

## Chapter 18.46

### EXCEPTIONS FOR ATTICS

#### Sections:

- 18.46.010 Purpose and intent.
- 18.46.020 Applicability.
- 18.46.030 Review and approval procedures.
- 18.46.040 Prior conditions not applicable.

*Chapter 18.46 formerly titled Exceptions to Basements and Attics repealed (Ord. 696, 2019).*

18.46.010 Purpose and intent. The purpose of this chapter is to provide relief from the strict application of the development standards specified in this title to allow attic areas to be used as storage or habitable space where the improvement will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Ord. 696 (part), 2019; Ord. 624 (part), 2011).

18.46.020 Applicability. The town council may grant an exception to setback, story, lot coverage, floor area and building height requirements for improvement of an attic in an existing residential structure created prior to the effective date of this chapter in any single-family residence district or special building site district. The town council may grant an exception under this chapter for improvements to a nonconforming structure. Any addition intended to be used as a second unit shall comply with the provisions of Chapter 18.42 (Residential Second Units). (Ord. 696 (part), 2019; Ord. 624 (part), 2011).

18.46.030 Review and approval procedures. (a) Application. An application for an exception shall be filed with the town planner on forms prescribed by the town planner, along with any plans or additional information required and the fee as established by a resolution of the town council. The application shall include, in part, evidence supporting the findings required by this chapter.

(b) Review and Approval Authority. The town council shall review and approve, conditionally approve, or deny an exception application at a public meeting. If staff makes a preliminary determination that the required findings may be made, staff may place the application on the town council consent agenda. The Town Council, by resolution, may limit the number of applications that may be accepted per month if a finding is made that staff resources are inadequate to process the number of applications being received.

(c) The town shall mail notice of the meeting at least 10 days prior to the meeting to the property owner and all owners within 300 feet of the property that is the subject of the meeting as shown on the latest equalized assessment roll. In lieu of using the assessment roll, the Town may use records of the county assessor or tax collector which contain more recent information than the assessment roll.

(d) Required Findings. The town council may approve or conditionally approve an exception application if all of the following findings are made:

- (1) That the area to be improved is an existing area created prior to the effective date of this chapter in an existing residence built prior to the effective date of this chapter. Existing area shall not include basement space with a ceiling height less than 5.5 feet.
- (2) If the project involves improvement of an attic, that the improvements proposed shall not change the exterior appearance of the structure, for example, by addition of dormers or raising the roof ridge. However, the Town Council may approve minor changes to the exterior appearance of an attic, such as the addition of windows or skylights, if they will not create view, light or privacy issues for neighbors.
- (3) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.
- (4) The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and may require additional parking up to the following:

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces
Over 3,300 square feet	4 spaces

- (5) That the project shall comply with the most recent California Residential Code adopted by the Town.
- (6) The project substantially conforms to design review criteria and standards in Section 18.41.100, even if design review is not required.

(e) Terms and Conditions. Any exception approval may include such terms and conditions as deemed necessary or appropriate by the town planner and town council to affect the purposes of this title. The following conditions shall apply to all projects:

- (1) Floor area exempted under this chapter shall not be traded off for non-attic floor area.
- (2) Project construction shall comply with the most recent Construction Mitigation Measures adopted by the Bay Area Air Quality Management District and grading activities shall include Best Management Practices (BMPs) designed to limit potential erosion.
- (3) As provided in Title 15, Section 15.50.060, no building permit shall be issued within nine months of final inspection or expiration of an antecedent building permit.

(f) Any exception request that does not comply with the prescribed limitations set forth in this chapter shall require a variance, pursuant to Chapter 18.48. (Ord. 696 (part), 2019; Ord. 674, 2016; Ord. 645, 2013; Ord. 636 (part), 2012; Ord. 624 (part), 2011).

18.46.040 Prior conditions not applicable. This chapter supersedes any town council

conditions limiting improvement of attic and basement areas imposed prior to the effective date of this section. (Ord. 696 (part), 2019; Ord. 636 (part), 2012).