



Item No. 6 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

**FROM: STEPHANIE B. DAVIS, AICP PRINCIPAL PLANNER
SALLY BENTZ-DALTON, TOWN ARBORIST**

DATE: JANUARY 13, 2021

SUBJECT: DISCUSSION OF THE TOWN'S MUNICIPAL CODE REGULATIONS REGARDING LANDSCAPE SCREENING AND POSSIBLE MUNICIPAL CODE AMENDMENTS RELATIVE TO LANDSCAPE SCREENING FOR HILLSIDE LOTS OR OTHER SOLUTIONS.

RECOMMENDATION

It is recommended that the City Council receive a report from staff on the Town's Municipal Code regulations regarding landscape screening, possible Municipal Code amendments relative to landscape screening for hillside lots or other solutions and provide direction to staff.

BACKGROUND

In late 2019, it was noted to staff and a few Council members that some community concern had been expressed on the visual impact of newly constructed detached accessory structures and/or buildings on sloped lots and the resulting impact they could have to neighboring properties situated at lower elevations, since generally these detached buildings are only required to maintain a 10-foot setback from rear and side property lines. For example, while a building may be constructed on a hillside which meets all setback and height regulations, because it is built on a slope, the visual appearance of the building may be greater to a down-sloped neighbor looking "up" at the building. Staff is seeking Council direction on the topic before developing any proposed Municipal Code amendments.

ANALYSIS

Existing Regulations

Chapter 17.50 "Landscape Screening" (Attachment 1) of the Atherton Municipal Code (AMC) governs landscape screening requirements for new and/or additions to buildings and/structures with the purpose to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree by requiring landscape screening. It does not require landscape screening in the front of homes, only along the sides and the rear, does not distinguish the specific type/species of plantings, and is assessed on a discretionary,

case-by-case basis by the Town Arborist. The Town Arborist assesses each property, and its neighbors, existing physical condition(s) in reviewing for compliance of a landscape screening plan. While the specific species type of plantings/trees is not specified by the AMC, the Code does require they be of adequate size and spacing, with trees being a minimum of 24-inch box size and shrubs being a minimum of 15 gallon in size, and that such selected plantings will adequately screen within a period of five (5) years from date of issuance of building permit. There is no language distinguishing guidelines or specific requirements for plantings on hillside lots. The Town Arborist has also noted receiving complaints from residents on the aesthetic impacts of neighboring accessory buildings/structures and the inability of shrubs and trees to adequately screen from their properties.

Allowable development regulations for detached accessory buildings/structures are governed by Chapter 17.40 “Accessory Buildings and Structures” and Chapter 17.42 “Building Height and Measurement” of the AMC. Generally, such buildings/structures have the following setback requirements for a standard (non-corner) lot; 10 feet from side and rear property lines, and 120 feet from the front property line or 30 feet behind the front line of the main residence, whichever is less. Accessory buildings/structures have a maximum overall height of 15 feet, maximum sidewall height of 11 feet, with both measurements taken from Average Natural Grade (ANG). ANG is defined as, “...the average elevation of the natural grade ... along the perimeter of the building prior to any cut and fill.” So, on a hillside lot, depending on the amount and percentage of slope, the resulting ANG may result in an overall building height that may appear taller than 15 feet when viewed at a lower elevation. There are no development standards distinguishing guidelines or specific requirements for setbacks or height on hillside lots.

Section 17.52.040-M imposes screening requirements for Accessory Dwelling Units. State law prevents the Town from requiring the same landscape screening applicable to other types of accessory structures where such screening requirements would prevent property owners from developing an Accessory Dwelling Unit in accordance with the state-mandated setback requirements. Instead, Accessory Dwelling Units are required to install screening to the greatest extent possible.

Possible Areas of Evaluation

The Council may wish to consider ways to evaluate the AMC, or other regulations addressing the potential impact the construction of new detached buildings and/or structures can potentially have to neighboring properties at different topographic elevations with the purpose of trying to identify possible mitigating solutions.

Existing regulations and applicability of the Landscape Screening Ordinance could be evaluated to provide greater detail and specificity to detached accessory buildings and/or structures to further its purpose. However, it is the opinion of the Town Arborist that limiting amendments to the Landscape Screening Ordinance itself may not provide the most complete solution to address the issue due to the following reasons:

- A 10-foot setback may not be a sufficient enough distance to accommodate larger sized trees to grow and adequately screen a detached accessory building/structures on a hillside lot. Larger size trees upon planting, typically grow at the same rate as smaller size trees, and are

much more costly both in their purchase price and increased labor plus equipment (i.e. crane) required to plant them.

- Bushes provide better screening mechanisms than trees, since trees have trunks, the bottom part of the tree does not provide screening. Thus, larger size trees may not adequately screen a detached accessory building/structure on a hillside lot, as trees do not typically provide the best screens. Further, the largest bushes available for purchase from nurseries is typically 24-inch box size

Other areas of the Municipal Code which could be evaluated; including zoning development standards, such as setbacks and/or height, which take into account buildings/structures on sloped lots. This approach could necessitate creating a definition of a “hillside lot” or development of other specific criteria defining applicability of any such proposed regulations to specific lot types. If generally applied, the requirements may not reasonably capture specific, individual physical conditions of each lot it could impact. Future proposed amendments could consider greater setbacks and/or amended height measurement regulations for accessory buildings/structures on any (defined) hillside lot and may be best implemented, if combined with consideration of relevant regulations of the Landscape Screening Ordinance together, could be most appropriate to address the concerns raised on adequate screening on hillside lots.

Other areas of the Municipal Code or otherwise as directed by the City Council.

POLICY FOCUS

It is the purpose of the Landscape Screening Ordinance “...to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree by requiring landscape screening where appropriate”. Consideration of amendments to the Landscape Screening or Ordinances of the AMC specific to attempting to mitigate aesthetic impacts of detached buildings and structures to neighboring properties on hillside lots can be found to support the following adopted General Plan goals:

- Land Use Goal 1.210: To preserve the Town’s character as a scenic, rural, thickly wooded residential area with abundant open space.
- Land Use Goal 1.223: To retain the high quality of maintenance and living environment existing in the Town’s residential neighborhoods.

This item has not been reviewed by the Town’s Planning Commission. It may be appropriate for the Council to specifically task the Planning Commission with studying the issue and gathering public input.

FISCAL IMPACT

The cost to potentially further study the topic would be included within the annual Planning Department budget.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically.. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item X has or has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

ATTACHMENT

1. Chapter 17.50 “Landscape Screening”
2. Chapter 17.40 “Accessory Buildings and Structures”
3. Chapter 17.42 “Building Height and Measurement”

Chapter 17.50 LANDSCAPE SCREENING

Sections:

17.50.010 Purpose.

17.50.020 Applicability.

17.50.030 General Requirements.

17.50.040 Maintenance.

17.50.050 Continued Landscaping.

17.50.060 Installation Requirements.

17.50.070 Plant Coverage and Tree Sizes.

17.50.080 Protection of Heritage Trees.

17.50.090 Violation.

17.50.100 Appeals.

17.50.010 Purpose.

The purposes of this chapter are to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree by requiring landscape screening where appropriate. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.020 Applicability.

The requirements of this chapter shall apply to the following projects:

A. New construction that exceeds eighteen feet above grade; or

B. New construction of an accessory structure or alteration to an existing accessory structure that is more than six feet above grade and is less than twenty-five feet from a property line; or

C. New construction of an accessory structure or alteration to an existing accessory structure that is ten feet above grade and less than thirty-five feet from a property line.

In the case of additions to existing structures, only those areas adjoining each addition that meet the above criteria are required to be landscape screened. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.030 General Requirements.

The following general landscape requirements apply to all residential and nonresidential property within the town:

A. All front, side, and rear yards shall be landscape screened as described in this chapter. Front yards contiguous to a street shall not require landscape screening.

B. Plantings shall be provided by the owners and located to reduce the visual impact of structures. Planting with appropriate trees and plants shall be used where necessary to provide privacy. Landscaping on adjacent properties may be taken into consideration.

C. The provisions contained in this chapter are intended to be minimum standards and shall not preclude application of additional requirements where, in the opinion of the town arborist, such additional requirements are necessary to attain the purposes of this chapter and to attain compatibility with the general plan and the goals and policies of the town. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.040 Maintenance.

All landscape screening areas shall be maintained reasonably free of weeds, litter, and debris. All required planting shall be maintained in a healthy growing condition and, whenever necessary, replaced with plant materials approved by the town arborist to provide continued conformance with approved plans. All new screening plantings shall be provided with a water-efficient automatic irrigation system to be installed at the time of planting. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.050 Continued Landscaping.

A landscape screening agreement shall be signed by the applicant and shall be submitted to the town before any planning or building application is deemed complete. The purpose of this agreement is to ensure that the landscaping will not be removed at a future date, resulting in a loss of privacy and landscape screening. At no time shall the landscape screening plan be modified or amended in a manner not consistent with the approved plan without prior approval of the town arborist. The intent is to maintain continued landscape screening of property consistent with the objectives of this chapter. Failure to comply with this requirement without first receiving authorization from the town arborist may result in an administrative penalty and fine as established by the city council. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.060 Installation Requirements.

Prior to the final inspection or issuance of a certificate of occupancy (unless delay is authorized by the building official) all required landscape screening shall be installed in conformance with the approved plans. In the case of phased building construction, the town building official may permit phased installation of landscape screening. If the required landscaping is not installed prior to the final inspection, then a minimum five thousand dollar deposit and an agreement in writing, approved as to form by the city attorney, stating that all required landscaping shall be installed within six months, shall be executed by the applicant and submitted to the town before approval of the final inspection or issuance of the certificate of occupancy. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.070 Plant Coverage and Tree Sizes.

Plantings shall be sized to adequately screen the proposed structure within a period of five years from the date of issuance of a building permit. The following shall constitute minimum standards for plant coverage and tree sizes:

A. Adequacy of Screening. All plantings shall be of adequate size and spacing to ensure compliance with the screening requirements. A site inspection shall be conducted after a completed landscape screening application has been submitted. It shall be at the discretion of the town arborist to assess the adequacy of the proposed planting to meet the screening requirement.

B. Minimum Tree Size. All trees shall be at least twenty-four-inch box container size at the time of installation. Larger trees may be required in the sole discretion of the town arborist where deemed necessary to meet the objectives of this chapter. Fifteen-gallon trees or shrubs may be allowed at the discretion of the town arborist, when it can be shown that they will achieve the desired landscape screening requirements. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.080 Protection of Heritage Trees.

Every reasonable effort shall be made to protect heritage trees during the course of construction. Compliance with chapter [8.10](#) (Removal of and Damage to Heritage Trees) of the town municipal code relating to heritage trees is required. Landscape screening plans shall identify all heritage trees within the construction zone. Each application shall include a tree preservation plan to be implemented during construction. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.090 Violation.

Each violation of this chapter shall constitute a public nuisance and be subject to abatement as such. When, in the opinion of the town arborist or his or her duly authorized representative, this chapter is not being complied with, the town arborist may issue a stop work order for all construction work on the entire site. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.100 Appeals.

Any property owner applicant affected by a decision of an official hereunder may appeal such decision to the city council in accordance with the provisions of section [17.06.100](#) (Appeals) of this title. (Ord. 582 § 1 (Exh. A) (part), 2009)

The Atherton Municipal Code is current through Ordinance 646, passed October 21, 2020.

Disclaimer: The city clerk's office has the official version of the Atherton Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.atherton.ca.us/>

City Telephone: (650) 752-0529

[Code Publishing Company](#)

Division III. General Regulations

**Chapter 17.40
ACCESSORY BUILDINGS AND STRUCTURES**

Sections:

17.40.010 Purpose.

17.40.020 Definitions.

17.40.030 Permit Requirements and Exceptions.

17.40.040 General Development Standards.

17.40.050 Development Standards for Specific Types of Accessory Buildings and Structures.

17.40.010 Purpose.

The purpose of this chapter is to permit the construction or exterior alterations of accessory buildings and structures subject to regulations necessary to prevent unreasonable interference with views, light, and air, an unreasonable invasion of privacy, or adverse impacts upon the aesthetic character of neighboring residential structures. This chapter establishes a set of criteria, objectives, and procedures to be followed with respect to the review of any proposed accessory structure, or addition or alteration thereto, and to assure that the new development occurs in a manner that is consistent with the objectives of this chapter. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.40.020 Definitions.

Terms that are relevant to this chapter are defined in chapter [17.60](#) (Definitions). (Ord. 582 § 1 (Exh. A) (part), 2009)

17.40.030 Permit Requirements and Exceptions.

Unless otherwise provided below, all accessory buildings and structures shall require zoning clearance at the time of building permit review or prior to development/installation to ensure compliance with the applicable regulations of this chapter.

A. Special Structure Permit Required. The following specific structures shall require the issuance of a special structure permit from the designated approval authority (planning commission as described in Table 17.06.070-1) prior to development/installation:

1. Athletic courts that are located outside the required setback area (see section [17.40.050\(A\)](#)).

2. All inflatable covers (see section [17.40.050](#)(G)).
3. Roof-mounted antenna taller than the height limit of the structure to which it is attached. The antenna must be capable of being retracted to a height less than that allowed for the type of building on which it is mounted when it is not in use.
4. Satellite dishes larger than one meter in any dimension, either ground- or building-mounted. Note, the designated approval authority (planning commission as described in Table 17.06.070-1) shall not have the discretion to deny such permit, but shall review each application for conformity to the requirements of this chapter.
5. Arbors and trellises larger than specified in section [17.40.050](#)(B) (Development Standards for Specific Types of Accessory Structures).
6. A pool or spa, exclusive of equipment, when located outside of the area generally allowed, described in section [17.40.040](#) (General Development Standards) and figure 17.40.040-1 (General Setback Standards for Accessory Buildings and Structures for Interior Lots). See also section [17.40.050](#)(E).

B. Exempt Accessory Buildings and Structures. No zoning clearance or special structure permit is required for the following buildings and structures.

1. Accessory buildings with a floor area that is less than one hundred twenty square feet in size with no portion of the structure more than eight feet in height with the following conditions:
 - a. Structures shall not be located in a required front yard except as otherwise provided.
 - b. In order to maintain necessary fire breaks, accessory buildings shall be set back a minimum of ten feet from side and rear property lines with a minimum eight-foot separation from the main building.
2. Bridges and walkways over private ponds, creeks, and other features, when located on private property.
3. Mailboxes, flagpoles, outside lighting on poles not over three feet tall, and benches to be used for seating.
4. Driveways, walkways, patios, and other flat wood, concrete, or asphalt work or other similar materials not over six inches above grade.

5. A well, located less than six inches above grade, exclusive of tanks, controls, separator discharge plumbing, or other equipment located outside of the well casing, may be constructed in required side or front yards. In no event shall a well be closer than ten feet to any property line.
6. Seat walls not over twenty-four inches in height.
7. Antennas maintained by the town in connection with public safety activities.
8. Satellite dishes measuring not more than one meter in any dimension when attached to a building or placed on the ground and located within the buildable area for a main building or accessory building or structure.
9. Arbors and trellises, consistent with the standards of section [17.40.050\(B\)](#).
10. Driveways that also function as basketball courts.
11. Bird baths or pedestals with a shallow basin filled with water for birds to bathe in and drink from.
12. Air conditioners and emergency generators located within the buildable area of the lot and enclosed or otherwise screened to mitigate noise and comply with the town noise ordinance. The location of the equipment shall not impact existing trees. Equipment may be located next to existing buildings consistent with building code requirements. Equipment may be located underground when the size is limited to the minimum area needed for the equipment and access and working space, but may not exceed six inches above grade.
13. Fountains and artwork not over six feet in height.
14. Solar facilities are exempt from the minimum ten-foot side yard setback requirement unless the building official has determined that the placement therein will have a specific, adverse impact upon the public health or safety, as defined in State law. (Ord. 609 § 2, 2014; Ord. 582 § 1 (Exh. A) (part), 2009)

17.40.040 General Development Standards.

The following development standards/provisions apply to all accessory buildings and structures:

A. Location and Required Setbacks. Accessory buildings and structures may be located within required yard areas in compliance with the development standards in Table 17.40.040-1 (General Minimum Setback Standards for Accessory Buildings and Structures). Figure 17.40.040-1 (General

Setback Standards for Accessory Buildings and Structures for Interior Lots) illustrates where accessory buildings and structures are generally allowed.

Table 17.40.040-1

**General Minimum Setback Standards
for Accessory Buildings and
Structures**

Location	Setback
Front	120 ft., or 30 ft. behind front line of main structure, whichever is less ^{1, 2}
Side, interior	10 ft.
Side, street side	See Table 17.38.010
Rear	10 ft.
Rear, abutting street	30 ft. ^{3, 4}
Between structures and buildings	8 ft. ^{5, 6}

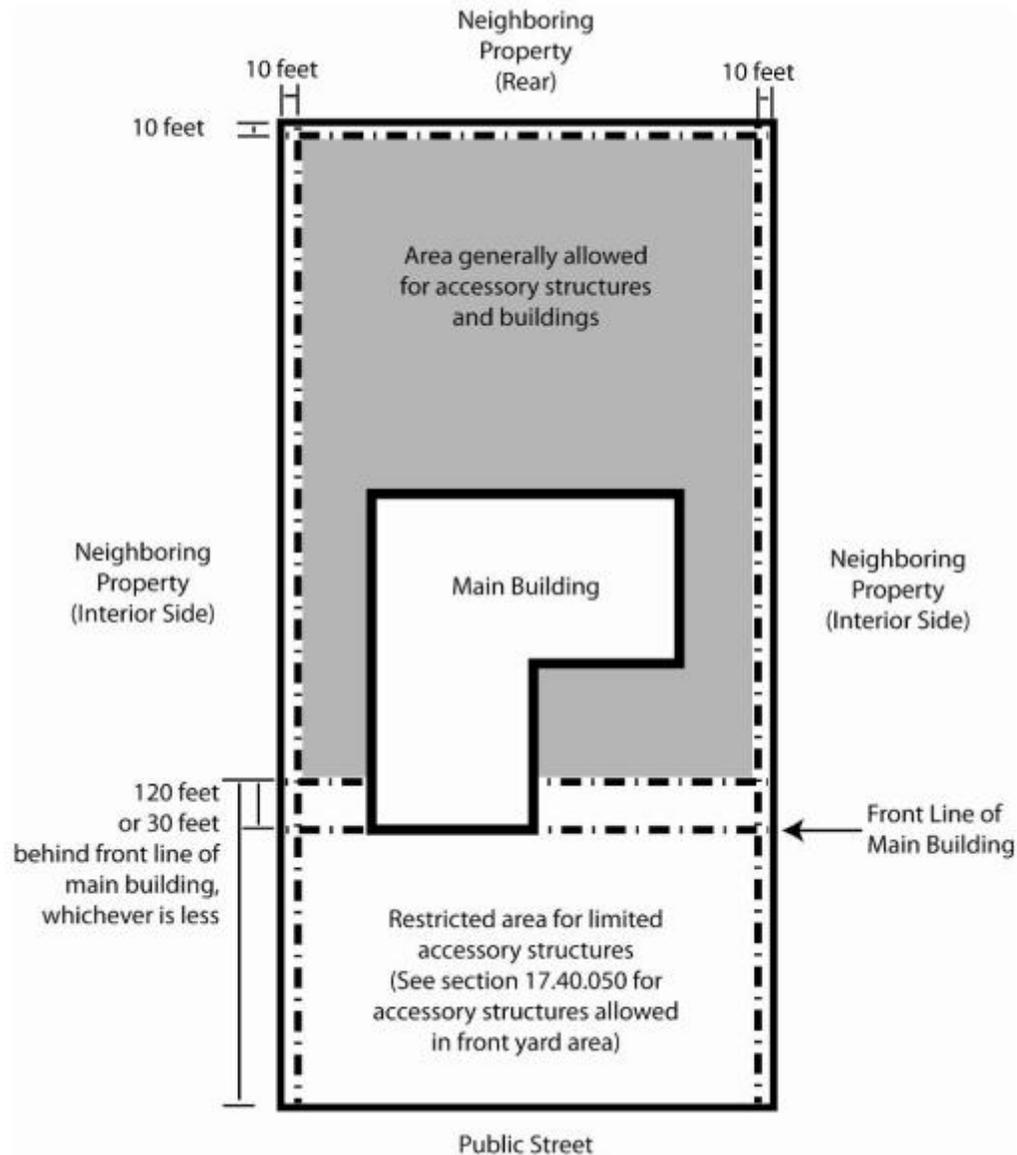
Notes:

1. See special front yard location and setback standards for athletic courts (section [17.40.050\(A\)](#)), arbors and trellises (section [17.40.050\(B\)](#)), and artwork and fountains (section [17.40.050\(H\)](#)).
2. On flag lots, the front setback for accessory buildings and structures shall be consistent with the front yard setback of the main residence upon issuance of a special structure permit.
3. For structures that are less than three feet in height, the minimum setback shall be ten feet.
4. When the rear property line abuts the town boundary, the minimum setback shall be ten feet.
5. Stables shall not be located within forty feet of any building intended or used for human habitation on the same lot, shall not be located within forty feet of any property line, and shall not be located within eighty feet of any building intended or used for human habitation on an adjoining lot.

6. In all cases, the eight-foot separation shall be maintained between the main building and accessory building(s), between the main building and accessory structure(s) and between accessory building(s) and accessory building(s). The separation between accessory building(s) and accessory structure(s) and between accessory structure(s) and accessory structure(s) shall be the minimum distance required under the California Code of Regulations as adopted by the city council.

Figure 17.40.040-1

General Setback Standards for Accessory Buildings and Structures for Interior Lots



B. Height. Unless otherwise specified, the maximum height for all accessory buildings and structures is fifteen feet or one story. Vertical sidewalls or columns shall not exceed eleven feet. No other use of structure shall be located above the first story (i.e., no roof decks, spas, etc.). See chapter [17.42](#), Building Height and Measurement.

1. Exception for vertical projections. Vertical architectural projections on accessory buildings and structures (e.g., cupolas, spires, towers) may exceed the maximum height by up to two feet, up to a maximum of seventeen feet; provided, that the footprint of the projection is not more than ten percent of the total footprint of the building. Such projections shall be a minimum of twenty feet from rear and side property lines.

C. Lot Requirements. Unless otherwise identified for specific types of structures or buildings, all accessory buildings and structures shall be constructed only in conjunction with or subsequent to the construction of a main building. An accessory structure or building may be located on a lot without a main building only if all of the following conditions exist:

1. The lot containing the accessory buildings or structure is located adjacent to a lot containing a main building;
2. Both such lots are owned by the same property owner; and
3. An agreement between the town and the property owner has been executed and recorded that provides that in the event common ownership of the two lots ceases then the accessory building or structure will be removed or made to conform to all other provisions of this title.

D. Kitchens. One kitchen may be within an approved accessory building or structure.

E. Bathrooms. There shall be no limitation on the number of bathrooms allowed in an accessory building.

F. Connecting Accessory Buildings and Structures. Accessory buildings and structures shall be detached from the main building and other accessory buildings and structures, except that:

1. An accessory building or structure may be connected to another accessory structure/building or a main building by way of a breezeway or covered walkway when the walkway is open on all sides except where connected to the structures. Examples include, but are not limited to, covered walkways connecting the primary dwelling to a detached garage or secondary dwelling. Structures must be located a minimum of eight feet from the main building. The covered walkway may have a maximum width of eight feet and the length of the walk must be a minimum of two feet longer than the width.
2. A garage shall be considered a part of the main building when it is attached and made an integral part of the dwelling and has at least one common wall of least seven feet in length.

G. Floor Area Ratio Calculation. Accessory buildings and structures shall count towards the allowed floor area ratio of the underlying zoning district as identified in section [17.32.040](#) (Development Standards for Residential District R-1A) and section [17.33.040](#) (Development Standards for Residential District R-1B), except that floor area ratio shall exclude the following:

1. Roofed areas open on two or more sides not exceeding five percent of the maximum allowed floor area for the lot plus five hundred square feet (e.g., awning, patio cover, covered walk); and
2. Structures, open on all sides, with substantially open roofs (e.g., trellis), that meet the following criteria:
 - a. No more than one side of the structure is attached to the main building and no more than one side of the structure is enclosed by small structural features (e.g., outdoor kitchens/barbeques, fire pits/fireplaces, cabinets); provided, that on the side with the structural feature at least fifty percent of the side is still open (see figure 17.40.040-2 (Attached Trellis Exempt from Floor Area Requirement)); or
 - b. No more than two sides shall be partially enclosed with small structural features (e.g., outdoor kitchens/barbeques, fire pits/ fireplaces, cabinets); provided, that at least fifty percent of both sides is still open and the other two sides are completely open.

Figure 17.40.040-2

Attached Trellis Exempt from Floor Area Requirement



H. Windows. Accessory buildings and structures may include windows and/or skylights, except that no window or skylight openings that face the side or rear property line shall be located over nine feet above the ground level.

I. Lighting. All lighting on accessory buildings and structures that are located outside of the main building area shall be shielded or downlit and shall not shine onto adjoining properties.

J. Temporary Habitation. Temporary habitation of an accessory building or structure is permitted for a period of no more than thirty days in any calendar year (consecutive or intermittent). Temporary habitation of an accessory building for more than thirty days may be permitted upon issuance of a Conditional Use Permit when the main building is vacant for remodeling or other similar purposes. (Ord. 609 § 1, 2014; Ord. 605 § 1, 2014; Ord. 582 § 1 (Exh. A) (part), 2009)

17.40.050 Development Standards for Specific Types of Accessory Buildings and Structures.

In addition to the development standards of section [17.40.040](#) (General Development Standards), the following accessory buildings and structures have special standards and regulations:

A. Athletic Courts. Any athletic court shall be considered an accessory structure and may be located in areas permissible for accessory buildings and structures. Athletic courts may also be located on other portions of the lot, where accessory buildings and structures are normally prohibited, only upon issuance of a special structure permit; however, in no event shall an athletic court be closer to any side or rear property line than specified in Table 17.40.040-1 or closer to the front property line than the minimum front yard setback line of the main dwelling. These types of facilities are intended and are to be used solely for the enjoyment of the occupants and guests of the principal use of the property on which it is located. No commercial or advertised use of the skateboard ramp/BMX tracks shall be permitted and no donations or contributions shall be solicited or received for use of or attendance at skateboard ramp/BMX track activities. Any athletic court shall be constructed or erected in accordance with the following standards:

1. No enclosure or partial enclosure for an athletic court shall be permitted within ten feet of any side or rear property line or closer to the front property line than the front setback line.
2. No enclosure or partial enclosure of an athletic court shall be permitted to exceed nine feet in height from finished grade with the exception of a basketball backboard which is a part of the enclosure.
3. Nets (with the exception of basketball goal nets) which exceed nine feet in height from finished grade shall be removed or lowered to less than nine feet in height when not in use.

4. A structure which is used as a practice board or court wall shall be constructed of a minimum six-inch-thick masonry material unless located a minimum sixty feet from any property line.

5. No artificial lighting shall be constructed to illuminate an athletic court.

6. No lighting system or light elsewhere on the property (e.g., landscape lighting, porch lighting) shall be used to illuminate an athletic court.

7. Skateboard Ramps/BMX Tracks. The ramp/track shall be of such a scale and design and constructed of materials which will minimize noise, vibration, and other nuisance factors commonly associated with usage. Portions of the ramp/track may be located below ground level, but in no case shall any portion of the ramp/track exceed three feet in height above average natural grade, excluding handrails. The ramp shall comply with all pertinent sections of the Uniform Building Code and all zoning requirements of accessory structures. No motorized vehicles shall be allowed in conjunction with the track or ramp. Grading and drainage review is required.

8. Batting Cages. No enclosure or partial enclosure of a batting cage shall be permitted to exceed nine feet in height from average natural grade. Netting and sound baffling material shall be used on the enclosure to absorb the sound. No chain link fencing or other materials that generate sound shall be utilized. If the batting cage is enclosed with walls and a roof, it shall be considered an accessory building and count towards floor area.

B. Arbors and Trellises. Arbors, trellises, and pergolas are subject to the same development standards as other accessory structures listed in section [17.40.040](#) (General Development Standards). This includes adhering to the minimum setback standards and the maximum structure height of fifteen feet and maximum sidewall height of eleven feet (e.g., columns and posts are allowed to a maximum of eleven feet and pitched roofs are allowed to a maximum of fifteen feet). However, arbors, trellises, pergolas, and other such structures may be constructed without regard to the setback requirements if conforming to all of the following:

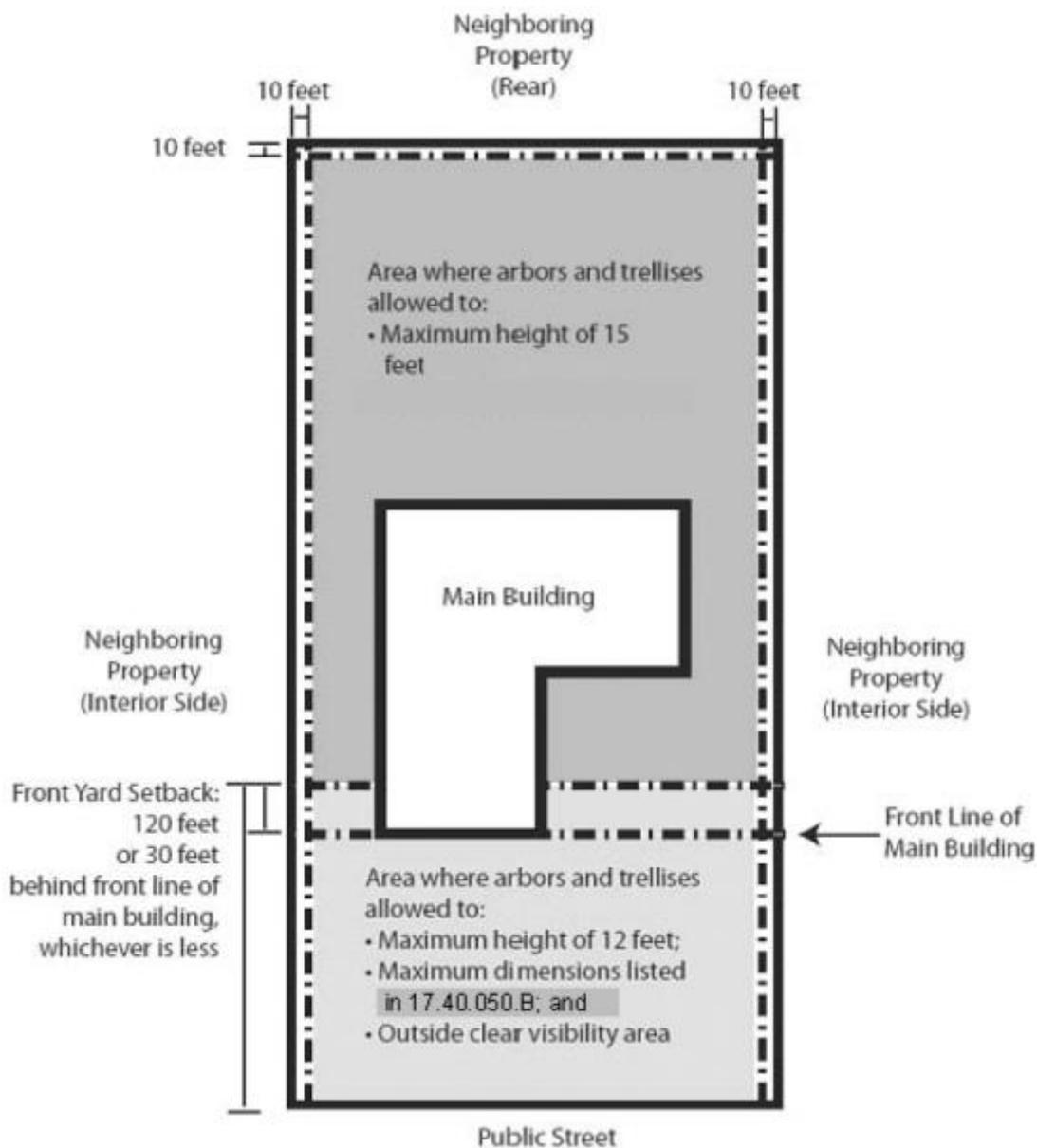
1. One or more such structures may be built in front of the required accessory structure front setback; provided, that such structures shall not exceed twelve feet in height, eight feet in width, nor a total for all such structures of eight feet in length (see figure 17.40.050-1, Setback Standards for Arbors and Trellises for Interior Lots);

2. Is not located closer than ten feet to any property line other than a public right-of-way (see figure 17.40.050-1, Setback Standards for Arbors and Trellises for Interior Lots);

3. Is substantially open to the passage of light and air in all aspects;
4. Is located outside of the clear visibility area; and
5. Is expressly for the purpose of and used for supporting vines, roses, or other vegetation (except trees and/or tree limbs).
6. Lighting shall be shielded or downlit so the source of the light is not visible from other properties.

Figure 17.40.050-1

Setback Standards for Arbors and Trellises for Interior Lots



C. Roof-Mounted Antennas. Roof-mounted antennas are only permitted when the boom and any active elements of the antenna array are not more than fifteen feet in length and meet the following conditions:

1. That the antenna be attached to a structure that conforms to this zoning code or to a conforming portion of a nonconforming structure.
2. That it be located so it is shielded insofar as practicable by the structure or landscaping from the view of adjacent property and any public street, park, facility, or right-of-way.
3. That it not exceed the height limit applicable to the structure to which it is attached, with the exception that if a special structures permit is granted so providing, an antenna with the capability of being retracted to a height less than that allowed for the type of building on which it is mounted may exceed the height limit during the actual use for transmitting and receiving.
4. Each antenna shall be constructed of low-visibility materials and shall be finished with a low-visibility, nonglare paint or other finish, consistent with its location and surroundings.
5. Roof-mounted amateur radio antennas provide an essential telecommunication service during periods of disaster and other emergency conditions and are therefore exempt from the provisions of this chapter when in compliance with the following standards:
 - a. The antenna is forty-five feet or less in height as measured from the ground to the highest point of the antenna, unless the tower is equipped with a lowering device (motorized or mechanical) capable of lowering the antenna to the maximum permitted height when not in operation, in which case the antenna must be not more than seventy-five feet in height.
 - b. The operator registers their amateur radio antenna, including type of antenna (e.g., fixed or retractable) and height, with the town.
 - c. Consistent with federal law, additional height may be permitted through issuance of a special structures permit, provided the approval authority makes a specific finding that the requested height for the amateur radio antenna is needed to enable communication between antennas.

D. Ground-Mounted Antennas. A ground-mounted antenna is only permitted when the following conditions are met:

1. That the antenna be located in the rear yard.
2. That it meets all requirements of this chapter for accessory buildings and structures.
3. That it be screened by fences, buildings, or landscaping from the view of adjacent property and any public street, park, facility, or right-of-way.
4. That it have an antenna height of not more than fifteen feet.
5. Each antenna shall be constructed of low-visibility materials and shall be finished with a low-visibility, nonglare paint or other finish, consistent with its location and surroundings.
6. Ground-mounted amateur radio antennas provide an essential telecommunication service during periods of disaster and other emergency conditions and are therefore exempt from the provisions of this chapter when in compliance with the following standards:
 - a. The antenna is not more than forty-five feet in height as measured from the ground to the top of the antenna, unless the tower is equipped with a lowering device (motorized or mechanical) capable of lowering the antenna to the maximum permitted height when not in operation, in which case the antenna must be not more than seventy-five feet in height.
 - b. All antenna structures are set back a minimum distance of ten feet from interior property lines.
 - c. All antennas are located within an enclosed fenced area or have a minimum five-foot tower shield at the tower base to prevent climbing. All active elements of antennas shall have a minimum vertical clearance of eight feet.
 - d. The operator registers their amateur radio antenna, including type of antenna (e.g., fixed or retractable) and height, with the town.
 - e. Consistent with federal law, additional height may be permitted through issuance of a special structures permit, provided the approval authority makes a specific finding that the requested height for the amateur radio antenna is needed to enable communication between antennas.

E. Pools and Spas. A pool or spa shall be located within the area generally allowed, identified in Table 17.40.040-1 (General Minimum Setback Standards for Accessory Buildings and Structures) and figure 17.40.040-1 (General Setback Standards for Accessory Buildings and Structures for Interior Lots). However, upon issuance of a special structure permit, a pool or spa may be located up to ten feet from

side and rear property lines and between the front yard setback line and the front line of the main structure.

F. Pool Equipment Operation. No pumping, filter, or similar equipment shall be operated between the hours of eight p.m. and eight a.m., and all permits for the erection of pumping, filter, or other similar equipment shall include the installation of an automatic timing device adjusted to ensure such hours of operation.

G. Inflatable Covers.

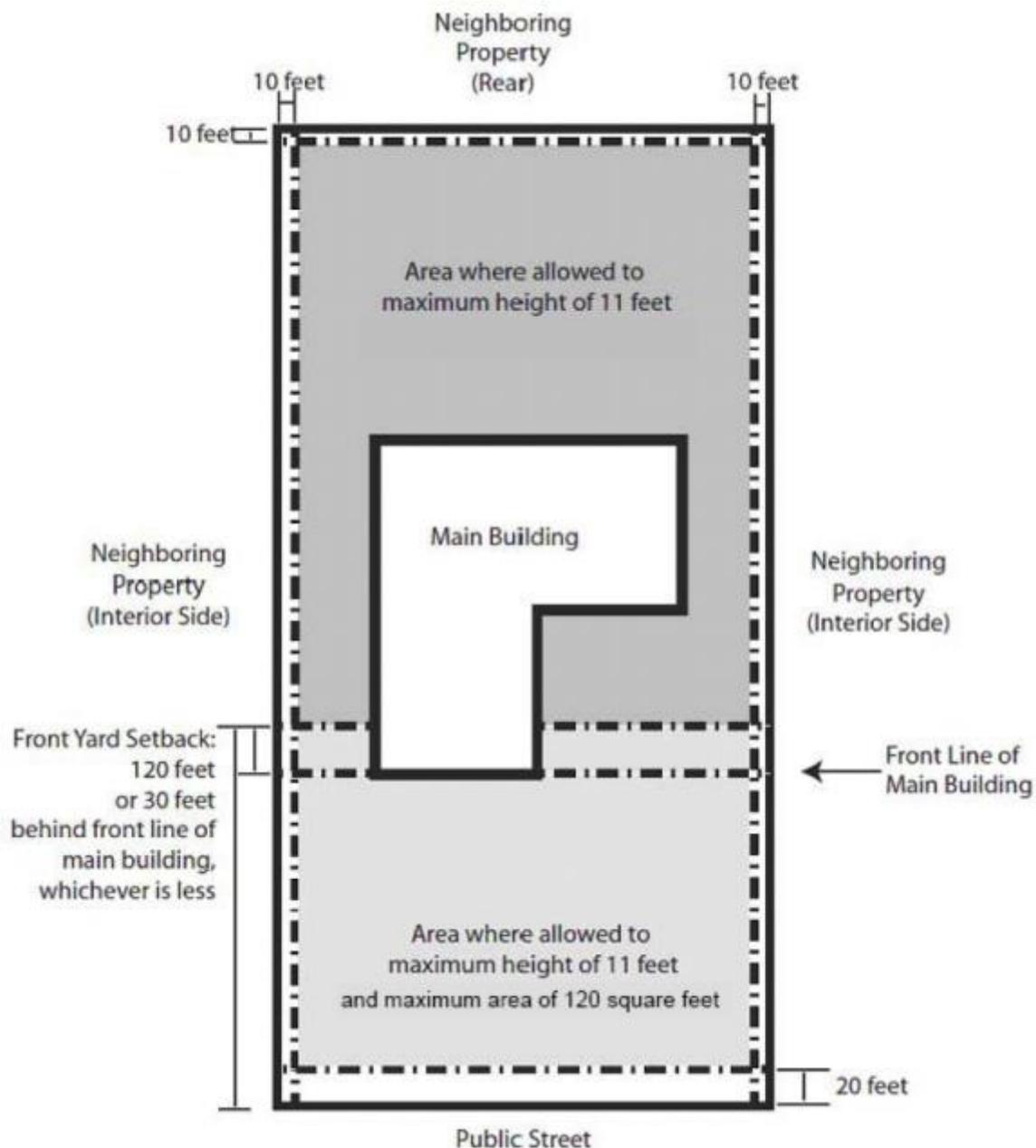
1. Screening. Inflatable covers shall be screened from public view or view from other properties.
2. Height. No inflatable cover shall exceed nine feet in height as measured from the ground.
3. The designated approval authority (the planning commission as described in Table 17.06.070-1), in approving the special structures permit, may establish time limits on the permit and other conditions as deemed appropriate by the approval authority.
4. Existing inflatable covers in use at the time of adoption of this title shall be existing nonconforming structures and may continue to be used; provided, that they are maintained in the same location and under the same ownership. (Code Effective: November 20, 2009).

H. Artwork and Fountains. Consistent with the setback requirements of Table 17.40.040-1 (General Minimum Setback Standards for Accessory Buildings and Structures), artwork and fountains are permitted in the following lot areas, consistent with specified development standards:

1. Front Yards. Artwork and fountains may be located in required front yard areas provided they are set back twenty feet from the front property line, are no taller than eleven feet in height, and are not more than one hundred twenty square feet in total area (see figure 17.40.050-2 (Setbacks for Artwork and Fountains)).
2. All Other Areas. Artwork may be located in side and rear yard areas provided they are set back from property lines consistent with Table 17.40.040-1 (General Minimum Setback Standards for Accessory Buildings and Structures) and are no taller than eleven feet in height (see figure 17.40.050-2 (Setbacks for Artwork and Fountains)).

Figure 17.40.050-2

Setbacks for Artwork and Fountains



I. Solar facilities other than pumps for water heaters not exceeding six feet in height are exempt from the minimum ten-foot side yard requirement. (Ord. 605 § 3, 2014; Ord. 582 § 1 (Exh. A) (part), 2009)

The Atherton Municipal Code is current through Ordinance 646, passed October 21, 2020.

Disclaimer: The city clerk's office has the official version of the Atherton Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.atherton.ca.us/>

City Telephone: (650) 752-0529

[Code Publishing Company](#)

Chapter 17.42

BUILDING HEIGHT AND MEASUREMENT

Sections:

17.42.010 Purpose.

17.42.020 Building Height.

17.42.030 Height Measurement.

17.42.040 Exceptions to Height Limit for Main Structures.

17.42.010 Purpose.

This chapter describes the required methods for measuring the height of structures in compliance with the height limits and exceptions as established by this zoning code. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.42.020 Building Height.

A. Except as otherwise provided in section [17.42.040](#) (Exceptions to Height Limit for Main Structures), the height of structures shall not exceed the height limit for the applicable zoning district established by division II.

B. Additional height provisions for fences and walls are listed in chapter [17.46](#) (Fences and Walls).

C. Additional height provisions for accessory buildings and structures are listed in chapter [17.40](#) (Accessory Buildings and Structures). (Ord. 582 § 1 (Exh. A) (part), 2009)

17.42.030 Height Measurement.

A. Height Measurement Generally. The allowable height shall be measured as the vertical distance at any point from the average natural grade within the building pad area to the topmost portion of the building or structure including structural framing and roof covering material. Continuous decorative roof elements, including but not limited to widow walks and railings, shall be included in the maximum building height. Height measurement shall not prohibit any portion of the building measuring fifteen feet or less in height as measured from the finished ground surface adjoining the wall (referred to as the height differential). Natural grade shall mean the original condition of the ground surface as it existed prior to mechanical grading or disturbance. Where the original condition of the ground surface cannot be determined, the town planner may approve a topographic survey of the property prepared by a registered civil engineer or licensed land surveyor indicating the approximate original condition of

the ground surface of the site as can best be determined from record and survey data. Average natural grade shall mean the average elevation of the natural grade based upon twelve points of measure along the perimeter of the building prior to any cut and fill. Each point of measure shall be located (first) at every corner of the building and (second) every thirty feet along continuous walls with lengths over fifty feet. A “corner” shall mean a change in the wall plane of thirty degrees or more. However, if a building has more than twelve corners, then each corner shall be a point of measure regardless of the twelve-point requirement. The points shall be determined by starting at the most northerly corner of the building or structure as determined by magnetic north then moving clockwise around the building or structure. The calculation of the average shall be based on the following formula:

$$\text{Elevation of point A} + \text{Elevation of point B} \dots \div \text{the number of points} = \text{Average Natural Grade}$$

See figure 17.42.030-1 (Elevation Points on a Parcel) for a representation of the elevation points located on a parcel and figure 17.42.030-2 (Height Measurements for Primary Structures).

Figure 17.42.030-1

Elevation Points on a Parcel

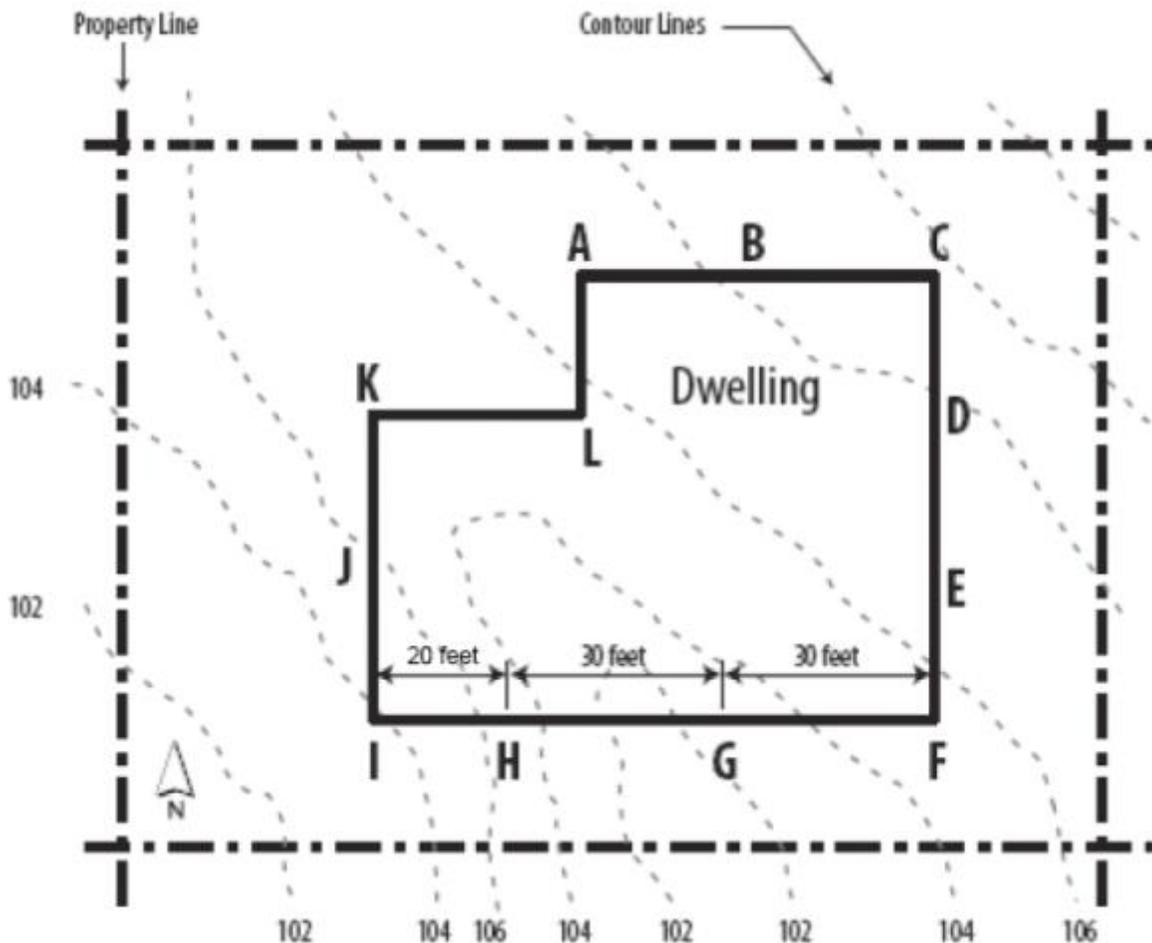
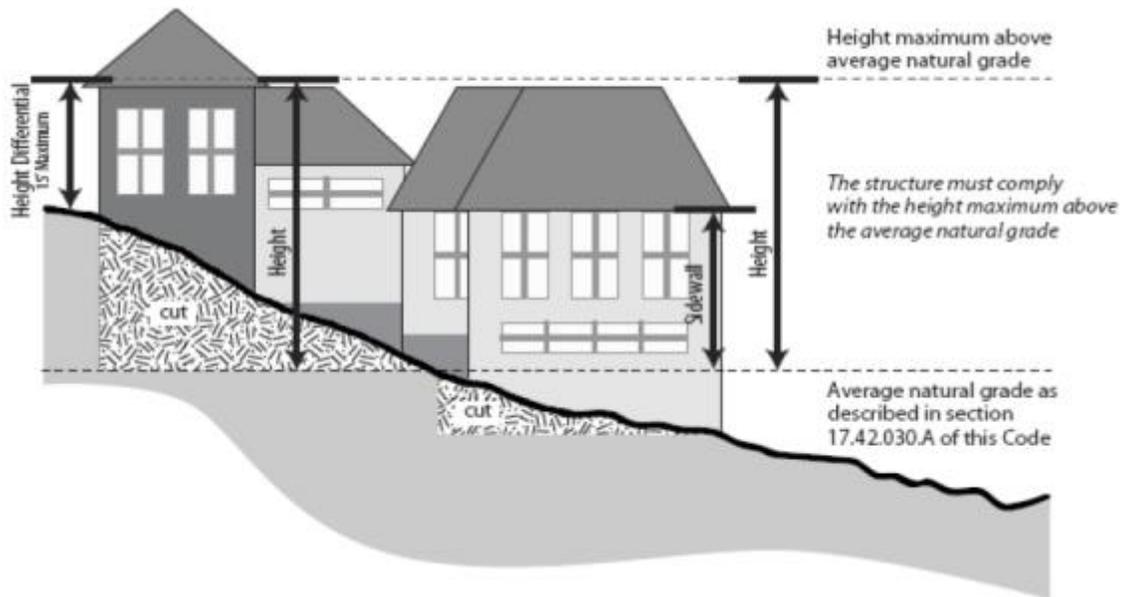


Figure 17.42.030-2

Height Measurements for Primary Structures



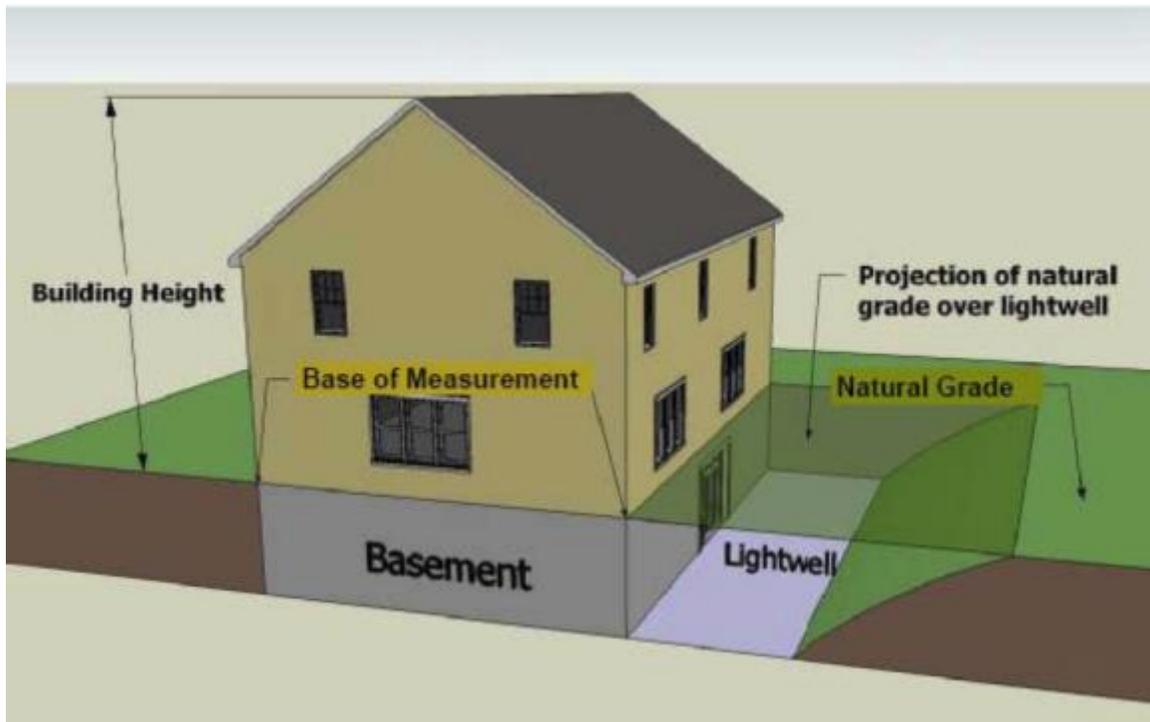
1. The building permit set of plans shall include the calculations determining the average natural grade for the property, including the locations and elevations of the natural grade elevation points around the perimeter of the building footprint.
2. Certification by the applicant's civil engineer (or licensed land surveyor) that the existing conditions topographic map accompanying the building permit set of plans shows natural grade as defined in this section.
3. A certification by the applicant's civil engineer (or licensed land surveyor) that, at the time of the roof framing inspection, the height of the building does not exceed the allowable height as specified in this title. That certification shall be accompanied by survey notes or other similar data to permit verification of the calculations by a third party. Additionally, a "non-removable benchmark elevation marker" shall be placed on the site and noted on all plans submitted.
4. Upon submission of a civil engineer's report that finds a substantial portion of the buildable area of a lot is subject to inundation, the building pad can be raised up to one foot above the engineered flood level. The height of any building or structure placed on this raised pad shall be calculated from the new pad grade, rather than the previous existing grade. The addition of fill to the site shall not negatively impact the potential allowed height of any building or structure.

B. Height Measurements for Basements. When a building includes a basement, as defined in this title, the height of the building shall be measured as described in subsection (A) of this section. Where a

home with a basement includes a lightwell, stairwell, driveway access, or other excavated feature, the height shall be measured from that point on the building where the natural grade would be if the lightwell or other excavated feature were not developed. See figure 17.42.030-3 (Height Measurement for Basements).

Figure 17.42.030-3

Height Measurement for Basements



C. Height Measurement for Sidewalls. The height of sidewalls shall be measured from the average natural grade to the base of the roof plate directly above. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.42.040 Exceptions to Height Limit for Main Structures.

Exceptions to height limits on main structures include:

A. Chimneys located on the main residential structure, provided they do not exceed six feet in height above the roofline of the structure.

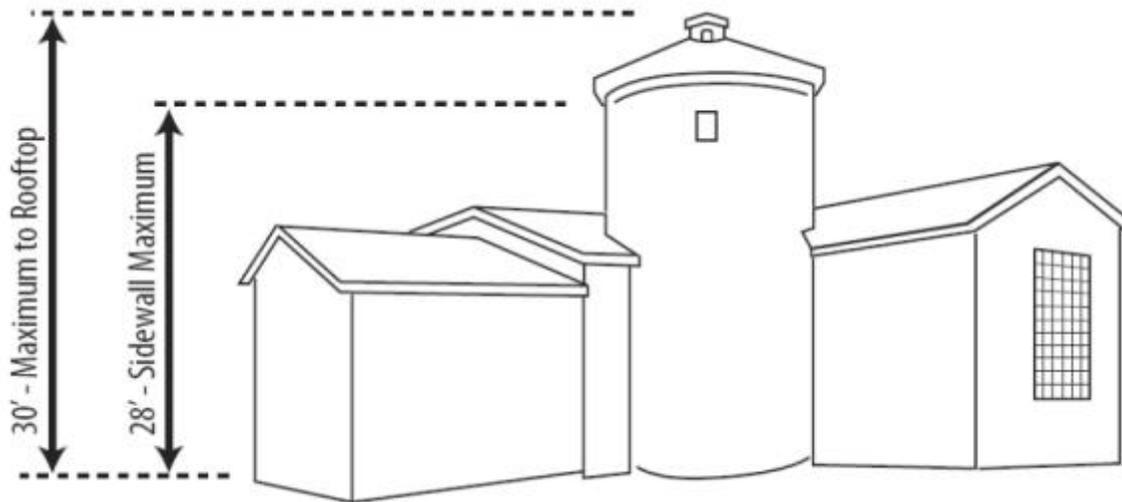
B. Solar panels may extend above the height limit for the zoning district subject to standards and regulations that ensure that the panels will not have a specific, adverse impact upon the public health or safety, as defined by State law.

C. On main buildings, architectural projections (e.g. towers, cupolas) individually totaling no more than four hundred square feet in footprint area are allowed to extend from the main building to a maximum

of twenty-eight feet to the sidewall and thirty feet to the roof top. See figure 14.42.040-1 (Allowed Tower/Stairwell Height).

Figure 17.42.040-1

Allowed Tower/Stairwell Height



D. Exception for Vertical Projections. Vertical architectural projections on accessory buildings and structures (e.g., cupolas, spires, towers) may exceed the maximum height by two feet, up to a maximum of seventeen feet; provided, that the footprint of the projection is not more than five percent of the total footprint of the building. (Ord. 582 § 1 (Exh. A) (part), 2009)

The Atherton Municipal Code is current through Ordinance 646, passed October 21, 2020.

Disclaimer: The city clerk's office has the official version of the Atherton Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.atherton.ca.us/>

City Telephone: (650) 752-0529

[Code Publishing Company](#)