

TOWN OF HOPKINTON
ZONING BYLAW

ARTICLE XVIII
Supplementary Regulations

~ 210-117. Minimum lot frontage and area.

- A. Any lot lawfully laid out by a plan or deed duly recorded or registered in the appropriate Registry of Deeds or Land Registry District, that complied with the minimum area and frontage requirements of this Chapter in effect at the time of such recording or registering, may be built upon for residential use notwithstanding it may not comply with the minimum lot area and minimum frontage requirements of this Chapter; provided, however, that at the time of building, such lot has an area of more than 5,000 square feet, a frontage of 50 feet or more, is in a district zoned for residential use and conforms, except as to area and frontage requirements, with all other provisions of this Chapter; and provided, further, that, at the time of adoption or amendment of this Chapter, said lot was held in ownership separate from that of adjoining land.
- B. A lot in common ownership which conforms with the minimum lot area and minimum lot frontage required in this Chapter shall not be reduced so as to become nonconforming.
- C. Lot area and width requirements shall not apply to a lot which at the time of the adoption or amendment of this Chapter cannot be made to conform to the requirements for the district in which it is located, provided that said lot has been duly recorded by plan or deed or assessed as a separate parcel before the adoption or amendment of this Chapter. Any lot on which more than one house exists at the time may be divided and sold to separate owners.

~ 210-118. Setbacks.

- A. No building need provide a greater setback or front yard than the average provided by the nearest principal buildings on the adjoining side lots. In determining such an average, a vacant lot shall be considered as though it had a building meeting the minimum setback requirements from the street line.
- B. All structures must meet the minimum setback requirements from the street line as required in this Chapter for each street abutting the lot. **[Added 5-1-1995 ATM, Art. 35]**

~ 210-119. Yards.

Required side yard and rear yard areas may be varied in the case of an irregular, narrow or shallow lot, or a lot unusual in shape or topography, upon the granting of a special permit by the Board of Appeals.

~ 210-119.1. Driveways. . [Added 5-2-2000 ATM, Art. 30]

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- A. A driveway within a wetland resource area shall be a minimum of 12 feet in width for the traveled way. The definition of "wetland resource area" shall be that contained in the Wetlands Protection Act¹ and/or the Hopkinton Wetlands Protection Bylaw

~ 210-119.2. Highway buffer. . [Added 5-2-2000 ATM, Art. 31, amended 5-7-2007 ATM, Art. 26]

On all lots which abut Interstate Routes 495 and/or 90, in every zoning district with the exception of the Rural Business and Industrial A and Industrial B Districts, there shall be a buffer adjacent to Interstate Routes 495 and 90 a minimum of 50 feet wide, measured from the edge of the highway right-of-way/property line. Buffer areas shall remain wooded, and no clearing of trees or other vegetation or the alteration of other landscape features shall be permitted. No buildings, sewage disposal systems, paved areas, athletic fields, active recreation areas or any other use which requires the clearing of trees or other vegetation or the alteration of other landscape features, with the exception of wireless communication facilities, will be permitted within the buffer area

~ 210-120. (Reserved)²

~ 210-121. Maximum heights. [Amended 5-4-1993 ATM, Art. 19; 5-5-1997 ATM, Art. 26; 5-5-2003 ATM, Art. 27]

In the RA, RB, RLF and A Districts, no structure used for residential purposes shall be erected to a height greater than 40 feet. Structures used for nonresidential purposes in said Districts shall not be erected to a height greater than 35 feet. Chimneys, spikes, towers and other projections not used for human occupancy may be constructed above the foregoing height limitations upon the grant of a special permit by the Board of Appeals; provided, however, that no wireless communications facility shall be erected except in compliance with Article XVI, Wireless Communications Facilities.

~ 210-121.1. Buffers around nonresidential uses in residential districts. [Added 5-3-1999 ATM, Art. 22]

- A. A lot which contains a nonresidential use in a Residence A, Residence B, Residence Lake Front or Agricultural District shall contain a buffer area at the perimeter of the lot. The buffer area shall consist of trees, shrubs, vegetation and topographic features sufficient to separate and/or visually screen the use from abutting properties in a residential district and shall be located on the same lot as the nonresidential use. For the purposes of this section, the following shall not be considered nonresidential uses:

- (1) Lawful and permitted accessory uses to a residential use.
- (2) Home occupation.
- (3) Home professional office.

¹Editor's Note: See MGL c. 131, ~ 40.

²Editor's Note: Former ~ 210-120, Residences in Business Districts, was repealed 5-5-2003 ATM, Art. 28.

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- (4) Home personal service.
 - (5) Home business workshop.
 - (6) Home specialty retail.
 - (7) Agriculture, horticulture, floriculture and viticulture.
 - (8) Utilities.
 - (9) Permanently restricted open space for passive recreation.
 - (10) Undeveloped open land.
- B. The buffer shall be no less than 25 feet wide in a Residence A District; 50 feet wide in a Residence B and Residence Lake Front District; and 75 feet wide in an Agricultural District. The buffer requirement shall not apply with regard to the area adjacent to the street providing the legal frontage for the lot. The buffer requirement shall not apply to nonresidential uses which are located on a lot which abuts a residential district but, rather, shall apply only to nonresidential uses which are upon premises located within a residential district.
- C. Buffer areas shall remain in their natural state. If, in the opinion of the Planning Board, the current natural state is insufficient to adequately separate and/or screen the site from abutting properties, additional trees, shrubs, plantings or fencing may be required.
- D. Activities and structures not permitted within the buffer areas include, but are not limited to: light poles and/or fixtures; parking lots; driveways; buildings; athletic playing fields; playgrounds. Pedestrian and bicycle trails may be located within buffer areas.
- E. Upon a finding by the Planning Board that a buffer of lesser width would be sufficient to screen and/or separate the use from adjacent property, the width of the buffer may be reduced. The buffer width requirement may also be reduced in the event that the lot was previously developed and used for a permitted use within the district and permanent structures were erected within the buffer area. In those circumstances, it is the intent of the Board not to waive the buffer requirement, but, rather, to provide alternative screening arrangements, such as fencing and planting where possible.

~ 210-122. Earth removal.

Earth removal shall be permitted only in accordance with Chapter 96, Earth Removal, of the Bylaws of the Town of Hopkinton, regardless of zoning district.

~ 210-123. Trailers. [Amended 3-7-1963 ATM, Art. 35]

- A. No trailer park or trailer camp shall be allowed within the borders of the town.

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B. A trailer shall not be used for dwelling purposes on any land, regardless of zoning, except as hereinafter provided: not more than one trailer may be used for dwelling purposes upon a lot of land at any one time and then only for a period not to exceed 14 days and for such further time as the Director of Municipal Inspections shall allow, not to exceed 30 days. **[Amended 3-7-1963 ATM, Art. 35]**

~ **210-124. Off-street parking. [Amended 4-14-1975 ATM, Art. 30; 4-13-1978 ATM, Art. 39; 10-10-1984 STM, Art. 20; 4-9-1985 ATM, Art. 36; 6-11-1990 ATM, Art. 28; 5-5-1997 ATM, Art. 25, 5-5-2008 ATM, Art 27 & Art 29]**

A. Parking lots shall be designed and located to provide screening from abutting properties, buildings and streets, visual relief and sun and wind interruption within the parking area and to assure safe patterns of internal circulation. Landscaping requirements shall, wherever possible, be met by the retention of existing plants and natural landforms.

B. Parking requirements.

(1) The following off-street parking requirements shall apply to the uses listed below:

Type of Use	Number of Spaces
Retail uses	4 per 1,000 square feet of gross floor area
General office, medical and dental office research and development and industrial uses [5-3-2004 ATM, Art. 29]	3 per 1,000 square feet of gross floor area
Warehouse uses	1 per 1,000 square feet of gross floor area
Restaurants and places of assembly	1 for every 2 seats plus 1 for each employee on the largest shift
Child care facility [5-3-2004 ATM, Art. 29]	1 for every 10 children of rated capacity of the facility plus 1 for each staff person on the largest shift
Nursing home [5-3-2004 ATM, Art. 29]	1 for every 2 beds plus 1 for each employee on the largest shift
Recreational uses [5-3-2004 ATM, Art. 29]	1 for every 5 occupants as permitted by State Building Code
Residential component of mixed use buildings [5-3-2004 ATM, Art. 29]	1 for every bedroom

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Bed & breakfast [5-5-2008 ATM, ART 29]	1 space for each unit available for occupancy
Conference center [5-5-2008 ATM, ART 29]	2 spaces for every 3 seats
Medical center [5-5-2008 ATM, ART 29]	3 spaces per 1,000 square feet of gross floor area
Museums [5-5-2008 ATM, ART 29]	2 spaces per 1,000 square feet of gross floor area of public floor area, not including corridors and other service areas

Where a use is not specifically referred to in this paragraph, the requirements for the most nearly comparable use specified above shall apply. In the case of mixed uses on a single lot, the parking requirement shall be the sum of the requirements calculated separately for each area of use, unless a special permit has been issued by the Planning Board pursuant to Section C.[**Amended 5-4-2004 ATM, Art. 29, 5-5-2008 ATM, Art. 27**]

- (2) Each parking space shall consist of a rectangle of not less than nine feet by 18 feet, except that in parking lots containing more than 50 parking spaces, 20% of such parking spaces may be for small car use. Small-car parking spaces shall consist of a rectangle not less than nine feet by 16 feet. Said small-car spaces shall be grouped in one or more contiguous areas and shall be identified by signs. [**5-3-1999 ATM, Art. 19**]
- (3) Maneuvering aisles within parking lots and access driveways from the street to parking lots shall not be less than 24 feet in width. If the access driveway will be one-way, a narrower dimension may be proposed, subject to approval of the Planning Board.
- (4) As part of the site plan approval process, the Planning Board may allow fewer parking spaces than are required by this Chapter for a use to be constructed, provided that the spaces to be unconstructed shall be delineated on the site plan and indicated as future parking spaces. All or part of said spaces shall be constructed if so required by the Board at a future date or may be constructed by the property owner/tenant at any time without prior Board approval.

C. Shared and Off-Site Parking [**Added 5-5-2008 ATM, Art. 27**]

(1) The parking required by the uses located on a lot shall be provided on that lot, unless a special permit has been issued by the Planning Board. The Planning Board may issue a special permit to:

(a) Reduce the required number of parking spaces when there will be mixed uses on a lot by activities having clearly different peak demand times;

(b) Locate some required parking spaces on a separate lot under an agreement between property owners; and

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(c) Locate some required parking spaces in a separate shared parking lot under an agreement between property owners, when the parking lot is shared by mixed uses having clearly different peak demand times.

(2) Before granting the special permit, the Planning Board shall determine that the provision of parking spaces proposed will be in harmony with the general purpose and intent of this chapter and adequate for all parking needs, and that all parking spaces associated with a use are within practical walking distance. The Planning Board may issue the special permit with conditions, which may include, but not be limited to, the following:

(a) A requirement that shared and off-site parking arrangements between property owners be formalized in an instrument that runs with the land and is recorded at the Registry of Deeds;

(b) That adequate space is set aside on the lot to construct additional parking spaces in the future should the mix of uses and peak demand times change and require additional parking.

D. Landscaping and screening requirements. [**Amended 5-5-2008 ATM, Art. 27**]

- (1) Parking lots shall contain a planting area a minimum of five feet wide around the entire perimeter of the lot. Exceptions may be made in cases where the perimeter of the lot does not abut adjacent property, subject to the approval of the Planning Board.
- (2) Parking lots shall contain around the perimeter and in the interior at least one tree per eight parking spaces.
- (3) Trees shall be planted around the entire perimeter of the parking lot where appropriate, such as adjacent to abutting property and streets.
- (4) Trees to be planted shall be a minimum of 2 1/2 inches in caliper six feet above grade, be of a species common in the area, tolerant of future site conditions and reach an ultimate height of at least 30 feet.
- (5) At least 5% of the interior of any parking lot having 25 or more spaces shall be maintained with landscaping, including trees, in planting areas of at least four feet in width.
- (6) The portion of any parking lot which abuts a residential district or use shall be screened from such residential district or use by plant materials characterized by dense growth, or a combination of such plant materials, natural landforms and trees, which will form an effective year-round screen. Screening shall be at least five feet in height. Plant materials when planted may be less than five feet in height but not less than three feet in height if of a species or variety which shall attain the required height and width within three years of planting.
- (7) The portion of any parking lot which abuts a public way shall be adequately buffered from such public way by plant materials characterized by dense growth or a combination of such plant materials, trees, natural landforms and other landscape features, such as stone walls. Plant materials may be required to be at least five feet in height. Plant materials when planted may be less than five feet in

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height but not less than three feet in height if of a species or variety which shall attain the required height and width within three years of planting.

~ 210-125. Conversions of residential property. [Amended 4-9-1991 ATM, Art. 25, 5-7-2007 ATM, Art 26]

The conversion of any house for rental purposes to accommodate not more than four families or units may be undertaken in any zoning district except an Industrial A (IA) or Industrial B (IB) District upon grant of a special permit by the Board of Appeals, provided that the exterior is not materially altered and provided that each dwelling unit so created contains a floor area of at least 600 square feet. Two parking spaces shall be provided on the site for each dwelling unit.

~ 210-126. Accessory family dwelling unit. [Added 5-4-1993 ATM, Art. 20]

- A. The intent and the purpose of this section is to permit accessory dwelling units in single-family residential districts subject to the standards and procedures hereinafter set forth. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the accessory unit remains subordinate to the principal living quarters.
- B. Restrictions. A special permit may be granted by the Zoning Board of Appeals for the conversion of an existing or new single-family dwelling to accommodate an additional family living unit by the installation of a common wall or the partitioning of or extension of existing living space.
- C. Use limitations. Such additional family living unit shall at the discretion of the Zoning Board of Appeals accommodate up to a maximum of three persons, provided that the owner of record of the structure is a resident of the structure which includes the accessory family dwelling unit. The existing unit shall accommodate an additional family unit only if a) a member of the additional family is related by blood, marriage or adoption to the owner of the premises; or b) a member of the additional family is 60 years of age or older. There shall be no other living unit on the lot upon which such accessory unit is to be located.
- D. Disposal of sewage. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of such accessory unit in accordance with the requirements of the Board of Health. Such determination shall be made prior to the application for a special permit, and evidence of same shall be included with such application.
- E. Ingress, egress, access. Adequate provision, as determined by the Director of Municipal Inspections, shall be provided for separate ingress and egress to the outside of each unit. To the extent possible, exterior passageways and accessways shall not detract from the single-family appearance of the dwelling. An interior doorway shall be provided between each dwelling unit as a means of access for purposes of supervision and emergency response. All stairways to additional stories shall be enclosed within the exterior walls of the structure.

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- F. Documentation. The Zoning Board of Appeals must determine that such conversion, new construction and occupancy of each unit shall meet the requirements of ~ 210-152 of this Chapter.
- G. Area limitation. Such accessory unit shall be limited to a maximum of 800 square feet in floor area. [**Amended 5-2-2000 ATM, Art. 28**]
- H. Plans. Floor plans of the accessory unit and principal residence and a certified site plan showing the dwelling unit on the lot and its relationship to other structures and premises within 200 feet of the lot shall be filed with the application for a special permit.
- I. Parking. Provisions for off-street parking of residents and guests of both units shall be provided in such a fashion as is consistent with the character of the neighborhood, as determined by the Zoning Board of Appeals, which shall seek advice from the Director of Municipal Inspections.
- J. Special permit. No building permit shall be issued in accordance with the special permit issued under this section until the special permit has been recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Director of Municipal Inspections.
- K. Occupancy permit; control. No occupancy of the additional dwelling unit shall take place without an occupancy permit issued by the Director of Municipal Inspections. The initial occupancy permit shall remain in force for a period of two years from the date of issue, provided that ownership of the premises is not changed. Thereafter, permits may be issued by the Director of Municipal Inspections for succeeding two-year periods, provided that the structure and use continue to comply with the relevant provisions of the State Building Code, this Chapter and the special permit. Occupancy permits shall not be transferable upon change in ownership or change in occupancy. In such event, an affidavit shall be presented to the Director of Municipal Inspections attesting to the fact that the circumstances under which an occupancy permit was granted will in the future continue to exist. The owner of record is responsible for initiating each application to the Director of Municipal Inspections. Appropriate fees, as established and recorded, may be assessed for each such renewal review, investigation and processing. All documentation presented hereunder must be in form and content satisfactory to the Director of Municipal Inspections.
- L. Definition. Accessory family dwelling unit shall mean a dwelling unit contained within or being an extension of a single-family structure to accommodate an additional family only if a member of the additional family is related by blood, marriage or adoption to the owner of the premises, or a member of the additional family is 60 years of age or older. [**Amended 5-5-2003 ATM, Art. 26**]

~ 210-126.1. Residential subdivisions of 10 acres or more. [Added 5-2-2000 ATM, Art. 33]

- A. Purpose. The purpose of this section is to preserve the natural and cultural resources of the Town by insuring that development of land for residential use does not consume all or a significant portion of the town's woodlands, fields, farmlands, historic structures and

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landscapes, cart paths, stone walls, geologic formations, watercourses, wetlands, riparian zones, groundwater recharge areas, hilltops, scenic vistas, areas of critical environmental concern, vernal pools and other significant open spaces, and that such development is undertaken with respect for the land and the town's natural resources. It is the intent of the Town to encourage that residential development be undertaken in accordance with the provisions of the open space and landscape preservation development section of this Chapter when residential development is to occur.³

- B. **Applicability.** Any parcel or parcels of land which, individually, or, if in common ownership with a contiguous parcel or parcels on the effective date of this section, together contain 10 acres or more, shall be subject to the provisions of this section. The development for residential purposes by the subdivision of land as defined in MGL c. 41, ~ 81L, of any parcel or parcels of land owned individually or under common ownership which comprises 10 acres or more and the development of which occurs within any five-year period shall be considered a residential subdivision of 10 acres or more. For purposes of calculating the size of the parcel or parcels, the area comprising new lots and road rights-of-way shall be included. **[Amended 5-7-2007, Art. 30]**
- C. **Regulations.**
- (1) No residential subdivision of 10 acres or more shall be permitted except after application and approval pursuant to Article XVII, Open Space and Landscape Preservation Development (OSLPD) of this Chapter.
 - (2) After application for approval of a residential subdivision of 10 acres or more pursuant to the OSLPD, the Planning Board shall determine whether the proposal complies with the requirements and criteria of that article. If the Board issues a special permit for an OSLPD concept plan, any subsequent subdivision of the affected parcel shall be conducted in accordance with Article XVII, OSLPD. If the Board does not find that the plan meets the requirements and criteria of Article XVII, OSLPD, the applicant may in that event determine whether to pursue development under the OSLPD by revising the plan to meet the requirements and criteria of the OSLPD or by proposing a conventional subdivision.
 - (3) In making the determination as to whether development must proceed pursuant to Article XVII, OSLPD, or pursuant to the procedures governing conventional subdivisions, the Planning Board shall evaluate both plans and proposals and select the development method which most closely incorporates the purpose, criteria and requirements of Article XVII, OSLPD, and satisfies, to the greatest extent possible, the purpose of this section.

~ 210-126.2. Duplexes. [Added 5-6-2002 ATM, Art. 34]

- A. The intent and purpose of this section is to permit duplexes in the Residence A, Residence B, and Agricultural Zoning Districts subject to the standards and procedures hereinafter set forth, in order that a range of housing options affordable to all citizens be

³Editor's Note: See Art. XVII, Open Space and Landscape Preservation Development.

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available in the Town. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the duplex is designed to enhance and not detract from the appearance and amenities in the surrounding neighborhood.

B. Restrictions.

- (1) A special permit may be granted by the Zoning Board of Appeals for the construction of a new duplex.
- (2) The Zoning Board of Appeals shall not grant a special permit if, at the time of application, the number of two-family dwelling units, including, without limitation, duplexes, two-family houses, and buildings containing accessory family dwelling units in Hopkinton is equal to or more than 5% of the total number of dwelling units in Hopkinton.
- (3) There shall be no more than one duplex per lot.
- (4) At least one of the duplex units on a lot shall be set aside as permanently affordable and will count toward the 10% statutory goal (c. 40B, ~ 20) for affordable housing.

C. Use limitations. There shall be no other living units on the lot upon which a duplex is to be located.

D. Disposal of sewage. Adequate provision shall be made for the disposal of sewage and waste generated by the duplex in accordance with the requirements of the Board of Health and/or the Department of Public Works. Such determination shall be made prior to the application for a special permit, and evidence of same shall be included with such application.

E. Storm water management. Adequate provision shall be made for the proper management of storm water runoff from the lot. Evidence of same shall be included with the above application.

F. Dimensional requirements. Each lot on which a duplex is proposed shall comply with the following dimensional requirements:

Residence A District: All requirements set forth in ~ 210-8, Residence B (RB) District.

Residence B District: All requirements set forth in ~ 210-8, Residence B (RB) District.

Agricultural District: All requirements set forth in ~ 210-14, Agricultural (A) District.

G. Ingress, egress, access. Adequate provision, as determined by the Director of Municipal Inspections, shall be provided for separate ingress from and egress to the outside of each unit.

H. Documentation. The Zoning Board of Appeals must determine that the construction and occupancy of each duplex unit shall meet the requirements of ~ 210-152 of this chapter.

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- I. Area limitation. No duplex unit shall exceed a maximum of 1,800 square feet in floor area. Such area shall not include attached or detached garages, attics, or basements. After construction of an approved duplex: in the event that any proposed addition or alteration to any building on the lot will result in any change to the exterior of the building which will be visible from other lots or roadways, and a building permit for such addition or alteration is required, the following procedures must be complied with:
- (1) If the proposed addition or alteration will result in no increase in floor area, the applicant must submit a plan to the Design Review Board for review and recommendation prior to the issuance of a building permit;
 - (2) If the proposed addition or alteration will result in an increase in floor area, the applicant must submit an application to the Zoning Board of Appeals to modify the special permit.
- J. Plans. Floor plans, elevation drawings of each side of any proposed building, and a certified site plan showing the proposed buildings on the lot and their relationship to other structures and premises within 200 feet of the lot shall be filed with the application for a special permit.
- K. Parking. Provisions for off-street parking of residents and guests of both units shall be provided in such a manner as is consistent with the character of the neighborhood, as determined by the Zoning Board of Appeals. The Zoning Board of Appeals shall seek the advice of the Director of Municipal Inspections and the Design Review Board in such review. In no case shall the number of parking spaces on the lot be less than two per unit, including spaces inside garages. Unless the Zoning Board of Appeals specifically waives the following requirement, the duplex shall be served with two separate driveways, one for each unit.
- L. Design review. The Zoning Board of Appeals shall forward a copy of the submission materials to the Design Review Board for review and recommendation. The Design Review Board shall review the exterior design of the proposed buildings, parking, driveways, and landscaping and screening, to determine whether the proposed lot development will be compatible with and not detract from the surrounding neighborhood. Such review shall include consideration of the design guidelines adopted pursuant to ~ 210-145 of this chapter.
- M. Special permit. No building permit shall be issued in accordance with the special permit issued under this section until the special permit has been recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Director of Municipal Inspections.
- N. Separate conveyance. The ownership of each duplex unit may be conveyed or otherwise transferred separately from the other unit. The lot on which the duplex is located shall be held in common ownership. Documents describing the proposed form of ownership and maintenance agreements shall be submitted to the Zoning Board of Appeals for its review and approval with the application.

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- O. Definition. A duplex is a building which is situated on a single lot and contains two dwelling units which share a common wall or ceiling/floor but are entirely and permanently separated from each other by an unpierced wall extending from the ground to the roof or an unpierced ceiling/floor extending to all exterior walls, except that the building may have a common stairwell exterior to both dwelling units.
- P. Special provisions for low- or moderate-income units.
- (1) In order to facilitate the creation of affordable housing units in Hopkinton which will count toward the 10% statutory goal (MGL c. 40B, ~ 20), all applicants for a special permit for one or both duplex units to be occupied by a low- or moderate-income family shall be furnished with copies of the regulations and guidelines of the Massachusetts Department of Housing and Community Development for approval of such unit as an affordable housing unit for purposes of the statutory goal. Such regulations and guidelines shall include those of the Local Initiative Program and any other program designed to promote the creation of certifiable affordable housing units. Prior to issuance of a special permit for a low- or moderate-income unit which is to be occupied and maintained in accordance with any such program, the Board of Selectmen shall make application to the Department of Housing and Community Development for certification of the unit as an affordable housing unit includable in the Town's inventory of low- and moderate-income housing for the purposes of MGL c. 40B. In the event such application is not approved the special permit shall not be issued. The affordable units shall contain deed restrictions which require that the unit remain affordable in perpetuity. The Zoning Board of Appeals may impose permit conditions to ensure that the unit remains affordable, including conditions relating to long-term monitoring and rights of first refusal.
 - (2) No building permit shall be issued until certification has been received by the Town of Hopkinton that at least one of the units shall constitute an affordable unit pursuant to MGL c. 40B.
 - (3) In the event that such certification is not received, the units shall not be constructed.