

VILLAGE OF NORTHFIELD

HOME RULE ANALYSIS

SPRING 2007

Home Rule Analysis

VILLAGE OF NORTHFIELD

ARTICLE I. WHAT IS HOME RULE

At the most basic level, Home Rule allows communities in Illinois to take actions not specially prohibited by the State Statutes. Conversely, a Non-Home Rule community can only under take those actions specifically allowed for in the Statutes.

More formally, municipalities in Illinois are political subdivisions of the State legislature. They are created pursuant to State legislative acts, and their powers are defined, and restricted, by the State legislature. The State Constitution of 1970 provides for Home rule in Article VII, Section 6. In this constitution, a municipality is either automatically Home Rule or Non-Home Rule based on size. Any town which has a population of over 25,000 is automatically Home Rule while any town with a population of less than 25,000 is automatically Non-Home Rule unless they pass a referendum to become a Home Rule unit. Subject to some limitations and preemptive statures, Home Rule authority, gives municipalities the right to govern themselves. Specifically, municipalities “may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of public health, safety, morals, and welfare; to license; to tax; and to incur debt”.¹

ARTICLE II. BENEFITS OF HOME RULE

Overall, the most significant benefit of Home Rule is that it allows a community to govern itself and provides additional flexibilities. It is a fundamental question of governance. Without Home Rule, we must rely upon Springfield and Cook County to determine what we may and may not do. Examples of some of the immediate benefits include:

- Ø Downtown Redevelopment. Home Rule would give the community vital options relative to financing improvements and the ability to explore public-private partnerships which would foster downtown redevelopment. Examples of how some communities have done this can be found in the research work of James Banovetz², an expert on Home Rule, who has extensively studied the impact this tool has had on redevelopment efforts in recent years. He states “The 2002 survey of home rule use documented, not only heavy development use, but increasingly creative use of home rule powers for development purposes. Chief among these is the expansion underway in the use of impact fees. Impact fees are now being used to finance more of the costs of development than traditional school and park impact fees. Impact fees are now being used to support: Libraries (Arlington Heights, Bartlett, Channahon, Carol Stream, Manhattan, and Wheeling); General Municipal service expansion (Carol Stream, Channahon, and Manhattan); and Police services (Bartlett). Skokie uses its home rule powers to create Economic Development Districts”. “Other notable new uses of Home

¹ Article VII, Section 6(a) of the Illinois Constitution

² James M. Banovetz, City Council Management in Illinois, Vol.83, No. 10, June 2003

Rule in conjunction with development include Joliet’s neighborhood improvement program in which the city shares infrastructure costs with residents; Wilmette’s transfer of park property to use for the development of senior housing; and Elk Grove Village’s use of Home Rule to support its efforts to purchase and redevelop property in blighted commercial areas”. “Lincolnshire and Schiller Park both have used Home Rule to combine their planning commissions with their board of zoning appeals. Addison has raised its home rule sales tax to underwrite bonds issued to raise money to spur redevelopment of buildings, including public buildings.”

- Ø Licensure. Under Home Rule, Northfield could require that all contractors and developers working in town be licensed. This would give the Village more control if problems arise. We would be able to revoke a license if a contractor did not comply with our local ordinances; we could monitor and control things that depend on coordinated activities – such as snow plowing; and we could reduce contractor related crimes where disreputable contractor’s cheat unsuspecting homeowners out of large deposits and work.

- Ø Property Value and Character of the Community Protection. Local zoning codes are the primary way local property values and the character of the community are protected. Home Rule legally solidifies the authority of local zoning laws and protects against any attempt by Springfield to supersede Northfield’s regulations. Sometimes the State law merely implies a community has the authority to act. Home Rule gives a municipality solid legal authority to act even if there is no clear statutory authority. While State law specifically grants zoning authority to all municipalities, it does not address whether this authority can be extended over schools, park districts, mosquito abatement districts, and other local governments. Home Rule provides another basis for that authority.

- Ø Protection from State Actions. As stated earlier, Home Rule allows communities in Illinois to take actions not specially prohibited by the General Assembly. Conversely, a Non-Home Rule community can only under take those actions specifically allowed for in the Statues. Subject to some limitations and preemptive statutes, Home Rule authority, gives municipalities the right to govern themselves. Specifically, municipalities “may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of public health, safety, morals, and welfare; to license; to tax; and to incur debt”.³ In addition, the State Legislature can adopt legislation that impacts Non-Home Rule communities with a simple majority while the Illinois Constitution specifically requires, in most instances that a super-majority (60% vote) to impose a mandate on a Home Rule community. Over the years, Springfield has increasingly shifted financial burdens to, while tightening controls on, local government. With over 70% of Illinois residents living in Home Rule communities, they definitely have more political weight in Springfield. A good recent example in this area was the 2004 adoption of the Affordable Housing Planning and Appeal Act (PA – 0595)

This legislation required that all Non-Home Rule communities adopt and file an affordable housing plan with the state and that we find a way to ensure that at least 10% of all of Northfield’s housing stock is affordable (as defined by the state) by 2010. As

³ Article VII, Section 6(a) of the Illinois Constitution

part of this, the state is creating an Affordable Housing Board and if Northfield is not in compliance with the plan, developers can appeal local decisions to this body. Until tested in the courts it is unclear if this board will have the legal authority to overturn local zoning. In the meantime, Northfield was subjected to the unfunded mandate to research, draft, and file a plan and then the ongoing costs associated with monitoring the program and our annual reporting requirements. To make matters worse, as a Non-Home Rule community we can not utilize the few funding tools which are available that would likely actually achieve an increase in affordable housing.

- Ø Protection from County Home Rule Actions: If a municipality is Home Rule and the County adopts a code which conflicts with the local code then the local code would prevail. Conversely under Non-Home Rule, the County regulation would govern. An example of this was the recently passed Cook County Smoking Ban. Originally when they adopted this, as a Non-Home Rule community, Northfield did not have the option to adopt a local ordinance.
- Ø Financial Flexibility. There are numerous ways in which Home Rule gives a municipality flexibility and control relative to taxes and generating revenues.
 - Home Rule Sales Tax Option. Under Home Rule a community can levy an additional sales tax in .25% increments. Furthermore, there are no restrictions on how these revenues may be used. The benefit of this is that it partially shifts the tax burden to non-residents as many people from outside the community shop within our borders. A Non-Home Rule can adopt an increase in sales tax but it must be done through referendum, is capped at one percent (1%), and can only be used for public infrastructure improvements.
 - Real Estate Transfer Tax. This is a transfer tax on the sale of real estate and it is only available to Home Rule communities. It should be noted that Home Rule communities can only enact this under approval of a separate referendum.
 - Property Taxes. Home Rule communities have the authority to exceed the state caps on property taxes. Often residents have a concern over this issue and therefore some communities, like Lake Forest, have chosen to adopt a local ordinance which states they will abide by the tax caps. A copy of Lake Forest's ordinance is attached as an exhibit in this report. It should be noted that like all ordinances, future Boards could rescind a tax cap ordinance. One protection from this may be found within our current caucus system. Under this slated candidates pledge to abide by the caucus platform. If abiding by the tax cap ordinance were part of that platform, future Boards members would be pledging to uphold it.
 - Food and Beverage Tax. This is a separate tax only available to Home Rule communities. If enacted it would place an additional tax on food and beverage sales at restaurants. It would not apply to most pre-packaged food at Dominick's.
 - New Fees and Licenses. Since a Home Rule community can license contractors and developers they can establish fees for this. With respect to licensing fees non home rule communities are limited to the cost of regulation. Home Rule communities are not. In addition, they are able to enact much broader impact fees associated with new developments and tear downs.

- Ø Personnel Policies. With Home Rule, Northfield would be afforded greater flexibility relative to personnel policies and practices. One example of this is that as a Home Rule community Northfield would have better ability to attract lateral hires as Police Officers. Under this system we would be able hire already trained officers, from other Police Departments. Unfortunately, as a Non-Home Rule community we are unable to accept lateral hires from another Police Department. Instead we must always go through a long, expensive, testing process and then send the successful candidate out to the academy for training. This process generally takes well over a year, often leaving our small department under staffed. Other personnel areas where communities have used their Home Rule powers include changing the statutory duties of officers, Board of Fire and Police Commissioners, elimination of civil service systems, and enacting formal merit based pay systems.

- Ø Intergovernmental Agreements. Again, with Home Rule Northfield would have much greater flexibility relative to intergovernmental agreements. Communities have used this successfully in land use planning agreements, waste water treatment agreements, co-sponsoring of programs, street and road maintenance, mass transit, and police or fire service agreements.

- Ø Impact Fees. A Home Rule community has some greater ability to impose impact fees. Examples of this include park impacts; school impacts; transportation impacts; library impacts; fire district impacts; other municipal services; and most recently several north shore communities, such as Highland Park, are using impact fees to fund/develop affordable housing.

ARTICLE III. RESTRICTIONS AND CONTROLS

Although Home Rule provides communities with much more flexibility and control, there are still a number of restrictions and controls to provide a series of checks and balances. Examples of these are as follows:

- Ø Repeal – Probably the single most significant control on Home Rule is the ability to repeal it. If a community does not believe Home Rule is working for them, for any reason, they can repeal it by referendum and go back to Non-Home Rule. Statistically, very few communities have ever done this. Only 17% of Home Rule communities have ever placed repeal up for referendum. 97% of communities that have become Home Rule in the past 30 years have chosen retained it. Four towns that have repealed it including Lombard, Lisle, Villa Park, and the most recent one in 1983 was Rockford.

- Ø Tax Limiting Ordinance. Generally, one of the major concerns residents have when contemplating Home Rule is the fear of increased real estate property taxes. As a Non-Home community, Northfield is under state mandated tax caps. As a Home Rule community, they would have the ability to levy property taxes above the cap. As stated earlier, some communities, like Lake Forest, have attempted to deal with this through an ordinance. A copy of Lake Forests’ ordinance is provided in the exhibit section of this report. It should be noted however that, like all ordinances, future Boards could rescind a tax cap ordinance. One protection from this may be found within our current caucus system. Under this slated candidates pledge to abide by the caucus platform. If abiding

by the tax cap ordinance were part of that platform, future Boards members would be pledging to uphold it.

- Ø State Legislature. The State Legislature, by a simple majority, of both houses can enact a law that allows an activity to be exercised only by the State. Also, the State can place “preemptive” language into statues which limits or negates the use of Home Rule authority. In order to do this however, a 60% vote of both houses is required.
- Ø Illinois State Constitution. The Constitution places limits on the use of Home Rule Authority. For instance, a Home Rule Community may not levy taxes on income, occupation, or earnings. In addition, they can’t levy property taxes to retire bonds that mature in more than 40 years or provide punishment for felonies.
- Ø Caucus System. One of the most powerful tools that Northfield has relative to Home Rule control is the Caucus System. The Caucus establishes a platform and each candidate for office is asked to agree to adhere to that platform before being slated for office. The platform could be revised to include Home Rule issues. For instance if Northfield decided to enact a Tax Limitation Ordinance (see attached exhibits) prior to the referendum, the platform could state that the candidate agrees not to repeal that ordinance.
- Ø Court System. The court system has been used to challenge municipal actions that someone feels may be outside Home Rule authority. The courts have demonstrated that they will constrain home rule actions if they are beyond the scope of constitutional and statutory regulations.

WHAT OTHER TOWNS ARE HOME RULE

At this point, almost all of the municipalities in north and northwest suburban areas are Home Rule. Some of these were automatics, based on size, while others have adopted it by referendum. In addition Cook County is Home Rule. It is the only county in Illinois to have this designation. The following is a current list of Home Rule municipalities in the immediate area:

- Winnetka
- Evanston
- Wilmette
- Highland Park
- Glenview
- Northbrook
- Lake Forest
- Deerfield
- Lincolnshire
- Lake Bluff
- Mettawa
- Riverwoods
- Bannockburn
- Buffalo Grove
- Lincolnwood
- Golf

The only two communities in the immediate area who are not currently Home Rule are Glencoe and Kenilworth. Both of these towns recently had community based studies undertaken on the topic and both studies recommended the adoption of Home Rule. Kenilworth has indicated they will likely be placing this on the ballot in 2007.

ARTICLE IV. EXHIBITS

- Ø Lake Forest Ordinance establishing their position on taxes and Home Rule authority
- Ø Chart of Differences between Home Rule and Non-Home Rule Powers

ORDINANCE NO. _____
ESTABLISHING THE POSITION OF THE
VILLAGE BOARD
OF THE VILLAGE OF NORTHFIELD
ON THE USE OF HOME RULE

BE IT ORDAINED by the President and Board of Trustees of the Village of Northfield, Cook County, Illinois, as follows:

WHEREAS, the Village of Northfield is currently a non-home rule jurisdiction, and

WHEREAS, the Property Tax Extension Limitation Law (35 ILCS 200/18-185 through 18-245), commonly referred to as the “property tax cap” is imposed on all non-home rule jurisdictions, whereby local governments can increase their property tax collections by no more than the rate of inflation in the national Consumer Price Index or 5%, whichever is less, and

WHEREAS, a referendum has been initiated and will be submitted to the qualified electors of the Village of Northfield by resolution of the Board of Trustees to allow Northfield to become a home rule unit, and

WHEREAS, the Village Board recognizes the concerns of its residents relating to increased taxing authority if the Village were to achieve home rule status, and

WHEREAS, in recognition of these concerns, the Village Board shall make the following commitments to the residents of Northfield if home rule status is achieved:

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF NORTHFIELD, COOK COUNTY, ILLINOIS,
as follows:

SECTION ONE: PROPERTY TAX CAP. That if, as a result of the referendum, the Village of Northfield becomes a home rule unit, the Village Board shall abide by the property tax limitation as set forth in Property Tax Extension Limitation Law (35ILCS 200/18-185 through 18-245), commonly referred to as the Property Tax Cap. The Board shall not exceed the property tax cap unless one of the following occurs:

- A. The Village Board has determined that a bona fide emergency or legal requirement dictates said increase, or
- B. That an advisory referendum has determined support within the community for said increase.

SECTION TWO: **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

PASSED and APPROVED by me this ____ day of _____, 2007.

By:

John L. Birkinbine, Jr., Village

President

ATTESTED AND FILED in the office of the Village Clerk this _____ day of

_____, 2007.

By:

Stacy A. Sigman, Village Clerk

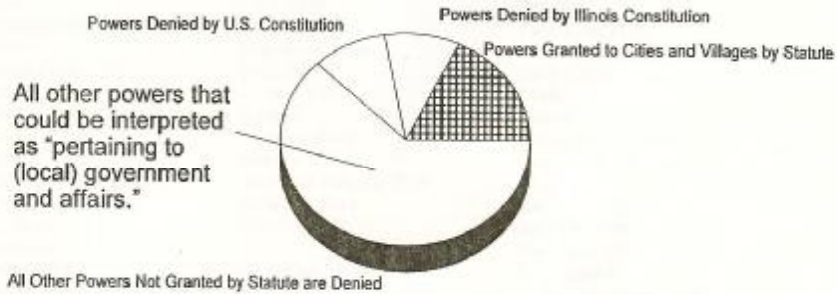
PUBLISHED by me in pamphlet form this _____ day of _____, 2007.

By: _____
Stacy A. Sigman, Village Clerk

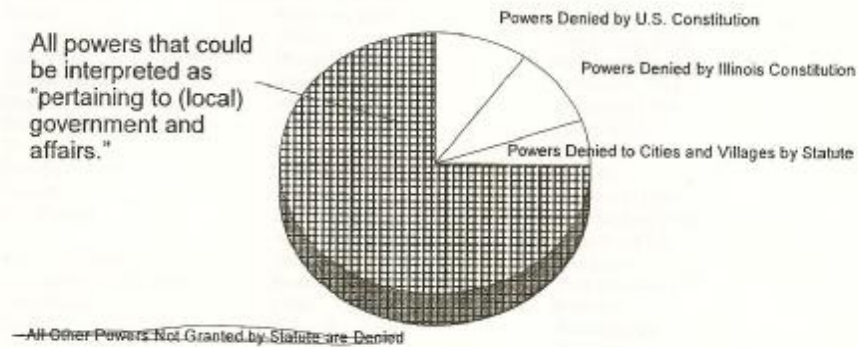
Gittel/Ordinances/Home Rule

Figure 1: Powers Delegated to Cities and Villages by the 1970 Illinois Constitution. (Note: Shaded areas are powers possessed by cities and villages.)

Powers Delegated to Non-Home Rule Cities & Villages



Powers Delegated to Home Rule Cities & Villages



PRO'S AND CON'S OF HOME RULE

Pro's of Home Rule

Increased flexibility for Downtown
Redevelopment

Increased flexibility for licensure

Increased property value protection

Increase protection of the community character

Increase protection from State actions

Increased protection from County actions

Increased flexibility to tax*

Increased flexibility relative to personnel

Increased flexibility relative to intergovernmental
agreements

Increased flexibility relative to development
impact fees for schools, parks, library, and
municipal services

Con's of Home Rule

Increased flexibility to tax*

* Other communities, such as Lake Forest, have mitigated this concern by adopting an ordinance, similar to the attached, which prohibits certain tax increases except via referendum.