

Municipal Charters

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Municipal charters are the constitutions of municipal corporations, defining their powers and structures. Before the American Revolution, colonial governors granted municipal charters in the name of the monarch or the colony's [proprietor](#). These colonial charters not only specified the powers of the municipal corporation but often granted it rights or property of considerable economic value. The charter of Albany, New York, awarded that municipal corporation a monopoly on the fur trade. New York City's charter bestowed on the island municipality a monopoly on ferry service and ownership of the underwater lands around lower Manhattan, thereby enabling the corporation to control dock and [wharf](#) development. In exchange for this generous grant, New York City paid the royal governor a handsome fee. During the colonial period a municipal charter was, then, a privilege, in some cases purchased from the crown's representative, and valued not simply for its grant of governing authority but also for its confirmation of a municipal corporation's property rights.

With the coming of American independence, the state legislatures succeeded to the sovereign authority of the crown and thus became responsible for the granting of municipal charters. Whereas in 1775 there were no more than fifteen active chartered municipalities in the thirteen colonies, the state legislatures of the early nineteenth century bestowed charters on every community with dreams of cityhood. From 1803 to 1848 the legislature of sparsely populated Mississippi awarded charter privileges to 105 municipalities, adopting 71 acts of municipal incorporation during the 1830s alone. These municipal charters authorized the creation of public corporations, political subdivisions of the state.

In 1819 in *Dartmouth College v. Woodward*, the U.S. Supreme Court introduced a distinction between the rights of a public corporation and a private one. The U.S. Constitution's contract clause did not protect the political powers granted in the charter of a public corporation such as a municipality. State legislatures could, therefore, [unilaterally](#) amend or [revoke](#) municipal charters and strip a city of authority without the municipality's consent. But the charter of a private corporation, such as a business enterprise or a privately endowed college, was an [inviolable](#) grant of property rights guaranteed by the nation's Constitution.

During the late nineteenth century, American courts reinforced the subordination of municipal corporations to state legislative authority when they embraced Dillon's Rule. In his standard treatise on the law of municipal corporations (1872), Judge John F. Dillon held that municipal corporations could exercise only those powers [expressly](#) granted by the state or necessarily incident or [indispensable](#) to those express powers. The municipal corporation was a creature of the state, and most courts interpreted Dillon's Rule to mean that city governments only possessed those powers specified by the state. Although the distinguished Michigan jurist Thomas M. Cooley postulated an inherent right of local self-government that limited the state's control over the municipality, American courts generally rejected this doctrine. Agreeing with Dillon, the late-nineteenth-century judiciary held that the words of the municipal charter defined municipal authority, and absent any authorization by the state, local governments had no right to act.

By the close of the nineteenth century, a growing number of states defined municipal powers not through individually granted charters but in general incorporation laws. Burdened by the necessity of dealing with hundreds of petitions for charter amendments, many states, beginning with Ohio and Indiana in 1851, adopted constitutional bans on special legislation regarding municipal government. Legislatures enacted general incorporation laws that were intended to provide a standard framework for municipalities throughout the state. Individual municipalities, however, continued to seek legislation tailored to their needs. Consequently, legislatures resorted to classification schemes, enacting "general" laws that only applied to a certain class of cities. State solons adopted legislation that applied exclusively to all cities of over 100,000 in population, even when only a single city was in that population class. The result was so-called [ripper](#) legislation that modified the charter powers or structure of a municipality for the benefit of one political party, faction, or economic interest.

Responding to this failure to eliminate special interest legislation, reformers campaigned for home-rule charters. Such charters were to be drafted by local commissions and then submitted to the city electorate for approval. Moreover, all charter amendments had to win the endorsement of local voters. The state legislature would not be responsible for enacting the local constitution; that power would rest in the hands of the people of the city. Corrupt special interests would no longer be able to [hoodwink](#) the legislature into approving a charter amendment adverse to the interests of the municipality.

Missouri's constitution of 1875 was the first to include a home-rule provision, and between 1879 and 1898 California, Washington, and Minnesota also adopted municipal home rule. The reform campaign accelerated during the twentieth century, and by the 1990s forty-eight states had granted home-rule authority to municipalities. At the close of the twentieth century, the municipal charter was a local creation adopted by local voters who could also amend the structure of municipal rule without re-course to the state legislature. Home-rule charters, however, were not declarations of independence, freeing municipalities from state authority. Under home-rule provisions, municipalities controlled local matters, but subjects of [statewide](#) concern remained the responsibility of the state legislatures. This distinction between local and statewide concerns was the subject of considerable [litigation](#) during the twentieth century, as courts attempted to define the limits of home-rule authority. In addition, state administrative authority over local governments increased [markedly](#) during the twentieth century, compromising the supposed autonomy of cities operating under home-rule charters.

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