

HOME RULE VS GENERAL LAW

Purpose of Today's Presentation:

Introduce concepts of Home Rule & General Law

Potential benefits, challenges, and processes

Promote community engagement

NOT definitive or legal interpretations/opinions

Information not exhaustive, rather a high-level summary

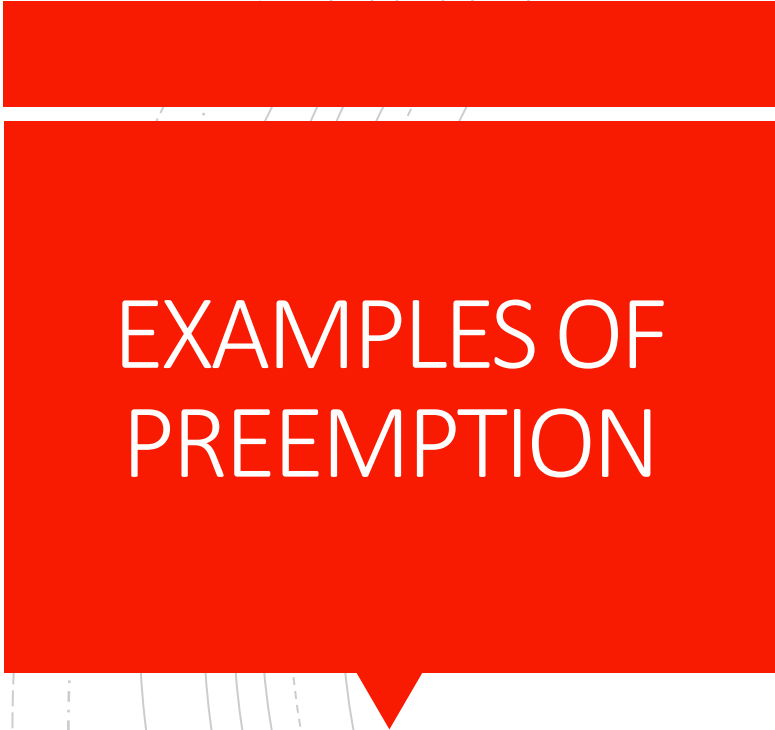
DEFINITIONS

- **General Law:**
- **Powers limited to what is permitted under Texas law**
- **Restricted to doing only what state statutes direct or permit**
- **Home Rule:**
- **Power from charter, but not in ways prohibited by Texas law**

A red speech bubble graphic with a tail pointing downwards and to the left. The text 'PREEMPTIVE LEGISLATION' is written in white, uppercase letters inside the bubble.

PREEMPTIVE LEGISLATION

- **Preempted legislation potentially limits benefits of Home Rule**
- **Preemption is legal doctrine that allows higher level of government to eliminate power of lower level of government**
- **Texas legislature increasingly using preemption**

A red speech bubble graphic with a tail pointing towards the bottom left. The text "EXAMPLES OF PREEMPTION" is written in white, uppercase letters inside the bubble.

EXAMPLES OF PREEMPTION

- **City wants mask mandate but state laws prohibits**
- **City can no longer unilaterally annex property without owner's consent**
- **City cannot set minimum lot sizes (pending for large cities)**
- **City cannot prohibit ADUs (pending)**

WHY BECOME HOME RULE?

- **Broader powers, more customized to locale (however, still subject to preemption)**
- **Aside from preemption, courts will presume a city charter is valid unless unreasonable and arbitrary**
- **Even in cases of preemption, courts try to find ways to allow state and local laws to co-exist if reasonable**

PROCESS TO BECOME HOME RULE

- **Minimum 5,000 “inhabitants”**
- **Requires city charter be drafted and approved by voters**
- **Ballot must allow voters to approve each section separately**
- **Charter Commission drafts charter for consideration**
- **Commission comprised of minimum 15 members**
- **Commission formed several ways, but most common is by city council**
- **Periodic amendments allows, no more frequent than every two years (Commission not required from amendments)**

CONCLUSIONS

- **Benefits of Home Rule are broader powers, customizable to locale (most cities choose Home Rule)**
- **Preemption has, and will continue to be, factor limiting powers of cities, including those with charters**
- **Home Rule process is well-defined and designed to provide transparency and approval from voters**
- **Home Rule NOT necessarily solution to many land use issues, due to preemption**
- **Smithville likely to meet “inhabitants” threshold in next 12-24 months**
- **Smithville should probably consider engaging an experienced third-party to prepare formal analysis of conversion**

SOURCES

- **Texas Municipal League (TML.org)**
- **Texas Home Rule Charters (book by Terrell Blodgett for TML)**
- **Numerous online resources**

A large red speech bubble graphic with a white outline, pointing downwards. The word "QUESTIONS?" is written in white capital letters inside the bubble.

QUESTIONS?

■ **Tom Etheredge**

(512) 239-8223

Tetheredge@ci.smithville.tx.us