press.

⁸⁰ League of California Cities. (2024). *The California Municipal Law Handbook*. CEB.

⁸¹ Cal. Const. art. XI, § 3(a).

⁸² *ibid*

⁸³ League of California Cities. (2024). *The California Municipal Law Handbook*. CEB.

⁸⁴ Cal. Const. art. XI, § 5(a).

⁸⁵ *Johnson v. Bradley* (1992) 4 Cal.4th 389

⁸⁶ *California Fed. Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1

⁸⁷ *Baron v. City of Los Angeles* (1970) 2 Cal.3d 535)

In contrast, general law cities in California derive their powers from the general laws enacted by the state legislature (primarily found in the California Government Code, e.g., Cal. Gov. Code §§ 34000 et seq.) and the general police power granted by Article XI, Section 7 of the Constitution⁸⁸. This latter provision allows all cities and counties to "make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." General law cities lack the specific "municipal affairs" autonomy afforded to charter cities; therefore, their actions are more broadly subject to preemption by, and consistency with, state statutes, even in areas that might otherwise be considered local⁸⁹.

Regarding county structure and authority, California's framework offers less autonomy than it does for its charter cities. It is generally recognized that California counties lack the "broad powers of self-government that California cities have"⁹⁰, and that the state legislature's control over counties is more complete than it is over cities⁹¹. Counties in California are primarily viewed as administrative subdivisions of the state, tasked with carrying out state functions and policies at the local level, in addition to providing local services⁹².

Like cities, counties in California can be organized as either general law counties or charter counties. General law counties operate strictly under the provisions of state statutes⁹³. [Charter counties](#), while also operating under the authority granted by Article XI, Section 3(a) to adopt a charter⁹⁴, possess a more limited form of home rule compared to charter cities. The home rule authority for charter counties, as outlined in Article XI, Section 4 of the California Constitution, typically pertains to the structure and organization of county government—such as the election or appointment of county officers, the number of members of the governing board, their compensation, and the terms of office⁹⁵. This allows charter counties some flexibility in tailoring their internal governance. However, this authority does not generally extend to broad substantive power over local affairs in the same way the "municipal affairs" doctrine does for charter cities. While a county charter can provide for a different governmental structure than that prescribed by general law, the substantive powers and duties of charter counties, particularly concerning matters of statewide regulation, remain largely defined and constrained by state statutes⁹⁶.

Thus, California's approach to local control creates a tiered system: charter cities enjoy the highest degree of autonomy, particularly concerning their municipal affairs; charter counties have some flexibility in their governmental structure but less substantive power; and general law cities and counties operate primarily under the direct authority and limitations set forth by state statutes.

⁸⁸ Cal. Const. art. XI, § 7

⁸⁹ League of California Cities. (2024). *The California Municipal Law Handbook*. CEB.

⁹⁰ California State Association of Counties. (n.d.). *Understanding California's County Structure*. Retrieved from <https://www.counties.org/counties/county-structure/>

⁹¹ Frug, G. E., & Barron, D. J. (2008). *City bound: How states stifle urban innovation*. Cornell University Press.

⁹² *County of Sacramento v. Superior Court* (1972) 8 Cal.3d 479, 481

⁹³ Cal. Gov. Code §§ 23000 et seq.

⁹⁴ Cal. Const. art. XI, § 3(a)

⁹⁵ Cal. Const. art. XI, § 4.

⁹⁶ *Younger v. Board of Supervisors* (1979) 93 Cal.App.3d 864

Comparative Analysis: Oregon, Washington, and California

The frameworks for local government and control in Oregon, Washington, and California provide nuanced approaches to home rule authority, shaped by distinct socioeconomic, political, and constitutional foundations, statutory enactments, and judicial interpretations.

Strength of Home Rule Provisions

In a comparative assessment we can see significant differences in the robustness of home rule protection across the three states. Oregon stands out amongst the three for strong constitutional protection of home rule authority for both cities and counties. Article VI, §2 of the Oregon Constitution places charter authority squarely in the hands of local voters, providing a direct grant for charter-making authority that insulates city charters from legislative alteration⁹⁷. Similarly, Article VI, §10 implemented via ORS chapter 203, empowers counties to adopt home rule charters and exercise broad legislative authority over concerns of the [county](#)^{98, 99}. This dual constitutional and statutory commitment establishes a strong presumption in favor of local control¹⁰⁰.

Washington's approach to home rule, however, is comparatively circumscribed. While Article XI, §10 of the state constitution permits "larger cities" to adopt charters, and article XI, §4 allows for county home rule charters, these powers are explicitly "subject to and controlled by general [state] laws"¹⁰¹ The Optional Municipal Charter (OMC, Title 35 RCW) offers statutory pathways to broader powers for "code cities,"^{102, 103} but the overall framework remains one with strong state preemption, particularly in fiscal matters^{104, 105}.

California presents a more bifurcated system. It boasts strong constitutional home rule provisions for its charter cities, specifically through Article VI, §5(a), which grants charter cities "plenary authority" over "municipal affairs," thereby allowing charter city ordinances to supersede conflicting state laws in designated areas^{106, 107}. However, the autonomy of California counties, even charter counties (governed by Article XI, §4) is considerably more limited. Home rule powers for counties primarily pertain to governmental structure and organization, with substantive powers remaining largely defined and constrained by state statutes¹⁰⁸. General law

⁹⁷ Or. Const. art. XI, § 2.

⁹⁸ Or. Const. art. VI, § 10

⁹⁹ ORS § 203.035.

¹⁰⁰ Callies, D. L., Freilich, R. H., & Roberts, T. E. (2012). *Cases and materials on land use* (6th ed.). West Academic.

¹⁰¹ Wash. Const. art. XI, §§ 4, 10.

¹⁰² RCW 35A.01.010

¹⁰³ RCW 35A.11.020.

¹⁰⁴ Wash. Const. art. VII, § 9

¹⁰⁵ RCW 84.52.043.

¹⁰⁶ Cal. Const. art. XI, § 5(a)

¹⁰⁷ *Johnson v. Bradley*, 4 Cal.4th 389 (1992).

¹⁰⁸ *Younger v. Board of Supervisors*, 93 Cal.App.3d 864 (1979).

cities and counties in California possess even less autonomy, operating directly under state legislative control ¹⁰⁹.

Municipal v. County Authority

Across all three states, municipalities, particularly charter cities, generally possess a greater degree of autonomy compared to counties. This is most evident in California where the “municipal affairs” doctrine provides charter cities with a level of substantive independence not afforded to cities ¹¹⁰, ¹¹¹.

Oregon distinguishes itself from the others by providing counties with more extensive and constitutionally supported home rule options. The statutory grant to Oregon charter counties over “matters of county concern” is legally broad, allowing for significant local legislative action ¹¹². This is particularly significant given Oregon’s historical and practical reliance on county-level governance for the provision of many essential services ¹¹³. This makes for robust county home rule and places it as a cornerstone of the states governance structure.

While counties in Washington may adopt home rule charters through constitutional amendment, the uptake has been limited to seven counties — King, Clallam, Whatcom, Snohomish, Pierce, San Juan, and Clark ¹¹⁴. Their substantive powers and operational flexibility, especially in relation to state mandates and fiscal constraints are generally more restricted than those of Oregon counties ¹¹⁵, ¹¹⁶.

In California, even charter counties are constrained by state law in ways that do not equally apply to charter cities ¹¹⁷. This bifurcation reflects a broader legal doctrine that distinguishes between cities’ municipal affairs and counties’ administrative roles as arms of the state.

Fiscal Authority

Fiscal autonomy for local governments varies considerably among the three states, representing a critical dimension of home rule. Oregon’s local governments, especially counties, possess broad fiscal powers, but they operate under constitutional limitations on taxation — e.g. property tax requiring voter approval, as reflected in ORS 203.055 for county tax ordinances ¹¹⁸,

¹⁰⁹ League of California Cities. (2024). *The California Municipal Law Handbook*. CEB.

¹¹⁰ Cal. Const. art. XI, § 5(a)

¹¹¹ *Johnson v. Bradley*, 4 Cal.4th 389 (1992).

¹¹² Or. Const. art. VI, § 10.

¹¹³ League of Women Voters of Coos County. (2024). *What is County Home Rule?* Retrieved from https://my.lwv.org/sites/default/files/leagues/wysiwyg/%5Bcurrent-user%3Aog-user-node%3A1%3Atitle%5D/county_home_rule_basics_presentation_2-24-24.pdf

¹¹⁴ Municipal Research and Services Center. (2024). *County Forms of Government*. Retrieved from <https://mrsc.org/explore-topics/government-organization/counties/county-forms-of-government>

¹¹⁵ Wash. Const. art. XI, §§ 4, 11.

¹¹⁶ RCW 84.52.043.

¹¹⁷ Cal. Const. art. XI, § 4.

¹¹⁸ Or. Const. art. XI, § 11.

¹¹⁹. This creates a tension between broad home rule powers and specific constraints on revenue generation.

Washington's local governments face some of the most stringent fiscal constraints: Taxing authority must be explicitly delegated by the state legislature, limiting local initiative and therefore local agency in several other matters of local governance requiring financial assets ¹²⁰. The state constitution does not grant inherent taxing power to local entities ¹²¹. Even home rule charter counties cannot empower taxes without specific legislative authorization, severely limiting their fiscal independence and capacity to respond to local needs ¹²².

[California charter cities](#) have relatively expansive authority to generate revenue under their municipal affairs authority, including the power to impose local taxes, fees, and charges, subject to their charters and constitutional limitations like Proposition 218 (the "Right to Vote on Taxes" act) ¹²³. This gives them a considerable degree of fiscal self-determination. California counties, however, remain subject to tighter state oversight, and the fiscal power of general law counties is narrowly construed, largely dependent on state allocations, shared revenues, and specific statutory authorizations for taxes and fees ¹²⁴, ¹²⁵.

Legal Challenges and Judicial Interpretations

Courts in all three states play a central role in defining the scope and limits of home rule through the interpretation of constitutional clauses, statutes, and local charters.

Oregon courts have generally adopted a broad interpretation of home rule, recognizing local autonomy unless state preemption is clearly established on matters of statewide concern ¹²⁶. The La Grande/Astoria doctrine emphasizes that local autonomy in form and procedure does not necessarily confer immunity from substantive state law ¹²⁷. Oregon courts apply a preemption test considering incompatibility and the nature of the statewide interest, with a general presumption against preemption for local civil ordinances ¹²⁸.

Washington courts, while acknowledging local police power, have often interpreted home rule authority narrowly, particularly in fiscal matters, reflecting the constitutional and statutory emphasis on state legislative control in these areas ¹²⁹, ¹³⁰. While the police power

¹¹⁹ ORS § 203.055.

¹²⁰ Wash. Const. art. VII, § 9.

¹²¹ *ibid.*

¹²² RCW 84.52.043.

¹²³ California Constitution, art. XIII C–D, added by Proposition 218, Gen. Elec. (Nov. 5, 1996).

¹²⁴ Cal. Gov. Code §§ 23000 et seq.

¹²⁵ League of California Cities. (2024). *The California Municipal Law Handbook*. CEB.

¹²⁶ *City of La Grande v. Public Employees Retirement Board*, 281 Or. 137, 576 P.2d 1204 (1978), *aff'd on reh'g*, 284 Or. 173, 586 P.2d 765 (1978).

¹²⁷ *ibid.*

¹²⁸ Callies, D. L., Freilich, R. H., & Roberts, T. E. (2012). *Cases and materials on land use* (6th ed.). West Academic.

¹²⁹ Wash. Const. art. XI, § 11.

¹³⁰ Municipal Research and Services Center. (2024). *Preemption and local control in Washington*.

granted by Article XI, Section 11 is a direct constitutional grant, and courts may presume local ordinances are valid unless legislative intent to displace is clear (as in *Weden v. San Juan County*), the overarching principle that local powers are "subject to and controlled by general laws" frequently leads to outcomes that favor state preemption when conflicts arise ¹³¹.

California courts have built a sophisticated jurisprudence around the municipal affairs doctrine, determining through the CalFed/Johnson four-part test whether a matter is a "municipal affair" (where the local ordinance prevails) or a "statewide concern" (where state law preempts) ^{132, 133}. This makes the scope of charter city autonomy dynamic and heavily reliant on judicial balancing, leading to ongoing litigation as new issues emerge, particularly in areas like land use, housing, and labor regulation ¹³⁴. This dynamic interpretation has made California a key jurisdiction for ongoing legal conflicts over state preemption ¹³⁵.

Conclusion

The comparative analysis of local government control in Oregon, Washington, and California underscores the diverse legal and practical manifestations of "home rule" on the West Coast.

Oregon's home rule framework provides the most expansive authority to local governments of the three states studied. Its layered constitutional and statutory commitments to local control empower both cities and counties in ways that are unmatched in Washington or California. This comprehensive approach, particularly when contrasted with Washington's more statutorily dependent and fiscally constrained system, highlights Oregon's deeper institutional commitment to local self-determination.

California offers strong protections to cities, particularly charter cities, but its counties remain largely administrative arms of the state. Its potent model of home rule for charter cities through the "municipal affairs" doctrine grants them significant autonomy. However, its county government structure, even for charter counties, possesses considerably less substantive power and more closely resembles the more limited authority seen in Washington's counties.

Washington's approach is more cautious and statutory, with limited fiscal authority and substantial room for state legislative preemption. Its local governments operate more clearly as administrative arms of the state, with statutory delegations and state legislative oversight playing a more dominant role.

Ultimately, local government authority in these states exists along a spectrum, with Oregon providing the most autonomy, Washington the least, and California occupying a middle ground with strong municipal but weak county-level self-governance. The degree of autonomy varies not only between states but also between different types of local government entities within each state (charter vs. general law, city vs. county) and across different functional areas, such as land use, social services, and fiscal powers.

Oregon's system, with its strong constitutional underpinnings for both city and county home rule, offers a distinct model that attempts to balance local autonomy with the recognition of legitimate statewide interests, as interpreted by its judiciary. It provides a valuable case study in structuring a state-local relationship that prioritizes local control.

Future research could profitably explore how these legal structures influence policy outcomes, such as innovation in housing, public health, environmental regulation, economic

¹³¹ *Weden v. San Juan County*, 135 Wn.2d 678, 958 P.2d 273 (1998).

¹³² *Johnson v. Bradley*, 4 Cal.4th 389 (1992)

¹³³ *California Fed. Savings & Loan Assn. v. City of Los Angeles*, 54 Cal.3d 1 (1991).

¹³⁴ *Baron v. City of Los Angeles*, 2 Cal.3d 535 (1970).

¹³⁵ Briffault, R. (2015). The challenge of the new preemption. *Stanford Law Review Online*, 65, 203–210.

development, fiscal health, and intergovernmental relations in these three states. Understanding how these different degrees of local control affect governance in practice would provide valuable insights for policymakers and scholars alike.

Further Considerations

The concept of “control” is itself intrinsically linked with ideas of power and politics. While law clearly sets the parameters of what is possible or at least legally permissible, the exercise of legal authority at any political level in a liberal democracy is predicated on political will. Elected officials of any level or agency in a government rarely act on issues without voter sentiment — or the sentiment of other political influences such as lobbyist groups — expressing a specific desire for action. This is, as David Mayhew describes, the “[electoral incentive](#),” elected officials (and hopefuls) are incentivized to ensure their party or their views are held in high regard, that the positions they espouse are widely carried, and that they are seen as successful¹³⁶.

However, like any other political sphere, views of local governance, what local governance does, how it acts, and what issues are circulating are not a priori. Voter engagement in public discourse requires a base-level of knowledge and investment in understanding the functions, limitations, and current challenges of their local institutions. This document has discussed the legal parameters of government in reasonable depth, but this subject is fairly poorly understood by most citizens. When this foundation of knowledge is sparse or citizen investment is low, the “political will” necessary for elected officials to act decisively on complex local issues can become fractured or poorly defined and designed. In such an environment, the “electoral incentive” may lead officials to respond more readily to the demands of specific well-organized, vocal interest groups.

This has historically been predicated on a strong and robust news media ecosystem, with access to local sources of news. News sources, in this manner, provide a strong foundation for what Steven Lukes describes as the “[third dimension of power](#),” often referred to as ideological power, or the power to shape people’s perceptions, cognitions, or preferences¹³⁷. Access to information about local issues, functions, and limitations of local government thus provides the ability for local populations to exert some degree of control over local government. Highly informed local populations will have the capacity for deep and meaningful involvement, whereas poorly informed local populations may not.

In 1975, the United States had some 1,748 “local” daily news papers. As of 2024, that number had dropped to around 1,033. In 2005, the United States had some 7,325 weekly newspapers, a number which as of 2024 had dropped to 4,562¹³⁸. While the number of news papers dropped considerably, the circulation of these newspapers dropped even more precipitously from approximately 62,108,000 in 1975 to only 20,900,000 (approximately) in 2022¹³⁹. Though these numbers do not include web traffic for local news sources, viewers of

¹³⁶ Mayhew, D. R. (1974). *Congress: The Electoral Connection*. Yale University Press. p. 29.

¹³⁷ Lukes, S. (2005). *Power: A Radical View* (2nd ed.). Palgrave Macmillan. p. 129

¹³⁸ Pew Research Center. (2023, June 29). *Newspapers Fact Sheet*. <https://www.pewresearch.org/journalism/fact-sheet/newspapers/>

¹³⁹ Northwestern University Medill Local News Initiative. (2024). *The State of Local News 2024*. <https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2024/report/>

local broadcast news, or listeners to radio, the trend is clear that circulation of print news over the past several decades has dropped dramatically ¹⁴⁰.

This is one facet of the importance and environment surrounding the non-legal constraints of local control. However, it is simple to note that as voters become less informed about local issues, their capacity to exert control will diminish. As such, it is the recommendation that this issue be considered and monitored with regards to local governance.

¹⁴⁰ Pew Research Center. (2023, June 29).

Glossary of terms

Administrative Procedure Act (APA)

A federal law that governs the way federal administrative agencies may propose and establish regulations. It includes procedural requirements for rulemaking and adjudication by agencies.

Anti-Commandeering Doctrine

A Supreme Court doctrine that generally prohibits the federal government from compelling states to administer or enforce federal regulatory programs. This principle respects state sovereignty within the federal system.

Block Grant

A type of federal funding that provides states or local governments with substantial discretion over how to use the funds within broad program categories, offering more flexibility than categorical grants.

Case (jurisprudence, or stare decisis) law

Law developed through judicial decisions, based on the principle of stare decisis, where courts adhere to previous rulings.

Categorical Grant

Federal funding with specific purposes, detailed requirements, and strict oversight, providing limited flexibility for state and local governments in program implementation.

Charter Cities/Counties

Local governments that have adopted charters granting them broader home rule powers and greater autonomy in managing local affairs compared to general law jurisdictions.

Chevron Deference

A legal doctrine requiring courts to defer to federal agencies' reasonable interpretations of ambiguous statutes within their jurisdiction, giving agencies significant interpretive authority.

Common Law Democracies

Nations where law is developed partly through judicial decisions (case law or precedent) based on stare decisis (courts adhering to previous rulings), alongside laws made by legislatures (statutes). Judges can create and refine law on a case-by-case basis.

Conditions of Aid

Requirements that federal or state governments attach to funding, which recipient governments must meet to receive and maintain grant money.

Conflict Preemption

A form of preemption that occurs when state or local laws directly conflict with federal law, making it impossible to comply with both simultaneously.

County

A substate administrative division created by the state to carry out both local governance functions and state administrative duties, serving as an intermediate level of government between state and municipal jurisdictions.

Dillon's Rule

A legal doctrine stating that local governments possess only those powers explicitly granted to them by the state, those necessarily implied from granted powers, and those essential to municipal purposes.

Electoral Incentive

The motivation for elected officials to pursue policies and positions that will help them win reelection, influencing their decision-making and policy priorities.

Express Preemption

A form of federal or state preemption where higher-level governments explicitly state their intent to preempt lower-level government authority in specific policy areas.

Federal Agency Regulations

Rules and standards created by federal administrative agencies to implement and enforce congressional legislation, having the force of law.

Federal Mandate

Requirements imposed by the federal government on state and local governments, often accompanied by funding or penalties for non-compliance.

Federal Preemption

The principle that federal law supersedes conflicting state or local laws when the federal government has constitutional authority to regulate in a particular area.

Federalism

A system of government where power is divided between a central authority (federal government) and constituent political units (states), with each level having distinct spheres of authority and the ability to act directly on citizens.

Fiscal Home Rule

The authority of local governments to make independent decisions about taxation, spending, and financial management without requiring state approval for fiscal policies.

Functional Home Rule

Local government authority to determine the scope and nature of municipal services and functions they will provide to their communities.

General Law Cities/Counties

Local governments that operate under general state statutes rather than local charters, with more limited autonomy and greater state oversight.

Grants-in-Aid

Financial assistance provided by higher levels of government to lower levels, typically with conditions or requirements for how the funds must be used.

Home Rule

A legal framework that allows local governments to govern themselves in certain areas without requiring specific state authorization, operating on the presumption that localities have inherent power to address local concerns.

Implied Preemption

A form of preemption that occurs when federal action in a policy area is so comprehensive that it demonstrates congressional intent to exclude state regulation, even without explicit preemptive language.

Local Control

The extent to which local governments have autonomy in decision-making, policy creation, and implementation within their jurisdictions, representing a fundamental principle of democratic governance that values community self-determination.

Local Government

A concept in the United States that provides a compelling study of how politics, policy, and law function at the local government level.

Loper Bright Decision

A recent Supreme Court decision that overturned or significantly modified the Chevron deference doctrine, changing how courts review federal agency interpretations of statutes.

Municipal Affairs Doctrine

A legal principle that gives charter cities in some states broad authority to govern local affairs without state interference, provided they don't conflict with state law on matters of statewide concern.

Municipality

A city or town with corporate status and local government authority, typically providing services like police, fire protection, utilities, and local governance to residents within defined boundaries.

Optional Municipal Code (OMC)

A standardized set of municipal ordinances and procedures that local governments can adopt, providing a framework for municipal operations and governance.

Pass-Through Grant

Federal funding that flows through state governments to local governments or other entities, with states often having some discretion in distribution and oversight.

Personnel Home Rule

Local government authority to manage their own employment practices, including hiring, firing, compensation, and personnel policies without state oversight.

Police Powers

State authority to regulate health, safety, welfare, and morals.

Preemption

The principle that higher levels of government can override or prevent lower levels from acting in certain policy areas where the higher level has constitutional authority.

Public Policy

The outcome of governmental decisions and actions designed to address public issues, reflecting the complex interplay of political, legal, technical, and popular factors in democratic governance.

Regional Government / Councils of Governments (COGs)

Multi-jurisdictional organizations that facilitate cooperation and coordination among local governments in a geographic region for planning, service delivery, and addressing area-wide issues.

Reserved Powers

Powers retained by states under the Tenth Amendment that are not delegated to the federal government nor prohibited to states by the Constitution.

Special Districts

Local government entities created to provide specific services (like water, fire protection, or schools) to defined geographic areas, often crossing municipal boundaries.

State

A sovereign subnational government within the U.S. federal system, possessing constitutional authority over areas not delegated to the federal government, including significant powers over local government structure and authority.

Statutory law

Law enacted by a legislative body (e.g., Congress, state legislature) and signed into effect by the executive, or passed via initiative/referendum.

Structural Home Rule

Local authority to determine the organization, form, and internal structure of municipal government without requiring state approval.

Supremacy Clause

Article VI of the U.S. Constitution establishing that federal law takes precedence over conflicting state and local laws when the federal government acts within its constitutional authority.

Tenth Amendment

Constitutional amendment reserving powers not delegated to the federal government to the states and the people, forming the foundation for state and local government authority.

Third Dimension of Power (Ideological Power)

The ability to shape preferences, beliefs, and understanding of issues, influencing what people think about and how they understand political problems and solutions.

Unfunded Mandates

Federal or state requirements imposed on lower levels of government without providing adequate funding to implement the mandated programs or policies.