



Building Standards and Codes

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CODE INTERPRETATION – 2022-02

Date of Interpretation: November 03, 2022

Code Effective Date: May 12, 2020¹

Source Document: 19 NYCRR Part 1220 – Residential Code of New York State²

Topic: Two-family Dwellings Fire-Resistant Construction

Question: A code enforcement official has asked the question: Can a two-family dwelling constructed to the 2020 Residential Code of New York State be constructed such that the wall separating the two dwelling units is located on a lot line and it still be considered a single building?

Interpretation: Yes.

Section R101.2 of the 2020 Residential Code of New York State (2020 RCNYS) indicates the 2020 RCNYS regulates "...the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of the following buildings and structures, provided that such building or structure is not more than three stories above grade plane in height, and their accessory structures not more than three stories above grade plane in height:

1. Detached one-family dwellings;
2. Detached two-family dwellings in which each dwelling unit has a separate means of egress;
3. Townhouses;
4. Bed and breakfast dwellings;
5. Live/work units that (1) are located in townhouses, and (2) comply with the requirements of Section 419 of the Building Code of New York State; and
6. Owner-occupied lodging houses that (1) have five or fewer guestrooms and (2) are provided with a residential fire sprinkler system complying with Section P2904 of this code."

Specific terms used throughout this Code Interpretation and the associated code sections are defined in Chapter 2 of the 2020 RCNYS. Some of those terms are as follows:

"Building" Any one- or two-family dwelling or portion thereof, including townhouses, used or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, or any accessory structure. For the definition applicable in Chapter 11, see Section N1101.6.

"Dwelling Unit" A single unit providing complete independent living facilities for one or more

¹ The "Code Effective Date" for this Code Interpretation is May 12, 2020, which is the effective date of the 2020 update of the Uniform Fire Prevention and Building Code (the Uniform Code)

² The Residential Code of New York State is contained in Title 19 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR) Part 1220.

persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Fire Separation Distance” The distance measured from the building face to one of the following:

1. To the closest interior lot line.
2. To the centerline of a street, an alley or public way.
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at a right angle from the face of the wall.

“Lot” A portion or parcel of land considered as a unit.

“Lot line” A line dividing one lot from another, or from a street or any public place.

Two-family dwellings that meet the criteria of Section R101.2 can be constructed to the provisions of the 2020 RCNYS. The 2020 RCNYS does not prohibit the wall separating the dwelling units of a two-family dwelling from being located on a lot line. By definition, a two-family dwelling is a single building and not two separate buildings. Therefore, the wall separating the two dwelling units, even if it is located on a lot line, is not an exterior wall and does not need to meet the exterior wall requirements of Section R302.1. The same can be said when discussing the term *“fire separation distance,”* as it relates to building fire-resistance rated construction. This distance is measured between several points (as noted in the definition). However, because the building containing a two-family dwelling is a single building, there are no *“fire separation distance”* points to reference between the two dwelling units.

Section R302.3 provides specific instructions on how to construct the separation wall:

R302.3 Two-family dwellings. *Dwelling units* in two-family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E119, UL 263 or Section 703.3 of the *Building Code of New York State*. Fire-resistance-rated floor/ceiling and wall assemblies shall extend to and be tight against the *exterior wall*, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.

Exceptions:

1. A fire-resistance rating of 1/2 hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.
2. Wall assemblies need not extend through *attic* spaces where the ceiling is protected by not less than 5/8-inch (15.9 mm) Type X gypsum board, an *attic* draft stop constructed as specified in Section R302.12.1 is provided above and along the wall assembly separating the *dwellings* and the structural framing supporting the ceiling is protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent.

This section specifically distinguishes the dwelling separation wall from the exterior walls, requiring the separation wall to extend to, and be tight against, the exterior walls. Additionally, this section makes no reference to the presence of a lot line changing the fire-resistance rating or construction of this wall.

The Uniform Code provides a minimum level of protection to all people of the state from hazards of fire and inadequate building construction. A design professional, builder, developer, contractor, or property owner may choose to voluntarily design and construct a building or structure which meets and exceeds the requirements of the Uniform Code. For example, the design of a new two-family dwelling may include an increased fire-resistance rating of the separation wall. However, this is a design choice and not a specific code requirement.

The 2021 International Residential Code (2021 IRC) added a new sentence to Section R302.3, which further supports the conclusion of this Code Interpretation, as follows: *“Such separation shall be provided regardless of whether a lot line exists between the two dwelling units or not.”* Based on the information provided during the International Code Council’s code change process, this new language was added to clarify that this is the current, and future, intent of this section of code.

This Code Interpretation is issued pursuant to Executive Law §376(4). Pursuant to Executive Law §376(4),

subsequent enforcement of the Uniform Code shall be consistent with this Code Interpretation.

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