

About Home Rule: Rapid City Home Rule Committee 2020



Thank you for taking the time to learn about Home Rule. The intent of this presentation is to provide information about Home Rule and share what the Home Rule Committee has done. Most importantly, we want to answer your questions and get feedback from you.

You will find a document labeled “backgrounder” on the website: <https://rapidcityhomerule.org/faq/>. It is an explanation of the terminology you will be reading on this presentation.

Let’s start with an overview of the topics you will learn about in this presentation.



Presentation Sequence

- Home Rule Committee
- The Purpose of the Home Rule Committee
- **Home Rule Committee Process**
- Current Form of Municipal Government
- Dillon's Rule
- Activities Currently Controlled by the State Legislature
- Home Rule
- **Other Considerations with Home Rule Charter**
- **City Manager**
- Citizen Input and Questions
- **For More Information**

In this presentation you will learn why and how the Home Rule Committee came into being; the Home Rule progress from beginning to end; an explanation of what Home Rule is and how it works; other issues that can be considered when a Home Rule Charter is created; and the definition of a city manager. You will also learn about our current form of municipal government; Dillon's Rule and what that means for our city; activities currently controlled by the state legislature; and most importantly, how you can ask a question and learn more.



Home Rule Committee

- **December 2019: Mayor sought citizen interest for the Home Rule Committee participation; Council members also made recommendations**
- **May 2020: Eighteen citizens representing all five wards were appointed by the City Council**
- **Home Rule Committee met monthly to research and learn from Rapid City community**

10/6/2020

HOME RULE COMMITTEE 2020

3

The Home Rule committee came about because Mayor Allender researched home rule and believes it would be advantageous for our community, allowing us to gain local control over local issues. We would accomplish this by adopting a new charter that defines the form of government and powers of the city.

40 individuals applied to be on the committee and the City Council members each made recommendations. An informational meeting of the recommended members was held in March and in May of 2020, 18 individuals were officially appointed by the City Council. The Committee, and several subcommittees have met at least monthly since May.



The Purpose of the Home Rule Committee

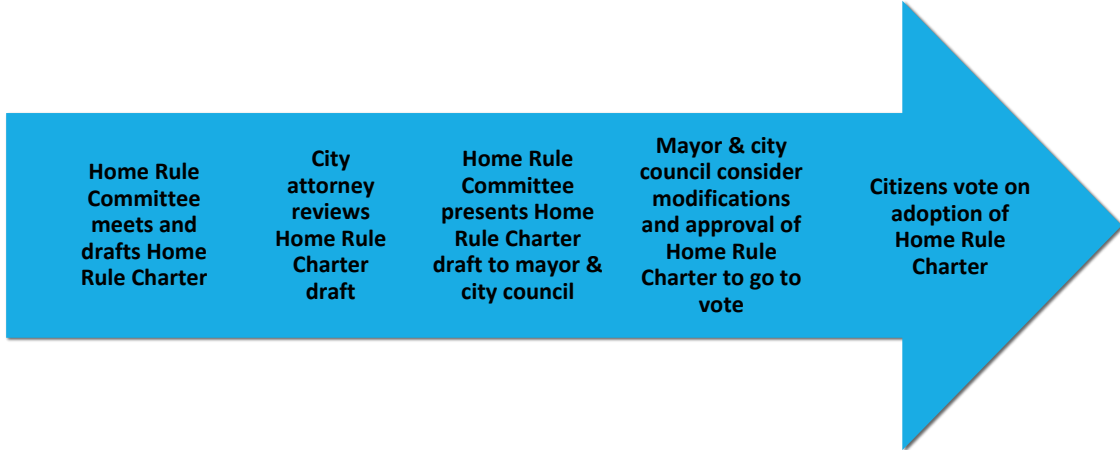


- Review available forms of municipal government
- Research what other Home Rule communities have done
- Educate the public and seek their input

The purpose of the Home Rule Committee is to review the various forms of government available for a municipality. They also learned about Home Rule and its pros and cons. The Committee researched what other SD Home Rule communities have done. Finally, the Committee will make a recommendation to the Mayor and City Council as to whether or not the Home Rule form of government should be pursued for Rapid City.



Home Rule Committee Process



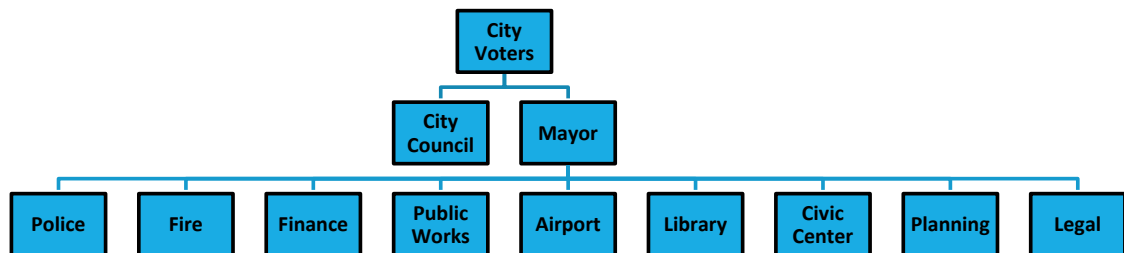
This process began last year. The Mayor started learning and assimilating information about Home Rule. In May 2020 the Home Rule Committee was appointed by City Council to serve until May 4, 2021. The Committee started writing our ideas down, sharing those ideas and reaching consensus on key points. We then began planning to reach out to the community to relay what we've learned and to get community members reactions and opinions.

To date, we have researched what other communities with Home Rule have done and have begun the process of drafting a Home Rule Charter. After that is complete, the City Attorney will review the draft and then the Committee will present it to the Mayor and City Council. The Mayor and City Council will consider modifications. When the Mayor are satisfied with the Charter, the citizens will have the opportunity to vote on adoption of the Charter.



Current Form of Rapid City Government

MAYOR ALDERMANIC



10/6/2020

HOME RULE COMMITTEE 2020

6

If the citizens vote to adopt Home Rule, the charter must contain the form of government that the city will use. Right now, we have what's referred to as an aldermanic form of government where the Mayor elected at large and there are two aldermen elected from each of five wards. A 'Strong Mayor' form of government refers to the powers and duties of the mayor – not to the particular office holder. The mayor is the CEO in this form and all appointed officials report directly to him.



Dillon's Law vs Home Rule

The South Dakota Supreme Court ruled in 2002 that “without home rule, local governments have only the authority specifically granted by the state legislature.”

In contrast, under a Home Rule charter, the city may do what it deems it should do unless the action is specifically prohibited by state law or the state constitution. As a result, the city has greater freedom from state interference, regulation, and control, and has the authority to do what it wants to do, in the way it wants to do it.

Right now, Rapid City must abide by Dillon's Law. The South Dakota Supreme Court ruled in 2002 that “without home rule, local governments have only the authority specifically granted by the state legislature.” Under a Home Rule charter, the city may do what it deems it should do as long as it is not specifically prohibited by state law. As a result, the city has greater freedom from state interference, regulation, and control, and has the authority to do what it wants to do, in the way it wants to do it.



BENEFITS

- Cities that adopt Home Rule charters have increased flexibility in running the city government. Cities with state-provided charters must wait for the state legislature to meet and authorize the activity---in their 40 day session. Unless the legislature declares it an emergency, the law will not take effect until July 1.
- Home Rule would allow the city’s elected officials to make changes more quickly and with the city’s specific needs in mind. A Watertown council member noted at the 2019 Municipal League convention, “There is no downside. You give up nothing, but gain flexibility.”

“ONE-SIZE-FITS-ALL” RULES DO NOT FIT FOR RAPID CITY... WE NEED LOCAL SOLUTIONS FOR LOCAL ISSUES

10/6/2020

HOME RULE COMMITTEE 2020

8

Cities that adopt Home Rule charters have increased flexibility in running the city government. Cities with state-provided charters must wait for the state legislature to meet and authorize the activity---in their 40-day session. Unless the legislature declares it an emergency, the law will not take effect until July 1.

Home Rule would allow the city’s elected officials to make changes more quickly and with the city’s specific needs in mind. A Watertown council member noted at the 2019 Municipal League convention, “There is no downside. You give up nothing but gain flexibility.”

Additional benefits of home rule include:

- Local control
- Flexibility in structuring the municipal governing body
- The greatest degree of local control possible
- Reversal of Dillon’s rule; with home rule municipalities take any action not otherwise prohibited

Under home rule limits do apply to the city’s ability to impose taxes. The implementation of home rule requires a vote of the people. A downside has not been identified to date.

[SDCL 6-12-6](#). Restrictions on power of home rule units.

The power of a home rule unit does not include the power to:

- (1) Enact private or civil law governing civil relationships except as incident to the exercise of an independent county or municipal power;
- (2) Define and provide for the punishment of a crime, but this limitation shall not abridge the power of a home rule unit to provide punishment for the violation of ordinances or charter provisions by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months or by both such fine and imprisonment;
- (3) Abridge laws relating to elementary and secondary education;
- (4) Change assessment practices and procedures relating to ad valorem taxation of property;
- (5) Exempt itself from providing the necessary personnel and facilities to perform services required by general law to be performed by a like unit or units of local government;
- (6) Deny referendum on ordinances or bylaws provided by chapter [9-19](#);
- (7) Regulate rates or conditions of service of any public utility regulated by the South Dakota Public Utilities Commission.

Source: SL 1974, ch 52, § 6; SL 1975, ch 283, § 56.



SOME SPECIFIC EXAMPLES:

The South Dakota legislature has not passed city-permissive language dealing with cyber-security threats or responses to cyber-attacks.

Emergency ordinances — a Home Rule Charter city CAN QUICKLY ENACT AN EMERGENCY ORDINANCE IN THE EVENT OF A DECLARED EMERGENCY—BE THAT A TORNADO, A FLOOD OR ANOTHER NATURAL DISASTER. HAVING TO WAIT FOR A state- or Presidential-level emergency declaration may delay authority to expend funds to facilitate the initial clean up and ensure the safety of residents.

STATE LAW DOES NOT PROVIDE AUTHORITY FOR A CITY TO DEAL WITH CYBER-SECURITY THREATS OR RESPOND TO CYBER ATTACKS

HAVING A HOME RULE CHARTER ALLOWS THE CITY TO ADOPT ORDINANCES MORE STRICT THAN STATE LAW, (BUT NOT LESS STRICT), SO THE CITY COULD HAVE MORE COMPREHENSIVE ORDINANCES ON BILLBOARDS OR.....

ROBERT FREIBERG, BERESFORD’S FORMER CITY ATTORNEY HAS BEEN QUOTED AS SAYING “YOU DON’T KNOW WHAT IS COMING DOWN THE LINE. We have home rule so we don’t have to go to the legislature to obtain permission or worry about legislative prohibitions after we did something.”

Here are a couple of specific examples of home rule versus Dillon’s Rule. The South Dakota legislature has not passed city-permissive language dealing with cyber-security threats or responses to cyber-attacks.

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Limitations under Home Rule

THERE ARE CERTAIN LIMITS ON THE POWERS OF HOME RULE CITIES. THEY INCLUDE:

- prohibiting enactment of laws governing civil relationships;
- prohibiting defining crimes with a punishment of more than \$500 or six months jail time;
- prohibiting changing assessment practices related to ad valorem taxation of property;
- prohibiting the denial of initiative or referendum on ordinances or by-laws;
- prohibiting enactment of new taxes without a vote of the citizens;
- prohibiting enacting or increasing any tax, fee or charge that is related to the state lottery, similar to a tax which provides revenue to the state if enacted by the city before March 1, 1996
- prohibiting a reduction of service standards below those required by state law; and
- engaging in any action that is prohibited by the state and US Constitutions, state law, and the Home Rule charter

10

There are some limitations of home rule. That is, what is unlawful for a city to do under South Dakota codified law remains unlawful. What changes for a community operating under a home rule charter is that specific state legislative permission to act is not needed to cope with emergency situations and the city does not need specific permission to act in an otherwise lawful manner.



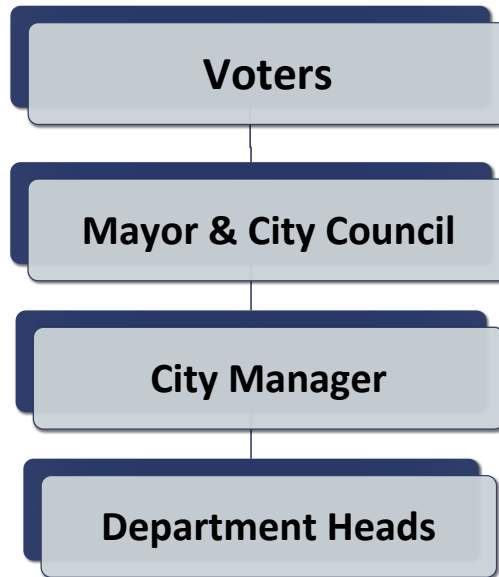
Other Options for consideration with a Home Rule Charter

- **Change**
 - the size of the council
 - the number of wards
 - (the city already adjusts ward sizes)
- **Determine**
 - how the mayor and council members are elected --wards and/or at-large
 - The role of the mayor
 - Whether to have a City Manager

There are a few options for consideration with a Home Rule Charter. The first is that the size of the council and the number of wards can be changed. The second consideration is regarding the Mayor and City Council. Specifically how they are elected, the role of the mayor and whether to have a city manager.



City Manager



If a City Manager is utilized, the voters still elect the Mayor and City Council. The City Manager is then hired by the City Council and reports to the City Council. The City Manager works within the framework of the City Charter, within the city's budget and carries out the short and long-term policies set forth by the City Council.



For More Information

Home Rule website: rapidcityhomerule.org

Mayor's office contact:

homerule@rcgov.org

City of Rapid City website: rcgov.org

Thank you for listening to this presentation. For more information, visit the Home Rule website the City of Rapid City website or contact the Mayor's office.