

FROM ‘UNDER SIEGE’ TO ‘UNDER CONSTRUCTION’: HOW CITIES THRIVE IN HOSTILE TIMES

*By: Mayor Quinton Lucas**

I. OPENING REMARKS

Thank you to the Kansas Journal of Law and Public Policy for inviting me to deliver this year’s symposium keynote address. It’s particularly meaningful to be here as part of the “Cities of Tomorrow: Legal Approaches to Urban Health and Sustainability” symposium. And it’s always special to be back at KU Law, where I continue to serve as a faculty member when I’m not occupied with the slight distraction of running Missouri’s largest city.

Today, I want to share some insights that bridge academic analysis and practical experience. I’ll begin by examining the increasingly hostile legal landscape cities face, building on my recent scholarship about new forms of state preemption. Drawing from my experience as mayor, I’ll then propose a framework for how cities can thrive even in challenging political environments, and I’ll share specific examples of how we’ve put these principles into practice in Kansas City.

II. HISTORICAL CONTEXT

I want to begin with the most basic legal conception of a city, something called “Dillon’s Rule.” Now, I know what some of you are thinking—“great, the mayor is going to give us a history lesson.” But bear with me, because understanding where we started helps explain both the challenges cities face today and, more importantly, how we might overcome them.

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In 1872, Iowa Supreme Court Chief Justice John Dillon wrote what became the foundational text of American municipal law.¹ His core principle was simple: cities are completely subordinate to their states.² They have only those powers explicitly granted by state law, and nothing more.³ If there's any doubt about a city's authority, Dillon said, assume the city doesn't have it.⁴

III. THE EVOLUTION OF CITY-STATE RELATIONS

Dillon's Rule proved immediately problematic for growing American cities. As urbanization accelerated in the late nineteenth century, cities faced challenges requiring quick, local responses—public health crises, infrastructure needs, economic development opportunities. But every time they tried to act, they had to first prove they had explicit permission from their state legislature.

The home rule movement emerged from this frustration.⁵ Progressive Era reformers argued that cities needed genuine autonomy to govern effectively.⁶ Their efforts led to constitutional amendments and state laws granting cities more authority over local affairs. Kansas City became a home rule charter city, theoretically giving us significant local authority, but only in specifically delineated arenas.⁷

But even today, with home rule provisions in place across the country, cities remain fundamentally creatures of state law. The baseline assumption—that cities have only those powers explicitly granted by states—still shapes how courts view city authority. And in recent years, states have begun wielding this authority in increasingly aggressive ways.

IV. THE NEW FACE OF PREEMPTION

We're seeing what scholars call “new preemption” or “hyper preemption”—aggressive state actions designed not just to override city policies but to actively harm cities that dare to disagree with their states.⁸ The 2016 North Carolina “bathroom bill”⁹ marked a turning point. When Charlotte passed protections for transgender residents, the state didn't just override the ordinance, it

¹ John F. Dillon, *Treatise on the Law of Municipal Corporations* 102 (Chicago, James & Cockcroft & Co. 1872).

² *Id.* at 478.

³ *Id.* at 480.

⁴ *Id.*

⁵ Dwight Merriam, *Affordable Housing: Three Roadblocks to Regulatory Reform*, 51 *Urb. Law.* 343 (2022).

⁶ See Daniel S. Cohen, *A Gun to Whose Head? Federalism, Localism, and the Spending Clause*, 123 *Dick. L. Rev.* 421, 453 (2019).

⁷ KANSAS CITY, MO., CHARTER OF THE CITY OF KANSAS CITY, MO. art. I, § 102 (2025).

⁸ E.g., Richard Briffault, *The Challenge of the New Preemption*, 70 *STAN. L. REV.* 1995 (2018); Erin Adele Scharff, *Hyper Preemption: A Reordering of the State-Local Relationship?*, 106 *GEO. L.J.* 1469 (2018).

⁹ Public Facilities Privacy & Security Act, N.C. Gen. Stat. Ann. § 115C-521.2 (2016).

prohibited any such protections statewide.¹⁰ More troublingly, it sparked copycat legislation in states whose cities hadn't even considered such protections.¹¹

Here in Missouri, we've seen aggressive state preemption with firearms regulation. Let me read you the actual statute: "No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance or regulation concerning in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation... or other controls on firearms."¹² The sweep of this preemption is breathtaking—it doesn't just limit city authority; it eliminates it entirely. Preemption is typically about avoiding conflict between city and state laws, but Missouri's firearm preemption law is about disempowering a city in an entire field of regulation.

States aren't stopping there. Some have passed laws imposing personal liability on city officials who dare to challenge state authority.¹³ Others have threatened to withhold state funding from cities that step out of line.¹⁴ We're seeing what scholars call "deregulatory preemption"—where states claim entire areas of policy as exclusively their domain not for the purpose of productivity or efficiency or even good governance, but for the sole purpose of stifling local innovation or adaptation.

V. POST-EMPTION: A NEW THREAT

In my recent scholarship, I identified an even more targeted form of state control that I've termed "post-emption."¹⁵ Unlike traditional preemption, which sets rules for the future, post-emption responds directly to specific city actions.¹⁶ Think of it as a line-item veto of city policy.

Take what almost happened recently in Kansas: when Lawrence banned single-use plastic bags,¹⁷ the state legislature immediately introduced legislation to stop, as they put it, all Kansas cities from banning single use bags.¹⁸ This wasn't about establishing uniform environmental standards—it was pure retaliation against

¹⁰ *Id.*

¹¹ Matt Laviertes, *Transgender Bathroom Bills are Back. Does the Nation Care?*, NBC NEWS (Feb. 3, 2024, 6:00 A.M.), <https://www.nbcnews.com/nbc-out/out-politics-and-policy/transgender-bathroom-bills-are-back-nation-care-rcna137014> [<https://perma.cc/N75G-X6UU>].

¹² Mo. Rev. Stat. § 21.750.2.

¹³ *E.g.*, *How Florida is Pushing Abusive Preemption in the 2024 Legis. Session*, LOC. SOLS. SUPPORT CTR. (Mar. 1, 2024), <https://www.supportdemocracy.org/the-latest/weeks-into-2024-legislative-session-abusive-preemption-again-emerges-as-threat-to-democracy-xwdf> [<https://perma.cc/ZU9E-24F2>].

¹⁴ *See, e.g.*, Arizona Act of Mar. 17, 2016, ch. 35, 2016 Ariz. Sess. Laws 161 (codified as amended in scattered sections of 41, 42, and 43 ARIZ. REV. STAT.).

¹⁵ Quinton D. Lucas & Gavriel Schreiber, *Post-Emption and the Mayoral Toolbox: Levers and Limits of City Resistance to State Preemption*, 91 U. CHI. L. REV., 2229, 2233 (2024).

¹⁶ *Id.*

¹⁷ LAWRENCE, KAN., ORDINANCE NO. 9996 (2023).

¹⁸ H.R. 2446, 2023 Leg. Sess. (Kan. 2023).

a specific local initiative. There had been no momentum in Topeka for a law of this kind until Lawrence exerted its own sovereign prerogative, at which point the legislature stepped in to shoot down the local law. While Governor Kelly ultimately vetoed the bill, it exemplifies how states are increasingly using their authority not to govern, but to disempower and punish.

We're experiencing this firsthand in Kansas City with our source-of-income discrimination ban. Our ordinance aims to prevent landlords from automatically rejecting tenants with housing vouchers or other forms of legal income.¹⁹ The state legislature responded with targeted legislation to void our ordinance.²⁰ When it failed in the Senate last year, they simply reintroduced it this session. This isn't theoretical for us—it's an ongoing battle that affects real people's ability to find housing.

VI. THE LIMITED LEGAL RECOURSE

You might wonder why cities don't just fight back in court. The answer lies in that fundamental legal status we discussed earlier. Remember Dillon's Rule: cities are creatures of state law. This isn't just historical trivia; it's the baseline assumption that shapes how courts view city authority even today.

Even in home rule cities like Kansas City, our authority extends only as far as the state allows. We can't sue our state for violating our rights because, legally speaking, we don't have rights independent of the state and those specifically enumerated in our home rule charter. We can't claim state laws exceed constitutional bounds because, from a constitutional perspective, we're basically just administrative subdivisions of the state.

This vulnerability is particularly acute in the current political climate. When states target cities with punitive preemption or post-emption, our legal options are severely limited. Courts generally defer to state authority, and state legislatures can simply change the law to close any loopholes cities might find.

VII. FINDING A PATH FORWARD

Now, this might all sound rather grim. But this is where my perspective as a mayor rather than just a legal scholar becomes relevant. Because while the legal landscape is challenging, experience has taught me that cities can still thrive—if we're willing to think differently about how we engage with our states.

Let me tell you a story that changed my perspective. In 2022, during one of the most contentious periods between Kansas City and our police department—after the first conviction of an officer in Jackson County history for killing an unarmed Black person, and while I was personally involved in three separate lawsuits over police funding—I found myself sitting shoulder-to-shoulder in Jefferson City with the president of the Fraternal Order of Police.

Kansas City's previous attempts at public safety advocacy before the state legislature had been unsuccessful at best, actively counterproductive at worst. Each appearance seemed to deepen divisions rather than bridge them. And yet there we

¹⁹ KANSAS CITY, MO., ORDINANCE NO. 231019 (2024).

²⁰ H.R. 595, 103rd Gen. Assemb., Reg. Sess. (Mo. 2025).

were, advocating together for a raise in the police chief's salary. The current cap was making it impossible to offer competitive compensation for what is, undoubtedly, one of the most challenging leadership positions in our community.

The joint advocacy proved powerful precisely because it was unexpected. When a progressive mayor and the police union president agree on something, people take notice. And it worked—we got the salary cap lifted, allowing us to attract the caliber of leadership our department needs.

VIII. THE CASE FOR PARTNERSHIP

This experience, and others like it, have led me to a sometimes-controversial conclusion: in today's political environment, cities *must* find ways to work with their states. It's not an option but an imperative. To some, this isn't an obvious position. There are compelling arguments for resistance, for fighting back, for standing firm on principle. And sometimes those approaches are necessary.

But consider the reality we face in Kansas City and beyond. With another Trump administration finding its footing, with Republican control in Jefferson City likely to continue, the path to improving our residents' lives runs through those who might be our political opponents. If we want to derive any benefit from the immense power and resources of the state and federal governments, our path to improvement runs through partnership, not confrontation.

Moreover, elected officials have a duty to do what they can within existing constraints. Our constituents can't put their lives on hold while we wage ideological battles. They still need housing, mental health services, transportation, and economic opportunity. They need us to find ways to deliver results within the system we have, even as we work to change that system.

Being in the room, at the table, means having more impact than shouting from the sidelines. Partnership on some issues doesn't prevent resistance on others. In fact, building relationships through cooperation can sometimes give you more credibility when you do need to oppose state actions.

IX. FRAMEWORK FOR PROGRESS

Through trial and error, success and failure, I've developed a framework for effective city-state collaboration. It's based not on academic theory but on what actually works—on getting things built, getting them built quickly, and getting them built together.

The framework has three core principles. First, **build, don't block**. Focus on creating new value rather than redistributing existing resources. Second, prioritize **progress over process**. Value speed and tangible results over procedural complexity. Third, ensure there's **enough for everyone**. Build in such a way that everyone can share in the rewards—not just in the tangible results like new housing or infrastructure, but also in the political recognition and credit that goes along with big successes.

A. Examining the Principles

Let's examine each principle in detail. Principle one, "build don't block" means focusing on creating new value. It's the difference between fighting over how to divide a pie and working together to bake more pies. When we frame issues in terms of growth and development rather than restriction and regulation, we often find unexpected allies.

The second principle—progress over process—might be the most challenging to implement. Government, especially at the local level, has developed layers upon layers of process requirements. Many serve important purposes: environmental protection, community input, labor standards. But we can reach a point where process becomes paralyzing.

I try to apply a "common sense" principle to figure out when we've veered too far into the "process," and aren't thinking enough about the "progress." Sometimes this leads me to part ways with some of my progressive colleagues. Take environmental review requirements. For developing pristine land or sensitive ecosystems, extensive review makes perfect sense. But when we're converting a defunct bowling alley into a mini golf course, or building housing on a former parking lot, do we really need the same level of scrutiny?

The challenge is systemic. Most public servants touch only a small portion of any project, so they can only be evaluated on their specific role in the process. A permit reviewer can't be judged on whether the building eventually gets built—they can only be judged on whether they properly reviewed the permit. In the aggregate, it means that nobody is individually to blame for the slow speed of progress, but the gears still wind up jammed. We need to find ways to tie everyone's incentives to the ultimate goal: getting things built.

The third principle—ensuring enough for everyone—operates on two levels. First, it's a fundamental belief about development and growth: we can actually build enough housing, enough transit, enough facilities to serve everyone's needs. This vision departs from the scarcity mindset that often dominates our politics and our government, where we assume there will never be enough to go around. Second, this principle applies to the political dynamics of city-state partnerships: there can be enough credit, enough recognition, and enough political wins to satisfy all partners. When we move from a mindset of scarcity to one of abundance, both in what we build and how we share the success, we create space for genuine collaboration. It requires dreaming big and then sharing the credit when those dreams are fulfilled.

B. Implementation Challenges

Implementing these principles isn't easy. The incentives in our political system often push in the opposite direction. For example, politicians are rewarded for announcing plans and showing renderings—not for the unglamorous work of shepherding projects through to completion.

There's also resistance from within progressive circles. Some view any cooperation with conservative state governments as capitulation. Others are so focused on perfect process that they lose sight of progress. I understand these

concerns—I share many of them. But I’ve learned that if we want to actually improve people’s lives, we need to be pragmatic about how we achieve our goals.

X. MODELS FOR EFFECTIVE COLLABORATION

Let me bring this back to where we started—the relationship between cities and states. While the legal framework remains challenging, experience has taught me that there are specific, practical ways that cities can work with their states to get things built. These approaches don’t require us to abandon our principles or ignore the reality of state preemption. Instead, they work within existing constraints to deliver real benefits for our communities.

I’ll share three models we’ve used successfully in Kansas City, each illustrating different ways to apply the principles I just outlined.

A. Model 1—Parallel Track Development

The first model is what I call “parallel track development,” where city and state pursue complementary but independent initiatives toward a common goal. Think of it as running on parallel tracks—separate but aligned, each powering the other forward.

Our 2026 FIFA World Cup preparations perfectly exemplify this approach. The city committed \$15 million to our host committee while the state simultaneously pledged \$50 million for Arrowhead Stadium renovations. We never directed their spending; they never directed ours. But each commitment reinforced the other, creating momentum that is helping ensure that the world’s largest sporting event will be a rousing success for Kansas City.

The parallel track approach works because it respects each government’s independence while leveraging their mutual interests. The state gets to support a major economic development initiative. The city gets to advance a transformative project. Most importantly, the community gets a better result than either government could deliver alone.

Parallel track development works best when projects are too big for any single entity to handle, when different governmental entities have distinct but complementary capabilities, and when maintaining separate processes actually speeds things up rather than slows them down. Sometimes, however, a project’s complexity necessitates closer coordination.

B. Model 2—Direct Partnership

The second model involves more direct collaboration between city and state governments. It’s for projects where success requires not just parallel action but genuine partnership—pooling resources, sharing authority, and working hand in hand.

The South Loop Link project exemplifies this approach. For those unfamiliar, the South Loop has long been a barrier in our downtown—a sunken

highway that divides neighborhoods and creates a concrete canyon in the heart of our city. The South Loop Link project will deck the highway, creating a new public park and reconnecting neighborhoods in our urban core.

This is a massive undertaking requiring multiple partners. We have federal support, thanks in no small part to former Senator Roy Blunt, whose name the park will bear. We have city investment and private sector participation. But the key partnership I want to highlight here is with our State and, in particular, state transportation department, MoDOT, through their Cost Share Program.

We recently learned that state highway authority matched our City's \$31.4 million commitment—their largest cost-share agreement ever in Kansas City. Both City and State money flow to the same organization and, because the project requires constant coordination between city and state officials, both governments are directly involved in planning and execution. It's so collaborative that the governor and I held a joint signing ceremony—a visible symbol of city-state partnership.

What makes this story particularly relevant is how it transcends political divisions. One of our strongest advocates for the State highway funds was a fairly conservative member of the Missouri Highway Commission. He saw beyond ideology to recognize how this investment would benefit both Kansas City and Missouri as a whole. He was far from alone—leaders of all political persuasions understood that this was in the best interests of Kansas City and Missouri and put their money where their mouth was to make this transformative project a reality.

Direct partnership works best when projects require shared authority, when pooling resources creates clear benefits, and when there's a strong foundation of trust between city and state officials. It requires more relationship building than parallel track development, but it can deliver uniquely powerful results.

C. Model 3—Cooperative Opposition

The third model might seem counterintuitive, especially to scholars of city-state relations but, as a mayor, I'm fortunate that my on-the-ground experience informs my legal scholarship. Remember all that preemption we discussed earlier? The legal framework that often feels stacked against cities? Sometimes it can actually help us build things. I call this approach "cooperative opposition"—where we actually *leverage* our different legal statuses to get things built faster. Let me show you how this works through the example of a state mental health hospital about to be built in Kansas City.

The state recently allocated \$300 million to build a new behavioral health facility in Kansas City—a crucial investment in addressing unmet mental health needs in our region. But despite having the money appropriated, the state hit multiple roadblocks. They aren't major landowners in Kansas City, aren't familiar with local land transactions, don't know the area well, and were limited by the purposes of their state appropriations.

The city identified a solution: adjacent parcels owned by our housing authority, parks system, and public schools. The City could acquire and assemble the land in a way the state couldn't. Using both our municipal power and our local knowledge and relationships, we navigated the complex negotiations needed to compile these parcels and solved the State's land-finding problem.

But here's where it gets interesting and where understanding preemption becomes crucial. If a private developer were building this facility instead of the State, even with city-donated land, they would have a long road ahead of them. They'd need rezoning approvals, environmental studies, workforce agreements, permit applications, possible consultation with Native American tribes if federal money were used—the list goes on. The land transfer would be just the beginning.

But because *the state* will develop the property, the land transfer is basically the end of the line. Almost none of those processes apply. Because states are legally superior to cities, state projects aren't subject to city zoning requirements, don't need city permits, don't pay city taxes, and aren't bound by city workforce rules. The very preemption that often frustrates cities becomes a tool for faster development.

The result? Kansas Citians will get much-needed mental health services far sooner and more cost-effectively than they otherwise would have. It's the supreme power of the state, channeled through city interests, delivering tangible benefits for our community.

XI. CONCLUSION—THE POWER OF TANGIBLE PROGRESS

Let me close by returning to where we started. Yes, the legal framework governing city-state relations—from Dillon's Rule through new preemption and post-emption—can seem hopelessly stacked against cities. The current political climate only intensifies these challenges.

But focusing solely on legal barriers misses the opportunity before us. When we focus on building things—real, tangible improvements in people's lives—we often find partners in unexpected places. Whether it's mental health facilities, park space over highways, or world-class sports venues, **progress creates possibilities.**

Cities should stay staying focused on what matters: getting things built. The measure of our success isn't the elegance of our process or the purity of our politics—it's the tangible improvements we deliver for our communities. When we do that successfully, we often find that what seemed like intractable political conflicts were really just problems waiting to be solved.

This requires a different approach to city leadership. It means building relationships before you need them, like our regular engagement with Governor Kehoe. It means leveraging local business communities as bridges to state government, which we do by, for example, working with the Chamber of Commerce to identify palatable candidates for our Board of Police Commissioners. It means being willing to share credit and celebrate collective wins.

Looking ahead, opportunities for this approach abound. The new Trump administration will have around \$300 billion in Inflation Reduction Act funds to award. While Kansas City, might struggle to compete for those dollars directly, partnership with the state—even a state government that differs from us ideologically—might secure those investments for our community.

The framework I've outlined today—focusing on building rather than blocking, prioritizing progress over process, and ensuring enough for everyone—

offers a path forward for cities in challenging political environments. It suggests that the best response to hostile preemption isn't just resistance, but redirection toward shared goals that benefit our communities.

Thank you all for your attention today. I look forward to your questions and to seeing how you, the next generation of lawyers and policy makers, build on these ideas to create even better frameworks for city-state cooperation.