

ORDINANCE NO. 743 N.S.

AN ORDINANCE TO ADOPT REVISIONS TO CHAPTER 17 OF THE CITY CODE TO IMPLEMENT VARIOUS TECHNICAL AMENDMENTS AND CORRECTIONS

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1 **INTENT**

It is the intent of the City Council of the City of Piedmont to adopt updated provisions related to the regulations related to the size of a parking space, the review of signs on private nonresidential properties, limitations on parking associated with new accessory dwelling units and the definition of floor area. It is the further intent of the City Council of the City of Piedmont to adopt various technical revisions that add clarity and consistency to Chapter 17 following the enactment of Ordinances 728 N.S., 731 N.S., and 733 N.S.

SECTION 2 **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, Title 14, California Code of Regulations, sections 15060(c)(2), 15060(c)(3), and 15061(b)(3), because the adoption of the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, is not a project as defined in Section 15378, and falls within the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. To the extent that adoption of any part of the ordinance may be considered a project under CEQA, the adoption of the ordinance is also exempt under Section 15301 of the CEQA Guidelines, because the ordinance concerns the permitting, repair, and alteration of existing public or private structures, and such permitting, repair, and alteration involves negligible or no expansion of an existing use.

SECTION 3 **AMENDMENT OF SECTION 17.20.040**

Section 17.20.040 of the City Code is amended to read as follows:

“17.20.040 Regulations.

In Zone A:

	Zone A requirements
Lot area	Minimum 8,000 square feet.
Frontage, on public or private street	Minimum 60 feet.
Lot coverage; Landscaping	Maximum 40% by primary and accessory structures. (A site feature is not calculated in the lot coverage if (1) the feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 30% landscaping.
Structure height	Maximum 35 feet.

Street yard setback	Minimum 20 feet for primary or accessory structure. No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.
Side yard and rear yard setback	Minimum 5 feet for a primary or accessory structure, but 20 feet in a street-facing yard. However, an accessory structure may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. A site feature proposed within these distances may require a design review permit under division 17.66.
Floor area ratio*	55% of the lot area if the parcel is 5,000 square feet or less. 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. 45% of the lot area if the parcel is more than 10,000 square feet.

* *In order to encourage development within the existing building envelope instead of building outwards or upwards, the floor area ratio standard is not applied to finishing an area into habitable space if: (1) there is no expansion of the exterior building envelope; and (2) the owner has not obtained a final inspection within the prior three years on a building permit issued for an expansion of the building envelope.”*

SECTION 4 AMENDMENT OF SECTION 17.28.040

Section 17.28.040 of the City Code is amended to read as follows:

“17.28.040 Regulations.

In Zone E:

	Zone E requirements
Lot area	Minimum 20,000 square feet.
Frontage, on public or private street	Minimum 120 feet.
Lot coverage; landscaping	Maximum 40% by primary and accessory structures. (A site feature is not calculated in the lot coverage if (1) the feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 40% landscaping.
Structure height	Maximum 35 feet.
Street yard setback	Minimum 20 feet for primary and accessory structure. No minimum setback for a site feature, but a site feature may require a design review permit, under division 17.66.

Side yard and rear yard setback	<p>Minimum 20 feet for primary or accessory structure. However, an accessory structure may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. These distance requirements for an accessory structure also apply to a garage or carport attached to a primary structure. No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.</p>
Floor area ratio*	<p>55% of the lot area if the parcel is 5,000 square feet or less. 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. 45% of the lot area if the parcel is more than 10,000 square feet.</p>

* *In order to encourage development within the existing building envelope instead of building outwards or upwards, the floor area ratio standard is not applied to finishing an area into habitable space if: (1) there is no expansion of the exterior building envelope; and (2) the owner has not obtained a final inspection within the prior three years on a building permit issued for an expansion of the building envelope.”*

SECTION 5 AMENDMENT OF SECTION 17.30.050

Section 17.30.050 of the City Code is amended to read as follows:

“Except as otherwise provided, a parking space required by this section must have unrestricted access to a public street with a grade not more than 20%. In Zone A, one of every three required parking spaces may be for a compact car, and in Zones C and D, one of every four required parking spaces may be for a compact car.

The minimum parking space dimensions are:

- 8-1/2 feet x 18 feet, or
- 7-1/2 feet x 15 feet for compact car.

A minimum 1-foot clearance must be provided between the length side of a parking space and the nearest wall or similar obstruction.”

SECTION 6 AMENDMENT OF SECTION 17.32.010

Section 17.32.010 of the City Code is amended to read as follows:

“A fence, wall, retaining wall, or terracing is subject to these height limit and design review permit requirements:

	Height, measured from existing or proposed grade; Design review permit requirement
Retaining wall, with or without guardrail	<p>Maximum 30 inches. (No design review permit required.) If more than 30 inches, requires a design review permit under division 17.66.</p>

Fence, wall, or a combination of either with a retaining wall within 24 inches	
Within street setback	Requires a design review permit under division 17.66 for any height.
Other areas	If 6 feet or less: exempt from design review permit. If more than 6 feet high, requires a design review permit, under division 17.66. If more than 8 feet high, requires a design review permit, under division 17.66, with notification requirements of division 17.62.
Trash enclosure	(See general requirements in section 17.32.020, below.)
Within street setback	Requires design review permit under division 17.66. No building permit or design review permit required if the enclosure complies with section 17.32.020, subsections A and B below. Otherwise requires design review permit under division 17.66.
Other areas	No building permit or design review permit required if the enclosure complies with section 17.32.020. BA below.
Terracing	Design review is not required if a series of one or more retaining walls and fences, at least 24 inches apart, on a single slope is designed so that no single wall or fence exceeds the height limits in this subsection.”

SECTION 7 AMENDMENT OF SUBSECTION 17.36.040.C.2.b

Subsection 17.36.040.C.2.b of the City Code is amended to read as follows:

“b. Application; Planning Commission review; Standards for approval. An applicant shall submit an application for sign design review permit and the Planning Commission shall hold a hearing on the application in accordance with the application, notice and hearing requirements and procedures set forth in section 17.66.050. The decision of the Planning Commission may be appealed to the City Council in accordance with the appeal procedures of division 17.78. The ~~Planning Commission~~ hearing body will not approve the design of signage on a private nonresidential parcel unless the sign conforms to the ~~Piedmont Design Guidelines and the stated~~ purpose of this division, as stated in section 17.36.020, and meets the following standards:

- i. Approval of the sign design review permit will not result in more than one sign per applicant for each building façade;*
- ii. Each sign shall be simple in design. Graphic depictions related to the nonresidential use are appropriate;*
- iii. Each sign shall be compatible in design, color and scale to the front of the building, adjoining structures and general surroundings;*
- iv. The sign shall be oriented toward the pedestrian and vehicular traffic;*
- v. The sign shall be constructed of sturdy materials; and*
- vi. The design of the sign is consistent with the City’s General Plan and Piedmont Design Guidelines.”*

SECTION 8 AMENDMENT OF SUBSECTION 17.38.060.B.5.a

Subsection 17.38.060.B.5.a of the City Code is amended to read as follows:

“a. Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit ~~or converted to an accessory dwelling unit~~, any required replacement parking spaces may be located in any configuration on the lot ~~except that the spaces may not be located within the 20-foot street setback~~. (Gov't. Code §65852.2 (a)(1)(D)(xi).)”

SECTION 9 AMENDMENT OF SUBSECTION 17.48.010

Subsection 17.48.010 of the City Code is amended to read as follows:

17.48.010 Purpose and intent.

The purpose and intent of this ~~chapter~~ *division* is to prohibit any commercial cannabis facility and to regulate cannabis cultivation within the city limits. It is recognized that it is a federal violation under the Controlled Substances Act to possess or distribute cannabis even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with a cannabis facility, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare.”

SECTION 10 AMENDMENT OF SUBSECTIONS 17.48.060 AND 17.48.070

Subsections 17.48.060 and 17.48.070 of the City Code are amended to read as follows:

17.48.060 Penalties.

Violation of any provision of this ~~chapter~~ *division* is subject to penalties as set forth in City Code Chapter 1, Article II.

17.48.070 Civil injunction.

Any violation of this ~~chapter~~ *division* is declared to be a public nuisance per se and contrary to the public interest and, at the discretion of the City, will be subject to a cause of action for injunctive relief.”

SECTION 11 AMENDMENT OF SUBSECTION 17.62.030.C.1

Subsection 17.62.030.C.1 of the City Code is amended to read as follows:

“1. Publication or posting/mailing. The city will give notice either by (i) publication in a newspaper of general circulation circulated in the city; or (ii) posting on the official city hall bulletin board and mailing a copy to each property owner of record shown on the latest equalized assessment rolls according to the schedule in subsection ~~CE~~. In addition to these requirements, the city may post notification at the project site.”

SECTION 12 AMENDMENT OF SUBSECTION 17.62.030.E

Subsection 17.62.030.E of the City Code is amended to read as follows:

“E. Schedule of notice requirements. Notice of an application will be given under this chapter as set forth in the following schedule:

	Notice by applicant 30 days before hearing ¹	Notice by City at least 14 days before the hearing, measured from the project boundary. ²				
		to adjacent property owners	to property owners within 100 feet	to property owners within 200 feet	to property owners within 300 feet	to property owners within 500 feet
Design review permit		Variable depending on application. See division 17.66.				
Variance						
Single (other than for height or floor area ratio)	X		X			
More than one, or for height or floor area ratio	X			X		
Signs	X ⁵		X			
Landscape plan	X ⁵		X ⁵			
Lot line adjustment						
Between two lots			X			
More than two lots					X	
Wireless communication facility permit	X ⁵		X			
Accessory Dwelling Unit Permit⁶	X ⁵		X			
Negative declaration or Environmental Impact Report required	X ⁵				X	
Tract map or parcel map	X				X	
Conditional use permit, or modification						X
Reasonable accommodation³			X			
Zoning Regulation Amendment		<i>Publish notice in newspaper of general circulation within the City.⁷</i>				
Zoning Map Amendment		<i>Publish notice in newspaper of general circulation within the City.⁷</i>				
Other applications		X				
Appeal⁴	no					

¹ See section 17.62.030B.

² See section 17.62.030C.

³ Subject to section 17.38.050.

⁴ Publication under section 17.62.030 is not required for an appeal hearing.

⁵ For application considered by Planning Commission.

⁶ For ADU applications subject to sections 17.38.050.B.2 and/or 17.38.070.C

⁷ *Subject to section 17.62.030, subsections A and C.*”

SECTION 13 AMENDMENT OF SUBSECTION 17.64.010.B

Subsection 17.64.010.B of the City Code is amended to read as follows:

“B. City Council. If this chapter requires a City Council hearing, the hearing will be scheduled for the next *available* regular City Council meeting *unless the hearing is for an appeal, in which*

~~case the hearing will be scheduled at least 45 calendar days after the filing of an appeal, at least 14 calendar days after filing an appeal or after a Planning Commission recommendation.”~~

SECTION 14 AMENDMENT OF SUBSECTION 17.64.020.B

Subsection 17.64.020.B of the City Code is amended to read as follows:

“B. Administrative extension. The Director will grant one six-month extension for any design review permit or variance approval by the Planning Commission, City Council, or staff, upon written application by the property owner on a form provided by the Director ~~of Public Works~~ prior to expiration of the original approval. The extension fee is the amount established by City Council resolution.”

SECTION 15 AMENDMENT TO SECTION 17.90.020

The definition of Floor Area in Section 17.90.020 of the City Code is amended to read as follows:

“*Floor area* of a building means the sum of the gross horizontal area of the floors of the building, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, and includes, *but is not limited to*:

1. living space on all levels, including within a basement *or attic*;
2. elevator shafts and stairwells at each floor;
3. bay window or window seat that projects beyond the exterior wall *in which a person can reasonably stand or sit*, even if the window or seat does not have ~~an average a~~ *minimum* ceiling height of seven feet, six inches ~~in which a person can reasonably stand or sit~~;
4. ~~living space within an~~ *seventy square feet or more of contiguous non-habitable attic area that has, including space that does not have direct heat. An attic space that has exposed wall framing and/or does not have* permanent access, *a minimum ceiling height of five feet and an average ceiling height of at least seven feet six inches cannot be used for habitation, and does not count toward floor area.* Permanent access includes built-in stairs (even if they do not meet all of the building code requirements), but does not include built-in or pull-down ladders;
5. *seventy square feet or more of contiguous non-habitable basement area that has a minimum ceiling height of seven feet and at least 42 inches of the basement level, measured from the basement ceiling, is above grade at the exterior wall;*
- ~~56.~~ enclosed porch or lanai, heated or not;
- ~~67.~~ high-volume space that exceeds an average height of 15 feet, measured from finished floor to the outer roof, is counted as two stories; and
- ~~78.~~ area within a building used for commercial purposes.

Unless listed above, living space not considered habitable under the Building Code because of window size, ventilation, access, ceiling height, heating, or electrical service (e.g. unconditioned storage area) is not counted in the floor area, but if the space is actually used for living, sleeping, eating, bathing, washing, or cooking, the space will be included, subject to the interpretation of the Director.”

SECTION 16 SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

SECTION 17 CODIFICATION

The City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting Ordinances 728 N.S, 731 N.S., 733 N.S., and this ordinance. The City Clerk is directed to resolve any numbering conflicts accordingly.

SECTION 18 POSTING AND EFFECTIVE DATE

This Ordinance shall be posted at City Hall after its second reading by the City Council for at least 30 days and shall become effective 30 days after the second reading.

I certify that the foregoing ordinance was passed and adopted as a part of the consent calendar by Resolution 31-18 at the regular meeting of the City Council of the City of Piedmont on May 7, 2018, by the following vote:

Ayes:	Andersen, Cavanaugh, King, McBain, Rood
Noes:	None
Absent:	None

Attest: _____
John O. Tulloch, City Clerk