

Municipal Law & Dillon's Rule

1. Vermont Constitution

- **Vt. Const. Ch. II, § 2 (Supreme Legislative power)**
“The Supreme Legislative Power shall be exercised by a Senate and a House of Representatives.”
- **Vt. Const. Ch. II § 6 (Legislative powers)**
“The Senate and the House of Representatives...may prepare bills and enact them into laws, redress grievances, **grant charters of incorporation, subject to the provisions of section 69**, constitute towns, boroughs, cities, and counties; and they shall have all other powers necessary for the Legislature of a free and sovereign State; but they shall have no power to add, to alter, abolish, or infringe any part of this Constitution.
- **Vt. Const. Ch. II § 69 (Charters, limit on right to grant)**
“No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, **educational**, penal or reformatory corporations as are to be and remain under the patronage or control of the State; but the General Assembly shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed.”

2. Dillon's Rule

- City of Montpelier v. Barnett, 191 Vt. 441 (2012).
 - “[T]he power of the municipality is limited to what has been granted by the state. John Forrest Dillon, for whom that principle is named, famously described this idea while Chief Justice of the Iowa Supreme Court: ‘Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. If it may destroy, it may abridge and control.’” Id. at 452 (citing City of Clinton v. Cedar Rapids & Mo. River R.R., 24 Iowa 455, 475 (1868)).
 - “We have adopted Dillon’s Rule, declaring that a ‘municipality has only those powers and functions specifically authorized by the legislature, and such additional functions as may be incident, subordinate[,] or necessary to the exercise thereof.’” Id. (citing Hinesburg Sand & Gravel Co. v. Town of Hinesburg, 135 Vt. 484, 486 (1977); E.B. & A.C. Whiting Co. v. City of Burlington, 106 Vt. 446, 460-61 (1934)).

3. General Municipal Law/Charters

- Boundaries
- Governance model—what is the legislative governing body?
 - Composition/representation
 - Must have equal representation
 - Officers—who are they, what are their duties, how are they elected?
 - Elections—current elections are well aligned with member municipality elections (one day, one polling location, reliance on municipal clerks)
 - Commingling? 24 hour ballot count?
- Authority/Duties
 - Meeting requirements
 - Officer in charge
 - Policies and resolutions vs. ordinances
 - General law vs special laws
 - General law would apply to all municipalities with a default form of government
 - Special laws: a municipal charter is set of “special laws” that apply exclusively to one municipality
- Who has the power of dissolution or adjusting boundaries?

4. Title 16 Appendix: Education charters