



# OLR RESEARCH REPORT

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## **RELATIONSHIP BETWEEN TOWN AND BOROUGH ORDINANCES**

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You asked us to describe the relationship between town and borough ordinances and whether borough ordinances must be in agreement with town ordinances.

The answer to the question regarding the alignment of borough and town ordinances requires a legal opinion, which the Office of Legislative Research is not authorized to provide. Consequently, this report should not be considered one.

Towns and boroughs function as separate units of governments, even though they exist in the same area. Both exercise their powers through ordinances, which, in some cases, specify fines or other penalties for violating them. Towns derive their authority to enact ordinances from (1) charters they adopted and amended on their own (i.e., home rule) or that the legislature adopted and amended on their behalf (i.e., special act charters) and (2) the statutes. Similarly, boroughs derive their authority from special act or home rule charters and statutes that specify their powers and the range of services they are authorized to provide (Patricia Stuart, *Units of Local Government in Connecticut*, 1979).

Because boroughs and towns function as independent political entities, generally performing different functions, their ordinances do not have to be in agreement. Boroughs, like special taxing districts and unconsolidated cities and towns, have jurisdiction over specified

functions and governmental activities within their territorial limits, and the ordinances they enact apply only within these limits. A town's jurisdiction, on the other hand, may extend within a borough's limits if its charter or the statutes authorize it.

But even though their geographic jurisdictions overlap, town and borough charters and the statutes are generally designed to prevent a duplication of authority. This is based on the principle that two municipal corporations, such as a town and borough, cannot have control and jurisdiction at the same time within the same territory. According to McQuillin's *The Law of Municipal Corporations*,:

It is firmly established that there cannot be, at the same time, within the same territory, two distinct municipal corporations, exercising the same powers, jurisdiction, and privileges. This rule does not rest on any theory of constitutional limitation, but instead on the practical consideration that intolerable confusion instead of good government would obtain in a territory in which two municipal corporations of like kind and powers attempted to function coincidentally. (§ 7:8 (3d Ed.))

The Connecticut Superior Court cited this principle in *Moore et al v. Town of Stamford* (14 Conn. Supp. 258 (1946)) which arose because residents of the City of Stamford objected to paying taxes to the Town of Stamford. Although the case involved the relationship between an unconsolidated city and town, we cite it because that relationship is comparable to that between an unconsolidated borough and town.

In *Moore*, city residents argued that they derived no benefits from services designed to serve residents in the area outside city limits and that consequently, the city had no power to levy taxes on property within city limits to defray the cost of providing these services. The court held that the statutes authorized the town to include property within the city on the town's grand list and levy sufficient property taxes on all listed property to cover the town's expenses.

Although the court ruled that the town could tax property in the city, it noted that it is common for two municipal corporations, such as a school, fire, or water district, to exist in the same area for different purposes. "In the same manner, the city and town of Stamford function as independent political entities, and although the city comprises part of the same area as the town, they serve different aims and objects."

The court did not reach the issue of whether two municipalities that exist in the same area, such as a borough and town, may simultaneously exercise the same power, but it cited a provision in Stamford's town charter and various statutes that "prevent a duplication of authority." Stamford's town charter specifically precluded it from exercising its authority within city limits with respect to any matter for which the city had exclusive authority. In addition, the court noted that there are statutes that limit the authority of towns with a city or borough within their boundaries. For example, zoning commissions and boards of appeals in these towns have no jurisdiction over the part of town within the city or borough boundaries, unless the city or borough designates them as the zoning commission or board of appeals for the city or borough (CGS §§ [8-1\(b\)](#) and [8-5\(b\)](#)).

Although the city and town were separate jurisdictions, the town could tax property in the city because the statutes required it to do so and would continue to do so until the legislature amended them. Upon appeal, the Connecticut Supreme Court upheld the Superior Court decision (*Moore et al. v. Town of Stamford et al.*, 134 Conn. 65 (1947)).

RP:ro