City of Piedmont
COUNCIL AGENDA REPORT

DATE: January 21, 2020

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Introduction and First Reading of Ord. 747 N.S., Amending City Code Chapter 17 to Regulate Accessory Dwelling Units in Accordance with Recent State Legislation.

RECOMMENDATION:

Accept the recommendation of the Planning Commission to approve the proposed ordinance and take the following action:

1. Conduct the first reading of Ordinance 747 N.S. (Attachment 1, pages 13-43), which takes the following actions:
   A. Determines that the proposed revisions to the City Code are statutorily exempt from CEQA;
   B. Adopts amended Sections 17.20.040, 17.22.020, 17.24.020, 17.24.040, 17.26.020, 17.26.050, 17.28.020, 17.28.040, 17.30.010, 17.30.020, 17.30.030, 17.30.060, 17.40.030, 17.50.020, 17.60.060, 17.62.030, 17.70.010, 17.78.010, 17.78.050 and 17.90.010 of Chapter 17, Planning and Land Use, of the Piedmont City Code in their entirety; and
   C. Adopts an amended Division 17.38, Accessory Dwelling Units, of Chapter 17, Planning and Land Use, of the Piedmont City Code in its entirety (Exhibit A, pages 32-43).

EXECUTIVE SUMMARY:

The overriding reason that the proposed amendments to the regulations for Accessory Dwelling Units (ADUs) in Chapter 17 of the Municipal Code are being brought to the City Council is to bring the City Code into compliance with State laws that became effective on January 1, 2020. More information on the State laws is provided in the report section on Government Code Section 65852.2 and 65852.22 on page 4.

The State laws place limits on a local jurisdiction's ability to regulate ADUs and Junior Accessory Dwelling Units (JADUs). The recommended revisions to Piedmont's ADU ordinance address the following inconsistencies with state laws:

a. Once an application for an ADU has been deemed complete, the City has 60 days to take action on it, rather than the currently required 120 days.
b. ADUs must be allowed in every zone in which residential use is allowed. In Piedmont, this is every zone.
c. A requirement for owner occupancy on the property is no longer allowed, at least through 2025.
d. Architectural review of construction related to an ADU is allowed, but it must be done ministerially without public hearing.
e. Any minimum size standard for an ADU must allow 850 square feet for studio or one-bedroom units, and 1,000 square feet for an accessory dwelling unit that provides more than one bedroom. (The current code limit is 800 square feet.)
f. When a garage or carport is demolished or converted for the purpose of creating an ADU, no replacement parking can be required, and existing nonconforming setbacks and coverage can be retained.
g. In addition to a regular ADU, the City must also allow a JADU. Both an ADU and a JADU can be constructed on a single lot.
h. There are four categories of ADUs the City must approve:
    1. One ADU and one JADU within the existing building envelope of a single-family dwelling, with an expansion of up to 150 square feet for ingress and egress.
    2. On a lot with a single-family dwelling: A detached ADU that is not more than 800 square feet, that is no more than 16 feet in height and is set back at least 4 feet from side and rear property lines.
    3. Within existing multi-family residential buildings: multiple ADUs converted from areas not currently used as living space (at least 1 ADU and not more than 25 percent of existing dwelling units).
    4. Not more than two detached ADUs on a lot with an existing multi-family residential building that are no more than 16 feet in height and are set back at least 4 feet from side and rear property lines.

BACKGROUND:

Current Regulations

The City adopted the current regulations for accessory dwelling units in May 2017. In brief, the current regulations require an owner of a single-family dwelling to seek an accessory dwelling unit permit to create an ADU as a dwelling unit independent of the primary residence. Except for Exempt ADUs (those created before 1930) either the primary or accessory dwelling unit must be owner occupied. The ADU may be attached or detached, but must have a separate exterior entrance. As required by state law, an application for an accessory dwelling unit permit must be processed ministerially (without a public hearing) if it meets all the standards required for the ADU permit. New buildings or changes to buildings that are intended to contain the ADU require separate design review and building permits and must meet design review criteria and zoning provisions for buildings, or a variance from those provisions.

Revision of Incentives for Affordable Housing

The current code imposes a limit of 800 square feet on all ADUs and authorizes the Planning Commission to grant an exception to the size limit for units up to 1,000 square feet if the owner agrees to rent the unit to a low income household for a period of 10 years, or 1,200 square

feet if the owner agrees to rent the unit to a very low income household for a period of 10 years (Sec. 17.38.070.C.1).

Since May 2017, the City has received no applications for an ADU requesting an exception from the unit size requirement and has approved no ADU permits with a rent restriction. The state law changes the minimum size standards permitted under local regulation, requiring revision of the City's exception provisions. In accordance with Government Code section 65852.2(a)(3), it is recommended that exceptions to size requirements to provide an incentive to create affordable housing be processed ministerially.

City of Piedmont General Plan Housing Element

The majority of the General Plan Housing Element for 2015-2023 (separately available on the City's website) is devoted to ADUs (referred to as *second units* in the Element) because, as a built-out city, ADUs are the main means by which the City is able to provide new housing units, either market rate or affordable. Housing Element policies and programs that relate to ADUs include the following:

> **Policy 1.2: Housing Diversity.** Continue to maintain planning, zoning and building regulations that accommodate the development of housing for all income levels.
>
> **Policy 1.5: Second Units.** Continue to allow second units (in-law apartments) "by right" in all residential zones within the City, subject to dimensional and size requirements, parking standards, and an owner occupancy requirement for either the primary or secondary unit. Local standards for second units may address neighborhood compatibility, public safety, and other issues but should not be so onerous as to preclude the development of additional units.
>
> **Policy 1.6: Second Units in New or Expanded Homes.** Strongly encourage the inclusion of second units when new homes are built and when existing homes are expanded.
>
> **Program 1.C: Market Rate Second Units.** Maintain zoning regulations that support the development of market rate second units in Piedmont neighborhoods.
>
> **Policy 3.1: Rent-Restricted Second Units.** Continue incentive-based programs such as reduced parking requirements and more lenient floor area standards to encourage the creation of rent restricted second units for low and very low income households.
>
> **Policy 3.2: Occupancy of Registered [Permitted] Units.** Encourage property owners with registered [permitted] second units to actively use these units as rental housing rather than leaving them vacant or using them for other purposes.
>
> **Policy 3.3: Conversion of Unintended Units to Rentals.** Encourage property owners with "unintended second units" to apply for City approval to use these units as rental housing. "Unintended" second units include spaces in Piedmont homes

(including accessory structures) with second kitchens, bathrooms, and independent entrances that are not currently used as apartments.

Policy 3.4: Legalization of Suspected Units. Work with property owners who may be operating second units without City approval to legalize these units. Where feasible and consistent with the health and safety of occupants, consider planning and building code waivers to legalize such units, on the condition that they are rent and income restricted once they are registered.

Policy 3.5: Second Unit Building Regulations. Maintain building code regulations which ensure the health and safety of second unit occupants and the occupants of the adjacent primary residence.

Policy 4.4: Updating Standards and Codes. Periodically update codes and standards for residential development to reflect changes in state and federal law, new technology, and market trends.

Policy 5.2: Second Units, Shared Housing, and Seniors. Encourage second units and shared housing as strategies to help seniors age in place. Second units and shared housing can provide sources of additional income for senior homeowners and housing resources for seniors seeking to downsize but remain in Piedmont.

CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22:

In September 2019, Governor Gavin Newsom signed AB 68, AB 881, and SB 13 into law, all of which made changes to state law regarding accessory dwelling units, particularly Government Code Sections 65852.2 and 65852.22. The State laws[1] mandate that cities with accessory dwelling unit ("ADU") ordinances that are inconsistent with the State laws apply the State standards for ADU and JADU approval. The State law also authorizes local agencies to enact certain standards of approval of ADUs and JADUs. It is highly recommend that the City adopt a new ADU ordinance that accommodate the new State minimum standards and re-adopts the City's local standards that are consistent with the State laws.

PROPOSED REVISIONS TO CITY CODE:

City staff, with the advice of the City Attorney's Office, has developed recommended revisions to the following divisions of the City Code so that the Code is consistent with State laws related to accessory dwelling units:

17.20 Zone A: Single family residential
17.22 Zone B: Public facilities
17.24 Zone C: Multi-family residential
17.26 Zone D: Commercial and mixed-use commercial/residential
17.28 Zone E: Single family residential estate

[1] All references to the "State laws" are to Cal. Gov. Code § 65852.2 and § 65852.22, which were revised and added by AB 68, AB 881 and SB 13.

17.38 Parking
17.40 Residential rentals
17.50 Non-conforming uses and structures
17.60 General provisions
17.62 Notice requirements
17.70 Variances
17.78 Appeals; Calls for review
17.90 Definitions & Measurements

The recommended revisions are provided in a "clean" version as part of and as an exhibit to the Ordinance (Attachment 1, pages 13-43) and – to facilitate easy comprehension of the revisions – in a strikethrough format presented in Attachment 2, pages 45-103. The following list highlights the more substantive changes:

1. The review of all ADU permits will be ministerial in order to conform to new state laws. Architectural review of construction related to an ADU is allowed (see section 17.38.060.B.5), but it must be done ministerially. Under ministerial review no public hearing and no public notice is allowed. The Planning & Building Director, or the Director's designee, is the decision maker on ADU permit applications. The Director's decision is final, with no provisions for appeal. No variances from the standards for ADUs are possible. ADU permits must also now be processed within 60 days once applications have been deemed complete, rather than the current 120 days. The exception to this processing timeframe are ADUs proposed as part of new primary dwelling units. See revised code sections 17.38.050.B and C, 17.62.030, 17.70.010, 17.78.010 and 17.78.050.

2. Because ADUs must be allowed in every zone in which residential use is allowed, including on properties with multi-family buildings, the zoning regulations for zones B, C and D have been revised to indicate ADUs are a permitted use. See sections 17.22.020, 17.24.020 and 17.26.020. ADUs are already a permitted use in Zones A and E.

3. The new state laws require that ADUs in new structures be permitted up to 4 feet from a side or rear property line on properties with single-family or multi-family buildings. Thus, the zoning regulations for zones A, C and E, where side and rear setbacks are currently a minimum 5 feet, have been revised to allow an exception for a 4-foot setback for new structures to be used as an ADU. See sections 17.20.040, 17.24.040, 17.28.040, and 17.38.060B.6.b.

4. The zoning regulations for zones A, C, D and E have been revised to address new state laws that prohibit cities from applying limits on floor area ratio, lot coverage and landscaping requirements on ADU permit applications that would effectively prohibit construction of an ADU up to 800 square feet and up to 16 feet in height. See sections 17.20.040, 17.24.040, 17.26.040, 17.28.040.

5. Due to previous state laws, the City no longer requires parking for ADUs. New state laws require that when a garage or carport is demolished or converted for the purpose of creating an ADU, no replacement parking can be required, and existing nonconforming setbacks and coverage can be retained. See sections 17.30.060 and 17.38.060.B.6.a.

6. Current code provision 17.38.060.B.3, Owner Occupancy, has been deleted because a requirement for owner occupancy relating to accessory dwelling units is no longer allowed, at least through 2025, under new state law.

7. Development standards for ADUs (section 17.38.060.B) have been revised to conform to new state laws as follows:
    a. The maximum size of an ADU increases from 800 square feet to 850 square feet, or 1,000 square feet if the ADU will include more than one bedroom. Although a maximum size of 800 square feet can be required when 50% of existing living area is less than 800 square feet. There is some variation on this depending on whether or not the ADU is attached or detached. Exceptions to unit size are permitted subject to deed restrictions requiring occupancy by low or very low income households (section 17.38.070).
    b. The building height of a detached ADU is 16 feet. See section 17.38.060.B.4.

8. In addition to a regular ADU, JADUs are also allowed. A single property may have both an ADU and a JADU. A JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. It must have a separate entrance, and may have separate or shared sanitation facilities. It must have food preparation facilities of at least an efficiency kitchen. See section 17.38.020. Standards for JADUs have been proposed that are consistent with the requirements of Government Code section 65852.22 in section 17.38.060.C.

9. A new section 17.38.060.D has been added to describe the four categories of ADUs the City must approve:
    a. An ADU and/or JADU within the existing building envelope of a single-family unit, subject to an expansion of not more than 150 square feet for purposes of ingress and egress.
    b. On a lot with a single-family unit: A detached ADU that is not more than 800 square feet, that is no more than 16 feet in height and is set back at least 4 feet from side and rear property lines.
    c. Within existing multi-family residential buildings: multiple ADUs converted from areas not currently used as living space (at least 1 ADU and not more than 25 percent of existing dwelling units), subject to compliance with applicable building standards.
    d. Not more than two detached ADUs on a lot with an existing multi-family residential building that are no more than 16 feet in height and are set back at least 4 feet from side and rear property lines.

In addition to the substantive changes listed above, various edits and formatting are proposed to improve clarity and legality.

ANALYSIS:

The changes to Government Code Section 65852.2 governing accessory dwelling units, and the amendment of Government Code section 65852.22 governing junior accessory dwelling units (see

Attachment 3, pages 105-112) resulting from the enactment of AB 68, AB 881, and SB 13 significantly limits the City's ability to regulate ADUs. The potential impacts resulting from the state laws and code changes are described below.

Additional Housing Units
The intent of the new state laws is to increase the number of housing units by facilitating the development of new accessory dwelling units. In Piedmont it is expected that the revisions to the City Code to bring it into conformance with state laws will result in an increase in the number of accessory dwelling units approved annually. The additional units should help the City meet the goals of the General Plan Housing Element and its Regional Housing Needs Allotment (RHNA) for market rate housing.

Density
As noted in the Piedmont General Plan Land Use Element, current density in Piedmont ranges from 5 to 10 housing units per net acre, and approximately 6,265 people per square mile. The General Plan and the zoning regulations provide for the following densities: 1 to 2 units per acre in zone E, estate residential; 3 to 8 units per acre in zone A, single-family residential; 9 to 20 units per acres in zone C, multi-family residential; and up to 20 units per acre in zone D, mixed-use development. Piedmont's General Plan and zoning regulations allow for increases from current densities, but staff intends to monitor and evaluate densities in the coming years for reference when updating the General Plan.

Rent-Restricted Accessory Dwelling Unit Program
The City's award winning rent-restricted accessory dwelling unit program incentivizes the creation of affordable housing on private property with single-family dwellings and is the only means by which the City supplies affordable housing to meet the Regional Housing Needs Assessment (RHNA) allocation required by the State. Unfortunately, because state laws have resulted in the elimination of parking requirements for ADUs in Piedmont and expansion of minimum size standards, the City no longer has an effective tool to generate ADUs that are rent restricted to low or very low income households. In recent years the City has received no applications seeking an exception to the unit size limit. With the new state laws, unit size limits have increased from 800 to 850 square feet or 1,000 square feet if an ADU with more than one bedroom is proposed. Thus, the City's ability to supply the number of its regional assignment of low income housing units is compromised.

Ministerial Review and By-Right Development
State law requires a ministerial review and approval process, which necessarily limits public participation. Public notification is therefore eliminated as part of the processing of applications for ADU and JADU permits. The Director's decision on ADU and JADU permit applications is final with no provisions for appeal. ADUs and JADUs on properties with single-family or multi-family buildings that meet specified criteria must be approved. For a city in which public participation is commonplace, it may take some time before Piedmont residents become accustomed to these regulations.

JADUs and ADUs on Multi-Family parcels
Both an ADU and a JADU are allowed on a single single-family parcel, and ADUs will now be permitted on parcels with multi-family residential development. These provisions allow for up to

three independent dwelling units on parcels constructed with a single family dwelling: the primary unit, a detached ADU, and an attached ADU or JADU. Piedmont's multi-family buildings consist of two to nine units, each of which could add from one to three ADUs. Additional housing units approved through these provisions will increase density in Piedmont with associated increase of use of City and PUSD facilities. As noted above, the additional housing units are expected to help the City meet its RHNA allocation.

Parking
Because replacement on-site parking will no longer be required when a garage or carport is demolished or converted for the creation of an ADU, and because there will be additional housing units created without on-site parking, it is expected that the number of vehicles parking on-street will increase.

Unit Size, Lot Size and Exceptions to Lot Coverage, Landscaping Minimums and Floor Area Ratio
The City Code currently allows for ADUs up to a maximum size of 800 square feet, and up to 1,200 square feet with a 10-year deed restriction to a low or very low income household. To be consistent with state laws, the maximum will be increased to 850 square feet or 1,000 square feet, as applicable. State laws also prohibit lot size from being a criterion in the review of an application for ADU permit. More significantly, limits on structure coverage, landscaping minimums and floor area ratios cannot be applied to ADUs that would prohibit the construction of an ADU at least 800 square feet in area and 16 feet in height. These new provisions may result in properties that are more densely constructed than currently allowed. Areas of potential impact include those on light and view between properties, and those on wildlife, the urban heat island effect, and carbon sequestration resulting from less vegetation.

Setbacks
For consistency with new state laws, ADUs are permitted in existing structures located within side and rear setbacks, and within new structures setback four feet from side and rear property lines. Privacy concerns and access to natural light are issues that may arise from the construction of new structures or additions to existing structures for the use as an ADU. However, the current side and rear setback requirement for single- and multi-family properties is five feet. The one-foot difference may have less than a significant impact. The City is still able to fully enforce its requirement for a 20-foot street yard setback.

ADU Permit Shotclock
The new state laws require that ADU permit applications must be reviewed and approved or disapproved within 60 days after receiving the ADU application, rather than the current 120 days. The exception to this are applications for ADUs that are part of a new house, in which case the City may delay processing the ADU application until it acts on the new house. Piedmont normally processes applications of all types in approximately 30 to 40 days from receipt. Thus, this time limit is not expected to be of concern.

Design Review
Currently, when a proposal for a new ADU includes exterior changes on a property, an application for a design review permit is required in addition to an application for an accessory dwelling unit permit. To comply with ministerial review requirements under state law, a design review permit

will no longer be required for an ADU. However, to receive approval under ministerial review of an ADU permit, the applicant will need to demonstrate that the project meets applicable design criteria in the Piedmont Design Guidelines, which call for consistency with the architectural style of the primary residence. Thus, it is not expected that this change will have a negative impact on the quality of architecture in Piedmont. Furthermore, staff recommends that the Design Guidelines related to ADUs be revised to contain criteria that is objective, rather than subjective.

Compliance with Housing Element
The proposed revisions to the regulations for accessory dwelling units comply with the Housing Element of the Piedmont General Plan. However, the changes will make it easier to achieve Program 1.C, which seeks to maintain zoning regulations that support the development of market rate accessory dwelling units in Piedmont neighborhoods, while making it more difficult to achieve the goal of Policy 3.1, which seeks to continue incentive-based programs such as reduced parking requirements and more lenient floor area standards to encourage the creation of rent restricted accessory dwelling units for low and very low income households.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The proposed code amendments are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h) which exempts adoption of ordinances regarding accessory dwelling units.

CITY CHARTER:

The modifications to the City Code are in conformance with the City Charter, including section 9.02. No zones have been reduced or enlarged, and no zones have been reclassified. City Charter provisions are expressly referred to in City Code division 17.02.C.

REVIEW BY CITY ATTORNEY:

The proposed modifications to the City Code, the ordinance and the CEQA determinations have been reviewed and approved by the City Attorney.

PUBLIC PARTICIPATION:

During the meetings at which the Planning Commission and City Council consider the changes and documents discussed in this report, the public has had and will have the opportunity to address the Commission and Council directly. In addition, members of the public may submit written comments to the City Council in advance of its consideration of the ordinance. In an effort to reach out to as many Piedmonters as possible, staff has assembled a list of residents who wish to receive direct email notices and staff reports regarding revisions to City Code Chapter 17. Anyone who wishes to be added to the list may contact the planning office by calling 510-420-3039 or by emailing Planning Director Kevin Jackson at kjackson@piedmont.ca.gov. In addition, notice of this agenda item was placed in local news outlets. This report, the Planning Commission meeting minutes, and other information on the proposed changes to the regulations for accessory dwelling units can be found on the City's website at:
http://www.ci.piedmont.ca.us/planning-commission-to-discuss-accessory-dwelling-units/.

PLANNING COMMISSION RECOMMENDATION:

On January 13, 2020, the Planning Commission received the same information provided in this report, heard testimony from the public (no written comments were received), held a thorough discussion of the proposed code amendments, and voted to recommend the City Council adopt the proposed code revisions. The video of the meeting is available on the City website. During their discussion, the Commissioners expressed frustration with the intended and unintended consequences of the state laws, particularly the elimination of public participation in the review process and the potential increase in on-street parking. All the Commissioners expressed support for the proposed code revisions that would bring the City in compliance with state law. The commissioners were also interested in having the Piedmont Design Guidelines revised so that guidelines for ADUs are objective, as required by state law. Commissioner Levine supported changes that would require the ADU project applicant to notify neighbors of the project at the time of ADU permit submission, and that would require a ADU permit application review process that involved another reviewer in addition to the Planning & Building Director.

The Director of Planning & Building responded to the Commissioner's inquiries and potential modifications to the draft ADU regulations, recommending that Commission recommend approval of the ordinance with edits provided by staff on January 10, 2020, noting that staff is working on amendments to the design guidelines for ADUs for the Commission's consideration at the Commission's regularly scheduled meeting on February 10, 2020. The Director also recommended that rather than a notice of neighbors at the time of project application submission, which might only serve to frustrate neighbors who are prohibited from participating in the review process, that the applicant be required to provide notice to neighbors of the proposed construction and the construction start date as part of the requirement for a construction management plan needed for a building permit. Ultimately, recognizing that the City's current regulations for ADUs are in violation of State laws and thereby could be considered invalid, the Commissioners voted four to one to approve the proposed code revisions with staff recommended edits. The Commission also recommended revising Design Guidelines for ADUs to be objective, and modifying the condition of approval for a construction management plan to require the applicant to provide notice of construction to neighbors as noted above. The commission recommended that such notice include estimated construction start date and information on state laws prohibiting public review of ADU permit applications.

CONCLUSION, COUNCIL ACTION AND NEXT STEPS:

The code revisions recommended by the Planning Commission bring the City's regulations for accessory dwelling units into compliance with State laws while preserving – to the extent possible – the City's rent-restricted ADU program, and the City's ability to regulate ADUs. Doing so provides clarity to Piedmonters and their design professionals, and should eliminate any question regarding the validity of the City's ADU regulations.

Should the Council approve a first reading of the recommended ordinance on January 21, 2020 a second reading could occur as soon as February 3, 2020, and the Code amendments would go into effect thirty days after that.

By: Kevin Jackson, Director of Planning & Building

ATTACHMENTS:

	Pages	
1	13-43	Ordinance No. 747 N.S. Modifying Chapter 17 of the City Code to Regulate Accessory Dwelling Units in Accordance with Recent State Legislation
2	45-103	Strikethrough version of proposed City Code revisions
3	105-112	California Government Code Sections 65852.2 and 65852.22 as amended by AB-68, AB-881 and SB-13

Separate and available on the City website:

Video of Planning Commission meeting, January 13, 2020, available at:
http://piedmont.hosted.civiclive.com/cms/one.aspx?portalId=13659823&pageId=14122987

Piedmont General Plan Housing Element available at:
http://piedmont.hosted.civiclive.com/UserFiles/Servers/Server_13659739/File/Government/Projects/General%20Plan%20and%20Housing%20Element/housing_element.pdf

Piedmont City Code Chapter 17, Planning and Land Use available at:
https://piedmont.ca.gov/government/charter___city_code

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ORDINANCE NO. 747 N.S.

AN ORDINANCE TO MODIFY CHAPTER 17 OF THE CITY CODE TO REGULATE ACCESSORY DWELLING UNITS IN ACCORDANCE WITH RECENT STATE LEGISLATION

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

SECTION 1 – BACKGROUND AND INTENT

Existing Piedmont City Code provisions in Chapter 17 regulate accessory dwelling units within the City. It is the intent of the City Council of the City of Piedmont to modify existing provisions of Chapter 17 of the City Code to regulate accessory dwelling units in accordance with state law, specifically Senate Bill 13 (Chapter 653, Statutes of 2019), Assembly Bill 68 (Chapter 655, Statutes of 2019), and Assembly Bill 881 (Chapter 659, Statutes of 2019.)

SECTION 2 – CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed amendments are statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17.

SECTION 3 – AMENDMENT TO SECTION 17.20.040

Section 17.20.040 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.20.040 Regulations.
In Zone A:

	Zone A requirements
Lot area	Minimum 8,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 60 feet.
Lot coverage; Landscaping	Maximum 40% by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. (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, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.

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, except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit.** 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*	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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.

** Pursuant to Government Code section 65852.2(a)(1)(D)(vii).”

SECTION 4 – AMENDMENT TO SECTION 17.22.020

Section 17.22.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

“17.22.020 Permitted uses.

The following are permitted uses in Zone B:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A). An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone B used for residential purposes.

B. City building, used by a governmental entity or other nonprofit entity.

C. Public school.

D. Parks, including recreational uses and facilities.

E. Cemetery, public utility.

F. Emergency shelter, supportive housing or transitional housing, as defined in Health and Safety Code sections 50801(e), 50675.14(b) and 50675.2(h), respectively."

SECTION 5 – AMENDMENT TO SECTION 17.24.020

Section 17.24.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.24.020 Permitted uses.
The following are permitted uses in Zone C:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. A multi-family dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area (12 units/acre), and not exceeding one dwelling unit per each 2,000 square feet of lot area (21 units/acre).

The Planning Commission will grant a density bonus for affordable housing in accordance with Government Code section 65915. A multi-family residential project that incorporates affordable units is also eligible for a 20% reduction in planning application fees.

C. Accessory dwelling unit, subject to division 17.38."

SECTION 6 – AMENDMENT TO SECTION 17.24.040

Section 17.24.040 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.24.040 Regulations.**

A. In Zone C, for multi-family residential use:

	Zone C requirements
Lot area	Minimum 10,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 90 feet

Lot coverage; Landscaping	Maximum 50% of the total by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. Minimum 30% landscaping, or 20% by landscaping for a project in which at least 20% of the units are affordable, as defined by the California Department of Housing and Community Development, subject to exception for accessory dwelling unit construction set forth in division 17.38..
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary or accessory structure. Site feature of any height may require a design review permit under division 17.66.
Side yard and rear yard setback	Minimum 5 feet for primary or accessory structure, except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit.* 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	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 55% of the lot area if the parcel is 5,000 square feet or less. Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. Maximum 45% of the lot area if the parcel is more than 10,000 square feet.

* Pursuant to Government Code section 65852.2(a)(1)(D)(vii).

B. In Zone C, for single-family residential use:

Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.	All as set forth for Zone A. See section 17.20.040.”

SECTION 7 – AMENDMENT TO SECTION 17.26.020

Section 17.26.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.26.020 Permitted uses.
The following are permitted uses in Zone D:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone D used for residential purposes."

SECTION 8 – AMENDMENT TO SECTION 17.26.050

Section 17.26.050 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.26.050 Regulations**.

A. In Zone D, for each conditional use:

	Zone D requirements	
	Civic Center Subarea [1]	**Grand Avenue Subarea [2]**
Lot area	No minimum area, but an existing lot may not be subdivided into smaller lots.	No minimum area, but an existing lot may not be subdivided into smaller lots.
Frontage, on public or private street	No minimum requirement.	No minimum requirement.
Lot coverage; Landscaping	No maximum. No minimum.	No Maximum. Minimum 10% landscaping, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 40 feet, and 3 stories.	Maximum 35 feet, and 3 stories. For a building site adjacent to a single family residence: • within 10 feet of the abutting lot line: maximum 25 feet measured from adjacent grade; and • daylight plane starting at 25 feet above grade and a distance of 10 feet from the abutting property line.

Street yard setback	No minimum setback.	Along Wildwood, Sunnyside and Linda Avenues: 10 feet minimum from lot line. Along Grand Avenue: 15 feet minimum from curb or 3 feet from lot line, whichever is greater.
Side yard and rear yard setback[3]	No minimum setbacks, but if side or rear yard abuts a single-family residence, the minimum side and rear yard setback is 5 feet from that abutting lot line.	Side Yard: no minimum setbacks, except minimum 5 feet from lot line abutting a single-family residence. Rear Yard: 5 feet minimum.
Floor to ceiling height for ground floor	15 feet minimum	12 feet minimum

[1] The Civic Center Subarea consists of the Zone D parcels bounded by: Highland Way on the north, Highland Avenue on the south; and Highland Avenue on the east, Vista Avenue on the south, and Piedmont Unified School District properties on the north and west.

[2] The Grand Avenue Subarea consists of the Zone D parcels bounded by: Wildwood Avenue to the southeast, Grand Avenue on the west, Zone A parcels on the north and east; and City boundary on the south, Grand Avenue on the east, Linda Avenue on the north, and Zone A properties to the west.

[3] Setback requirements applicable to accessory dwelling unit construction are set forth in division 17.38, rather than this table.

B. In Zone D, for single-family residential use:

Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.	All as set forth for Zone A. See section 17.20.040."

SECTION 9 – AMENDMENT TO SECTION 17.28.020

Section 17.28.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.28.020 Permitted uses**:
The following are permitted uses in Zone E:

A. Single-family residence together with accessory structures and associated uses, located on the same lot.

B. Rented room, subject to section 17.40.020, or short-term rental, subject to a short-term rental permit under section 17.40.030.

C. Accessory dwelling unit, subject to division 17.38.

D. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47."

SECTION 10 – AMENDMENT TO SECTION 17.28.040

Section 17.28.040 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.28.040 Regulations.
In Zone E:

	Zone E requirements
Lot area	Minimum 20,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 120 feet.
Lot coverage; landscaping	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
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	Minimum 20 feet for primary or accessory structure, except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit.** However, an accessory structure not to be used as an accessory dwelling unit 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.

Floor area ratio*	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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.
** Pursuant to Government Code section 65852.2(a)(1)(D)(vii)."

SECTION 11 – AMENDMENT TO SECTION 17.30.010

Section 17.30.010 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.30.010 Single family residential use.** (All zones)

A. Applicability. This section 17.30.010 applies to the following single family residential uses in any zone:

1. new development; and

2. existing development (which may be nonconforming under division 17.50) when an applicant seeks a building permit or land use approval for an improvement or change that will affect the need for parking. Either an increase in the number of bedrooms, as defined, or an increase in the intensity of use will affect the need for parking. Existing street width and existing demand for on-street parking are factors in considering the intensity of use.

B. Regulations.

1. General.

Dwelling unit	**Minimum number of off-street, covered, non-tandem parking spaces**
Accessory dwelling unit (chapter 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet: 1-4 bedrooms 5-6 bedrooms 7 or more bedrooms	 2 3 4

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

2. Parking spaces may not be located within a 20-foot street setback.

3. An applicant may increase the primary dwelling unit up to four bedrooms without adding additional parking, as long as:

a. no existing parking space is eliminated if it creates a nonconformance;
b. the required number of parking spaces are provided, even if uncovered or tandem;
c. the parking spaces are not within the required 20 foot street setback; and
d. section B.4 below does not apply.

4. When considering an application, the city may strictly apply the parking regulations under subsection B.1 above if the proposed construction will have an undue adverse impact on neighborhood vehicular congestion. A determination of undue adverse impact must be based on evidence considering one or more of the following factors: existing street width; existing on-street parking conditions; lack of sidewalks; and street slope and curvature."

SECTION 12 – AMENDMENT TO SECTION 17.30.020

Section 17.30.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.30.020 Multi-family residential use. (Zone C).**
This section applies to each multi-family residential use.

	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (division 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet	1.5

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile."

SECTION 13 – AMENDMENT TO SECTION 17.30.030

Section 17.30.030 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.30.030 Commercial use and mixed-use residential/commercial. (Zone D).**

A. Residential uses in mixed use commercial/residential:

Dwelling Unit Size	**Minimum number of off-street, covered, non-tandem parking spaces**
Accessory dwelling unit (division 17.38)	0*

Studio or 1 bedroom	1
2 bedrooms	1.5
3 or more bedrooms	2

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

B. Commercial uses:

Use Type	Minimum number of off-street, covered, non-tandem parking spaces per floor area	
	First 1,500 square feet	**In excess of 1,500 square feet**
Eating places and similar, high-intensity on premise customer uses	Each 500 square feet: 1[1]	Each 250 square feet: 1[1]
Retail stores, offices, and other low-intensity uses	Each 750 square feet: 1[1]	Each 350 square feet: 1[1]

[1]Or as required by conditional use permit"

SECTION 14 – AMENDMENT TO SECTION 17.30.060

Section 17.30.060 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.30.060 No reduction of existing parking.

Except for (1) the demolition of a garage, carport, or covered parking structure in conjunction with the construction of an accessory dwelling unit, or (2) conversion of a garage, carport, or covered parking structure for use as an accessory dwelling unit, no person may alter, eliminate, or restrict access to an existing parking space unless the Planning Director first determines that the space is (1) unusable, (2) is to be restored or replaced with a parking space which meets the requirements of this division 17.30, or (3) is permitted with a variance approved by the Planning Commission or City Council. For purposes of making this determination, the term unusable means that the parking space is not large enough to contain a compact-sized automobile or that the driveway to the parking space is so steep, narrow or otherwise configured that it precludes safe passage of the vehicle, and that enlargement to permit safe passage would result in severe economic hardship.

No garage or other off-street parking may be altered for a use other than parking, unless otherwise allowed under this chapter."

SECTION 15 – AMENDMENT TO DIVISION 17.38

Division 17.38 Accessory Dwelling Units of the Piedmont City Code is hereby amended in its entirety to read as set forth in Exhibit A, attached.

SECTION 16 – AMENDMENT TO SECTION 17.40.030

Section 17.40.030 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.40.030 Short-term rental.**

A. Applicability. This section 17.40.030 applies to short term rentals of less than 30 consecutive days. The short-term rental must be located in a single-family dwelling unit that is the primary residence of the property owner or long-term tenant. It may not be located in an accessory dwelling unit (permitted or unintended) or multi-family dwelling. The short-term rental may be hosted or non-hosted.

B. Definitions. In this section:

Advertising platform means any online site that provides a means for the host to advertise or otherwise offer for rent a short-term rental.

Host or *hosted* means the primary occupant of the dwelling is present during the short-term rental. *Non-hosted* means the primary occupant is not present during the short-term rental.

Operate means the operation of a short-term rental, and includes the acts of establishing, maintaining, or listing for rent a short-term rental with an advertising platform.

Primary Occupant means an occupant who is either the owner of the dwelling or a long-term tenant in the dwelling with a month-to-month lease or lease of a longer duration.

Short-term rental means the use of a dwelling unit, or portion of it, for a rental of less than 30 consecutive days.

Unintended accessory dwelling unit means a living space which meets the definition of an accessory dwelling unit, but which is not approved for habitation as an independent dwelling unit under the provisions of division 17.38. An unintended accessory dwelling unit may include a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.

C. Short-Term Rental Permit; Permit Issuance. No person may operate a short-term rental without first obtaining a short-term rental permit. A short-term rental permit may be approved by the Director, provided that the Director determines the applicant has met the following requirements:

1. Application. The applicant must complete an application on a form provided by the city, accompanied by a fee established by city council resolution.

2. Property owner consent. If the applicant is a tenant, he or she must demonstrate written approval of the property owner to allow short-term rentals.

3. Insurance. The applicant must provide evidence of, and maintain, general liability insurance of at least $1,000,000 during the term of the short-term rental permit that covers the applicant's short-term rental operations.

4. Contact information. The applicant must provide current contact information to the city, and information regarding the advertising platform(s) to be used.

5. Safety. The dwelling or rooms serving as a short-term rental must have a smoke detector, carbon monoxide detector, fire extinguisher, and adequate egress, all as determined by the chief building official. The applicant must either (at the applicant's discretion):

a. Request that the city inspect the property to assure that the primary residence and the rented rooms meet building codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The property owner shall pay a nominal inspection fee in the amount established by city council resolution; or

b. Submit to the city a signed safety declaration in a form prepared by the Director, to be kept in the property file at the city.

D. Appeals. Any interested party may appeal any decision by the Director to approve or deny a short-term rental permit pursuant to division 17.78 of the Piedmont Municipal Code. No permit shall be deemed issued or effective until the appeal period set forth in division 17.78 has expired.

E. Permit Term and Renewal. A short-term rental permit is valid until December 31 of the year it is issued, unless suspended or revoked. The permittee may renew the permit annually, by submitting a renewal application and fee before the expiration of the permit.

F. Operating standards. A short-term rental is allowed only if it conforms to these standards:

1. Permit. The short-term rental is operated under a short-term rental permit issued by the city in accordance with Section 17.40.030.

2. 2-night minimum. The short-term rental must be rented for a minimum of two consecutive nights.

3. 60 days maximum. The short-term rental may not be rented more than 60 days in a calendar year.

4. No Events. The short-term rental may be used for dwelling, sleeping or lodging purposes, but may not be rented for any other commercial purpose, including temporary events or gatherings.

5. Guest Safety. The short-term rental permittee must provide the following materials electronically to any guests before arrival and make available printed materials on-site for the guest with the following information:

a. A diagram of exits, fire extinguisher locations, and fire and police contact numbers;

b. The short-term rental permittee's contact information;

c. The city's noise regulations (sections 12.8 – 12.12);

d. The city's smoking ordinance (chapter 12, article II);

e. The city's garbage and recycling guidelines (available on the city's website, or a print copy of the residential services guide: *recycling, organics and garbage*).

6. Current Information. The short-term rental permittee shall, during the term of the permit, promptly inform the Director regarding any changes regarding information provided in the application, including contact information and information regarding advertising platforms used by the permittee to advertise the short-term rental."

SECTION 17 – AMENDMENT TO SECTION 17.50.020

Section 17.50.020 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.50.020 Nonconforming structure.**

A. General. A structure that was lawfully erected but which does not conform to the currently applicable zoning requirements prescribed in the zone district is a nonconforming structure. It may be used and maintained except as otherwise provided in this section. A nonconforming structure is also subject to the California Building Code adopted by the city under chapter 5.

B. Regulations. The following regulations apply to a nonconforming structure:

1. Maintenance and repair. Routine maintenance and repairs may be performed on a nonconforming structure.

2. No alteration or enlargement. A nonconforming structure may not be altered, partially demolished, or enlarged unless required by law, or unless the alteration or enlargement conforms to the standards of the zoning district. An existing nonconforming structure may be altered or enlarged without variance as long as the alteration or enlargement does not relate to or involve the nonconformity. If an alteration or enlargement does relate to or involve a nonconformity of a non-conforming structure, a variance is required under division 17.70.

In this section, *reconstruction* means rebuilding all or a portion of an improvement in a way that differs from the prior construction, including but not limited to differences in design or

materials or both. *Replacement* means rebuilding all or a portion of an improvement to be exactly the same as what was replaced.

3. Accessory dwelling unit. Regarding a nonconforming accessory dwelling unit, exterior design and material modifications beyond those authorized under division 17.38 are permitted if:

a. they make the accessory dwelling unit architecturally consistent with the primary unit and compliant with the current building code;
b. they comply with the Piedmont Design Guidelines; and
c. there is no increase in the size or change to the location of the accessory dwelling unit, no increase in structure coverage or decrease in landscape coverage related to the accessory dwelling unit, and no increase in the number of bedrooms.

4. Destruction; replacement. If a nonconforming primary structure is demolished or destroyed for any reason to the extent of more than 70% of the structure then, and without further action by the City Council, the structure and the land on which the structure was located are subject to the current regulations of the zone in which the structure is located, except as to lot area and lot frontage.

This subsection 4 does not apply to:

a. a garage, pool house, exempt accessory dwelling unit under section 17.38.030, or accessory structure, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under division 17.70.

b. a deck, balcony, porch, or site feature, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under division 17.70.

If a nonconforming primary structure has been demolished or destroyed less than 70%, reconstruction must be completed within two years from the date of issuance of the building permit. If a property owner of a non-conforming structure has received permission to demolish or destroy less than 70% of the structure, but during renovation, more that 70% is destroyed or demolished, the project approval terminates and the property is subject to current zoning regulations as set forth in the paragraph above.

The percentage of physical building destruction or demolition is determined by the Building Official.

If the nonconforming structure is not rebuilt within the time period allowed under this subsection 4, the nonconforming rights terminate."

SECTION 18 – AMENDMENT TO SECTION 17.60.060

Section 17.60.060 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.60.060 Approval authority.

A. Planning Director; City Clerk. The Planning Director has the primary authority to approve: some design review permit (including signs), some wireless communication facilities permits, and accessory dwelling unit permits. Except for accessory dwelling unit permits, the Planning Director may, in the director's discretion, refer any of these applications directly to the Planning Commission.

The City Clerk has the primary authority to approve home occupation permits.

B. Public Works Director. The Public Works Director has the primary authority to approve: encroachments permits, and sign permits on public property.

C. Planning Commission. The Planning Commission has the primary authority to approve applications for variances, some design review permits, some wireless communication facilities permits, and to make recommendations to the City Council regarding conditional use permits, zoning amendments, and development agreements. The Planning Commission also hears appeals from decisions of the Planning Director, and matters referred from the Planning Director. Combined applications involving multiple permits or approvals will be heard together.

D. City Council. The City Council has the authority to approve conditional use permits, development agreements, zoning ordinance amendments, some wireless communication facilities permits, and to hear appeals from the Planning Commission. Combined applications involving multiple permits or approvals will be heard together.

All actions taken under this section 17.60.020, except for subsection D (City Council), are subject to division 17.78, Appeals and Calls for Review."

SECTION 19 – AMENDMENT TO SECTION 17.62.030

Section 17.62.030 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.62.030 Summary of notice requirements.**

A. General. Notice of a public hearing will be given for a particular matter in accordance with the schedule set forth at subsection E below.

Published notice means that the notice will be published at least once in a newspaper of general circulation, at least 14 calendar days before the hearing.

Notice regarding landscape plans will be given as part of the related application.

B. Notice by applicant.

1. Before Planning Commission. The applicant for a design review permit or a variance, to be considered by the Planning Commission, must notify the adjacent property owners of the proposed project at least 30 calendar days before the date of the initial hearing. The notice must be in writing, describe the project in specific detail, and give the date of the hearing on the application. The applicant must submit to the Planning Director at least 30 calendar days before the hearing an affidavit of service by mail or personal delivery and a copy of the written notice.

2. Before Director. The applicant for an expedited design review permit under section 17.66.040 B.3 may be required to notify adjacent neighbors as specified in the Design Guidelines or the application instructions.

C. Method of city notice.

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 E. In addition to these requirements, the city may post notification at the project site.

2. Publication required. If the number of owners to whom notice would be sent under subsection B.1 is greater than 1,000, the city will give notice by placing a display advertisement of at least one-fourth page in a newspaper having general circulation within the city.

3. Property reclassification. If a property reclassification from one zoning district to another has been proposed by a person other than the property owner, including the city, the city will mail notice of all hearings to the property owner.

D. Compliance with public notice requirements. Compliance with public notice requirements prescribed by this chapter are deemed sufficient notice to allow the city to proceed with a public hearing and take action on an application, regardless of actual receipt of mailed, posted or delivered notice. (Gov't. Code §65093.)

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

		Notice by City at least 14 days before the hearing, measured from the project boundary. [2]				
	Notice by applicant	**to adjacent**	**to property owners**	**to property owners**	**to property owners**	**to property owners**

	30 days before hearing[1]	property owners	within 100 feet	within 200 feet	within 300 feet	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[4]		X			
Landscape plan	X[4]		X[4]			
Lot line adjustment Between two lots More than two lots			X		X	
Wireless communication facility permit	X[4]		X			
Accessory Dwelling Unit Permit	No notice for an ADU permit application is permitted. See division 17.38.					
Negative declaration or Environmental Impact Report required	X[4]				X	
Tract map or parcel map	X				X	
Conditional use permit, or modification						X
Reasonable accommodation[3]			X			
Zoning Regulation Amendment	Publish notice in newspaper of general circulation within the City.[5]					
Zoning Map Amendment	Publish notice in newspaper of general circulation within the City.[5]					
Other applications		X				
Appeal, Call for Review	Subject to Section 17.78.030.A.					

[1] See section 17.62.030B.
[2] See section 17.62.030C.
[3] Subject to section 17.76.040.
[4] For an application considered by Planning Commission
[5] Subject to section 17.62.030, subsections A and C."

SECTION 20 – AMENDMENT TO SECTION 17.70.010

Section 17.70.010 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.70.010 General; Exceptions.

A. General. The city may approve a variance from the provisions of this chapter, except for those features set forth in subsection B, which do not require a variance.

B. Exceptions.

1. These features do not require a variance: fence, retaining wall, or site feature.

2. A variance is not required to replace a nonconforming:

a. garage, pool house, exempt accessory dwelling unit, or accessory structure, which is destroyed, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under this division; (See section 17.50.020 B.4.)

b. deck, balcony, porch, or site feature, which is destroyed, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under this division. (See section 17.50.020 B.4.)

3. If a proposed improvement of an existing structure is subject only to a design review permit except that a feature of the improvement requires a variance, the city may approve it without the need for a variance if: (1) the extent of the nonconformity is unchanged or reduced; and (2) the proposal meets the design review permit requirements of section 17.66.050, Standards. (See section 17.66.020 F.)

4. A variance shall not be required to construct an accessory dwelling unit meeting the standards of section 17.38.060 C. A variance shall also not be required from any floor area ratio, lot coverage, or landscaping requirement imposed under divisions 17.20 through 17.28, in conjunction with an approval for an accessory dwelling unit permit or building permit for an 800 square foot accessory dwelling unit that is 16 feet in height or less with at least four-foot side and rear yard setbacks and that is constructed in compliance with all other development standards in division 17.38."

SECTION 21 – AMENDMENT TO SECTION 17.78.010

Section 17.78.010 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"**17.78.010 General.**
Except for a decision regarding an accessory dwelling unit under division 17.38, any interested person may appeal a decision of the Director to the Planning Commission, or a decision of the Planning Commission to the City Council, all under the terms of this division 17.78.

The city will not approve a building permit during the appeal period."

SECTION 22 – AMENDMENT TO SECTION 17.78.050

Section 17.78.050 of the Piedmont City Code is hereby amended in its entirety to read as follows:

"17.78.050 Call for review.

A. Initiating call for review. Except for matters where ministerial review is required under state law or where review at a public hearing would be prohibited under state law, a member of the City Council or Planning Commission, or the City Administrator, may call a matter for review, without an appeal fee. The City Administrator, Planning Commissioner, or Council Member may call the matter for review for the good of the city, without stating specific reasons for the call. The act of calling the matter for review does not, by itself, disqualify the Planning Commissioner or Council Member from participating as part of the decision-making body so long as that Commissioner or Council Member is neutral and unbiased and has not previously announced to any member of the public or city staff a preferred outcome on the matter.

B. Hearing body. If a decision of the Director is called for review, it will be heard by the Planning Commission. If a decision of the Planning Commission is called for review, it will be heard by the City Council.

C. Timing. The person calling for review must file a written request within ten days of the decision. (If the tenth day falls on a weekend or city holiday, the deadline is the close of business on the following business day.)

D. De novo hearing. The hearing will be a de novo hearing. The burden of proof is on the applicant."

SECTION 23– AMENDMENT TO SECTION 17.90.010

The definition of *Guest Cottage* in section 17.90.010 of the Piedmont City Code is hereby deleted.

SECTION 24 – 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 25 – POSTING, EFFECTIVE DATE, AND SUBMISSION

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. The City Clerk is directed to submit a copy of this ordinance to the Department of Housing and Community Development in the manner required by law.

[END OF ORDINANCE]

Exhibit A: Division 17.38 Accessory Dwelling Units of the Piedmont City Code

DIVISION 17.38 ACCESSORY DWELLING UNITS

Sections

17.38.010 Purpose and intent.

The State Legislature has declared that accessory dwelling units are a valuable form of housing in California. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices, and within existing neighborhoods. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security. (Gov't. Code § 65852.150.)

The city has a long history of various types of accessory dwelling units. By enacting this division 17.38, the City Council intends to:

A. Establish the requirements for accessory dwelling units and junior accessory dwelling units in the city, consistent with California Government Code section 65852.2 and 65852.22;

B. Encourage the use of existing accessory dwelling units and the construction of new accessory dwelling units, consistent with this Division;

C. Help achieve the goals and policies of the General Plan Housing Element by encouraging a mix of housing types affordable to all economic segments of the community; and

D. Clarify the requirements for the various kinds of accessory dwelling units in the city.

17.38.020 Definitions.

In this division 17.38, the following definitions apply, in addition to the definitions set forth in division 17.90:

Accessory dwelling unit means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and located on the same lot as a proposed or existing primary residence, which may be a single or multi-family dwelling, and has a separate, exterior entrance than that of the primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation. It may include (1)

an efficiency unit, as defined in Health and Safety Code section 17958.1 and (2) a manufactured home as defined in Health and Safety Code section 18007. (Formerly called *second dwelling unit*. See section 17.38.030 for types of accessory dwelling units and permits.)

Affordable housing definitions:

Affordable Rent Level means that the accessory dwelling unit household's monthly cost of rent, plus the cost of electricity, gas, water and sewer service, and garbage collection ("utilities") is 30% or less than the upper limit of the annual gross household income, divided by 12, for a specified income category and household size as last published by the California Department of Housing and Community Development (HCD). The City shall determine maximum affordable rent levels for rent-restricted accessory dwelling units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted accessory dwelling units shall be: studio, 1 person; one-bedroom, 2 persons; two-bedroom, 3 persons; and, three-bedroom, 4 persons. The cost of utilities for the accessory dwelling unit shall be included in the affordable rent level. For rent-restricted accessory dwelling units where utilities are separately metered and billed, and where the accessory dwelling unit household is responsible for the costs of that household's use of utilities, the maximum rent shall be set at 90% of the affordable rent level. (California Health and Safety Code section 50053)

Affordable unit means a dwelling unit for sale or rent that meets the California State Department of Housing and Community Development standards of income eligibility and affordable rent levels for Alameda County. (Health and Safety Code sections 50052.5(h) and 50053.)

Gross Household Income means the total monies earned or received by all occupants of an accessory dwelling unit age 18 and over, including: wages and all types of compensation, before any payroll deductions; spousal and child support; social security, retirement, disability, insurance, and other types of periodic payments; unemployment compensation and other payments in-lieu of earnings; welfare and other public assistance; interest, dividends and other payments generated from any real or personal property; net business income; and, any other type of payment determined to qualify as income by the U.S. Department of Housing and Urban Development (HUD) and as published in HUD's Housing Choice Voucher Program Guidebook. The annual gross household income is calculated by multiplying the monthly amounts earned or received at the time of certification by 12 and adjusting for anticipated payments and changes in amounts over the next 12 months.

Household means those persons who collectively occupy a housing unit. A household shall include any child or dependent, as defined Internal Revenue Code section 152, who is under the age of 18 or who is under the age of 24 and is a full-time student.

Household Size means the number of persons in a household.

Household, Extremely Low Income means a household with an annual gross household income of 30% or less than the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Low Income means a household with an annual gross household income between 50% and 80% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Moderate Income means a household with an annual gross household income between 80% and 120% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50093)

Household, Very Low Income means a household with an annual gross household income between 30% and 50% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Junior accessory dwelling unit means a unit that is no more than 500 square feet in size and contained within a single-family residence, with a separate entrance. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, but shall include an efficiency kitchen that provides for a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

Primary unit means a principal, permitted single-family or multi-family dwelling.

17.38.030 Legal accessory dwelling units; Non-conforming accessory dwelling units; Requirements for rented accessory dwelling units.

A. Legal accessory dwelling units.
The following are kinds of legal accessory dwelling units and permits. Each may be used and rented (subject to the business tax for rental property):

1. Accessory dwelling unit permit. An accessory dwelling unit or junior accessory dwelling unit permitted under an accessory dwelling unit permit is a legally existing accessory dwelling unit. (This includes an accessory dwelling unit approved subject to a variance and an accessory dwelling unit approved subject to exceptions and rent-restrictions, both under section 17.38.070.) If the unit is rent-restricted, then a tenant must be qualified by income level under the permit conditions of approval and the terms of the recorded declaration.

2. Second unit permit. A second unit permit issued before December 31, 2016 is a legal accessory dwelling unit.

3. Conditional use permit second unit. Between January 19, 1994 and July 1, 2003, second units were approved by conditional use permit. A second unit permitted under a conditional use permit during that period of time is a legal accessory dwelling unit.

4. Exempt accessory dwelling unit. If an accessory dwelling unit was established before 1930, and the City has confirmed the exempt status in writing, the accessory dwelling unit is a legally existing accessory dwelling unit.

5. Temporary use permit second unit. A temporary use permit second unit approved by the City between May 6, 1987 and July 1, 2003, under former Chapter 17D, is a legal accessory dwelling unit (and the temporary nature now recognized as permanent).

Any accessory dwelling unit or junior accessory dwelling unit that is not established pursuant to one of the above categories shall not be a legal accessory dwelling unit.

B. Non-conforming accessory dwelling units. A legal, non-conforming unit may not be modified or expanded except in compliance with division 17.50, Nonconforming buildings and uses.

C. Requirements for legal accessory dwelling units that are rented. If an accessory dwelling unit is rented to a tenant, these additional requirements apply:

1. Business tax. An accessory dwelling unit that is rented is subject to an annual business tax for rental property, under City Code chapter 10.

2. Rent restrictions. An accessory dwelling unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See section 17.38.070.)

17.38.040 Permit requirement.

A. Accessory dwelling unit permit. An accessory dwelling unit permit is required for construction of an accessory dwelling unit or junior accessory dwelling unit or the modification of exterior features, size, or height of an existing accessory dwelling unit or junior accessory dwelling unit.

B. Building permit. A building permit shall be required for construction or modification of an accessory dwelling unit or junior accessory dwelling unit as set forth in the California Residential Code and other building standards adopted by the City.

17.38.050 Permit application and review procedures.

A. Application.

1. Application. An owner may apply for an accessory dwelling unit permit (or other city approval) by submitting a complete application to the Director on a form provided by the city.

2. Application fee. The owner shall pay an application fee in the amount established by City Council resolution.

B. Ministerial review. The Director shall review each application ministerially to determine if the development standards in section 17.38.060 are met, and shall within 60 days of a completed application approve or deny the application, except if the application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to create a new primary dwelling on the lot, the Director shall delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until permits for the new single-family dwelling are approved. The Director will review the application without notice or public hearing. The time period for review may be tolled at the request of the applicant.

C. Decision and conditions. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final.

17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval.

A. Zoning regulations. A proposed accessory dwelling unit must comply with the zoning regulations for the district in which is it located, subject to the requirements or exclusions in this section. (See divisions 17.20 through 17.28.)

B. Accessory dwelling unit development standards. An accessory dwelling unit shall comply with all of the following development standards, except the Director may grant an exception to the unit maximum size restriction under section 17.38.070.

1. Size. An attached accessory dwelling unit may not exceed 50% of the existing living area up to a maximum of 850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom, except where a restriction to 50% of existing living area would result in a maximum size of less than 800 square feet, an attached accessory dwelling unit of no more than 800 square feet shall be permitted, subject to the zoning regulations and development standards in this section. A detached accessory dwelling unit may not exceed 850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom. The minimum floor area for an accessory dwelling unit shall be 150 square feet.

2. Access. The accessory dwelling unit must have independent, exterior access.

3. Subdivision. No subdivision of land is authorized that would result in an accessory dwelling unit being located on a separate parcel, unless each parcel meets all of the zoning requirements for the zoning district in which it is located.

4. Building Height. A detached accessory dwelling unit shall not exceed a building height of 16 feet.

5. Design Criteria. The design of the structure(s) housing the proposed accessory dwelling unit must meet applicable design criteria in the Piedmont Design Guidelines and any additional design guidelines applicable to accessory dwelling units approved by City Council resolution.

6. Limitations on city's approval. Under Government Code section 65852.2, the following limitations apply to any city approval:

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, the City shall not require the replacement of offstreet parking spaces. (Gov't. Code §65852.2 (a)(1)(D)(xi).)

b. Setbacks. No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure. If an accessory dwelling unit is not converted from an existing structure, the minimum setback is four feet from the side and rear lot line. (Gov't. Code §65852.2 (a)(1)(D)(vii).)

c. Fire sprinklers. Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

i. When fire sprinklers are currently installed in the primary dwelling unit;

ii. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit; or

iii. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an accessory dwelling unit, which addition triggers any requirement for retroactive installation of fire sprinklers in the primary dwelling unit.

(Gov't. Code §65852.2 (a)(1)(D)(xii).)

d. Passageway. No passageway will be required. (Gov't. Code §65852.2 (a)(1)(D)(vi).)

e. Minimum lot area or lot size. Notwithstanding anything in divisions 17.20 through 17.28, no minimum lot area or lot size shall be imposed with respect to the approval of permits for an accessory dwelling unit. (Gov't. Code §65852.2(a)(1)(B).)

f. Floor Area Ratio, Lot Coverage, and Landscaping.

i. Lot coverage. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

ii. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

iii. Floor Area Ratio. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum floor area ratio requirement. Maximum floor area ratio for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
(Gov't. Code §65852.2(c)(1)(C).)

g. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling.

h. Nonconforming Zoning Conditions. The City shall not require as a condition for approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit the correction of nonconforming zoning conditions.

i. Utility Connections. For an accessory dwelling unit described in section 17.38.060.D.1, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.

C. Junior accessory dwelling unit development standards.

1. General provisions. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling shall not be constructed unless a single-family dwelling unit exists on a site and such single-family dwelling unit has been constructed lawfully, or the junior accessory dwelling unit is proposed as part of the construction of the single-family dwelling unit. A junior accessory dwelling unit shall be a permitted use in any lot zoned to allow a single-family residential use.

b. No lot shall contain more than one (1) junior accessory dwelling unit.

c. A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling or accessory structure, however, an

expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling shall be permitted for purposes of accommodating ingress and egress.

d. A junior accessory dwelling unit shall not be sold or otherwise conveyed separate from the single-family dwelling unit.

e. A junior accessory dwelling unit shall have an exterior point of access directly into the junior accessory dwelling unit that is separate and independent from the single-family dwelling unit.

f. A building permit shall be required to construct a junior accessory dwelling unit or to establish a junior accessory dwelling unit within the existing space of a single-family dwelling. Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.

2. Development standards. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes. Installation of fire sprinklers in a junior accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the primary dwelling unit" under the circumstances as specified in section 17.38.060.B.6.c.

b. The minimum floor area for a junior accessory dwelling unit shall be 150 square feet.

c. The maximum floor area for a junior accessory dwelling unit shall not exceed five-hundred square feet. If the sanitation facility is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.

d. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may be constructed only if the following setbacks are maintained:

i. a front setback accordance with the applicable zoning district.
ii. a minimum side yard setback of four feet.

iii. a minimum rear yard setback of four feet.

e. No parking shall be required for a junior accessory dwelling unit.

f. No lot coverage or landscaping requirement shall apply to a junior accessory dwelling unit.

g. No height restriction shall apply to a junior accessory dwelling unit.

h. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.

i. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, provided that it is constructed in compliance with all building standards and other standards of this division.

j. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in the Piedmont Design Guidelines and any additional design guidelines applicable to accessory dwelling units approved by City Council resolution.

3. Use Restrictions. The following restrictions shall apply to junior accessory dwelling units:

a. The property owner shall record a deed restriction with the County Recorder Office and file a copy of the recorded deed restriction with the City. The deed restriction shall prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.

b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. The site's owner shall be required to reside in the single-family dwelling unit as its primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.

c. A site's owner shall not allow occupancy of a junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence.

d. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.

e. A junior accessory dwelling unit may be rented but shall not be used for rentals of a term less than thirty (30) consecutive days.

D. Projects subject to state mandated approval. Notwithstanding anything in this code to the contrary, the Director and Building Official shall ministerially approve permits required to create any of the following within a residential or mixed-use zone:

1. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

b. The accessory dwelling unit has exterior access that is separate from the exterior entrance proposed or existing single-family dwelling.

c. The side and rear setbacks are sufficient for fire and safety.

d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.

2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, subject to the following requirements:

a. A total floor area limitation of not more than 800 square feet.

b. A height limitation of 16 feet.

The new construction detached accessory dwelling unit in this subsection may include a junior accessory dwelling unit described in subparagraph 1 above.

3. Not more than two detached accessory dwelling units that are located on a lot that has an existing multi-family dwelling, subject to a height limit of 16 feet and four-foot rear yard and side yard setbacks.

4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this subsection shall not exceed 25 percent of the existing

dwelling units in the multi-family dwelling structure or one new accessory dwelling unit, whichever is greater.

17.38.070 Unit size exception.

A. Exception to unit size. The Director shall approve an exception to the maximum unit size set forth in section 17.38.060 B.1 for an accessory dwelling unit upon request of an applicant in accordance with the requirements of this section. If an exception is granted, the accessory dwelling unit shall be subject to all the requirements set forth below.

IF THE UNIT INCLUDES:	EXPANSION UP TO 1,000 SQUARE FEET	EXPANSION TO 1,200 SQUARE FEET
One bedroom or less	Imposition of covenants requiring an affordable rent level to households of low income	Imposition of covenants requiring an affordable rent level to households of very low income
More than one bedroom	N/A	Imposition of covenants requiring an affordable rent level to households of very low income

B. Additional requirements. If an accessory dwelling unit permit with a unit size exception is approved, it is subject to the following additional requirements.

1. Rent restriction.

a. Declaration of rent restrictions. The accessory dwelling unit permit with a unit size exception shall have a condition describing the type of rent restriction applicable to the property. The rent-restriction shall be recorded in the county recorder's office, as a declaration of rent restrictions (in a form provided by the city), and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration.

If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the city will record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

b. Affordable rent certification. An owner who has executed a declaration must submit to the city an accessory dwelling unit affordable rent certification: (i) on an annual basis, by each December 31 and as part of the annual city business license application and renewal; and (ii) upon any change in occupancy of the accessory dwelling unit. The accessory dwelling unit affordable rent certification must be on a form provided by the city and must specify whether or not the accessory dwelling unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the accessory dwelling unit; the names and ages of the accessory dwelling unit occupants; the gross household income of the accessory dwelling unit household; and other information as determined appropriate by the city.

17.38.080 Enforcement.

Enforcement of notices to correct a violation of any provision of any building standard for any accessory dwelling unit shall comply with Section 17980.12 of the Health and Safety Code.

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The proposed amendments to Chapter 17 related to accessory dwelling units affect only the highlighted divisions. For the sake of brevity, only those divisions are included in this copy of Chapter 17.

Chapter 17
PLANNING AND LAND USE

ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS

Divisions

DIVISION 17.20 ZONE A: SINGLE FAMILY RESIDENTIAL

Sections:

17.20.010 Intent.

Zone A is established for single-family residential use. The intent is to:

- Preserve, protect and enhance Piedmont's residential character, protecting the quiet, family atmosphere of neighborhoods.
- Protect residents from the harmful effects of excessive noise, light deprivation, intrusions on privacy, overcrowding, excessive traffic, insufficient parking, blockage of significant views, and other adverse environmental impacts.
- Maintain openness and areas of vegetation between residences to enhance a healthy environment.
- Achieve design compatibility between additions, remodeling and other new construction by establishing development standards.
- Minimize the out-of-scale appearance of large homes, parking areas, and other development relative to the lot size and to other homes in a neighborhood.

17.20.020 Permitted uses.

The following are permitted uses in Zone A:

A. Single-family residence together with accessory structures and associated uses, located on the same lot.

B. Rented room, subject to section 17.40.020, or short-term rental, subject to a short-term rental permit under section 17.40.030.

C. Accessory dwelling unit, subject to division 17.38.

D. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47. (Ord. 742 N.S., 05/2017)

17.20.030 Conditional uses.
The following are allowed as conditional uses in Zone A:

A. Religious assembly.

B. Private school, or day care facility associated with a religious assembly use. A pre-existing school not having a use permit may continue as a non-conforming use as long as the use is not expanded.

C. Reservoir.

D. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.20.040 Regulations.
In Zone A:

	Zone A requirements
Lot area	Minimum 8,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 60 feet.
Lot coverage; Landscaping	Maximum 40% by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. (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, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
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.

	Zone A requirements (continued)
Side yard and rear yard setback	Minimum 5 feet for a primary or accessory structure, but 20 feet in a street-facing yard, except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit.** 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*	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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. (Ord. 743 N.S., 05/2018)

** Pursuant to Government Code section 65852.2(a)(1)(D)(vii).

DIVISION 17.22 ZONE B: PUBLIC FACILITIES

Sections:

17.22.010 Intent.

Zone B is established to regulate and control development of public facilities that are compatible with the character of surrounding uses.

17.22.020 Permitted uses.

The following are permitted uses in Zone B:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A). An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone B used for residential purposes.

B. City building, used by a governmental entity or other nonprofit entity.

C. Public school.

D. Parks, including recreational uses and facilities.

E. Cemetery, public utility.

F. Emergency shelter, supportive housing or transitional housing, as defined in Health and Safety Code sections 50801(e), 50675.14(b) and 50675.2(h), respectively.

17.22.030 Conditional uses.

The following are allowed as conditional uses in Zone B:

A. City building used by a for-profit commercial entity.

B. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.22.040 Regulations.

A. Certain city projects are subject to:
   1. the green building requirements of chapter 5, article 4, section 5.35 and following; and
   2. the bay-friendly landscaping requirements of chapter 3, section 3.30 and following.

B. In Zone B, for residential use:

Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.	All as set forth for Zone A. See section 17.20.040.

DIVISION 17.24 ZONE C: MULTI-FAMILY RESIDENTIAL

Sections:

17.24.010 Intent.

Zone C is established to regulate and control residential development, including some multi-family dwellings, in harmony with the character of the neighborhood.

17.24.020 Permitted uses.

The following are permitted uses in Zone C:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. A multi-family dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area (12 units/acre), and not exceeding one dwelling unit per each 2,000 square feet of lot area (21 units/acre).

The Planning Commission will grant a density bonus for affordable housing in accordance with Government Code section 65915. A multi-family residential project that incorporates affordable units is also eligible for a 20% reduction in planning application fees.

C. Accessory dwelling unit, subject to division 17.38.

17.24.030 Conditional uses.

The following are allowed as conditional uses in Zone C:

A. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.24.040 Regulations.

A. In Zone C, for multi-family residential use:

	Zone C requirements
Lot area	Minimum 10,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 90 feet
Lot coverage; Landscaping	Maximum 50% of the total by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. Minimum 30% landscaping, or 20% by landscaping for a project in which at least 20% of the units are affordable, as defined by the California Department of Housing and Community Development, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary or accessory structure. Site feature of any height may require a design review permit under division 17.66.
Side yard and rear yard setback	Minimum 5 feet for primary or accessory structure, ~~but 20 feet in a street-facing yard~~ except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit. 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	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 55% of the lot area if the parcel is 5,000 square feet or less. Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. Maximum 45% of the lot area if the parcel is more than 10,000 square feet.

B. In Zone C, for single-family residential use:

Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.	All as set forth for Zone A. See section 17.20.040.

DIVISION 17.26 ZONE D: COMMERCIAL AND MIXED USE

Sections:

17.26.010 Intent.

Zone D is established to regulate and control commercial and mixed-use commercial/residential development, where pedestrian-oriented commercial development will serve city residents, consistent and in harmony with the character of the neighborhood and adjacent residential areas.

17.26.020 Permitted uses.

The following are permitted uses in Zone D:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone D used for residential purposes.

17.26.030 Conditional uses.

The following are allowed as conditional uses in Zone D:

A. Religious assembly.

B. Private school, or day care facility associated with a religious assembly use. A pre-existing school not having a use permit may continue as a non-conforming use as long as the use is not expanded. .

C. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.

D. Retail, office, and service commercial uses of a type that will primarily serve city residents. Commercial uses that will primarily serve city residents are those uses residents would be expected to use on a regular basis, and not uses that would be expected to draw the major portion of their clientele from outside the city.

A structural change or change in actual existing use in a commercial building requires a new conditional use permit. Change in actual existing use means the addition, withdrawal, or other modification of:

1. the type or quality of service or product being marketed;
2. the time or place of delivery of the service or product;

3. the manner or method of delivery of the service or product; or
4. the number of personnel on the site, where the addition, withdrawal, or other modification changes the facts upon which a conditional use permit was based.

E. Mixed-use commercial/residential development. Mixed-use commercial and residential developments must have both:

1. ground floor retail, office, or service commercial uses to primarily serve city residents. Ground floor residential use is not permitted, except for an entry to the upper floor(s); and
2. multi-family residences above the ground floor of not more than 20 units per net acre. When affordable housing is provided, the Planning Commission will grant a density bonus in accordance with Government Code section 65915.

F. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.26.040 Prohibited uses.

The following uses are prohibited uses in Zone D: manufacturing, wholesaling, distributing, or industrial use; motor vehicle sales or service, except minor servicing; hotel or motel; fast food restaurant; drive-through establishment.

17.26.050 Regulations.

A. In Zone D, for each conditional use:

	Zone D requirements	
	Civic Center Subarea [1]	**Grand Avenue Subarea [2]**
Lot area	No minimum area, but an existing lot may not be subdivided into smaller lots.	No minimum area, but an existing lot may not be subdivided into smaller lots.
Frontage, on public or private street	No minimum requirement.	No minimum requirement.
Lot coverage; Landscaping	No maximum. No minimum.	No Maximum. Minimum 10% landscaping, subject to exception for accessory dwelling unit construction set forth in division 17.38.

	Zone D requirements (continued)	
Structure height	Maximum 40 feet, and 3 stories.	Maximum 35 feet, and 3 stories. For a building site adjacent to a single family residence: • within 10 feet of the abutting lot line: maximum 25 feet measured from adjacent grade; and • daylight plane starting at 25 feet above grade and a distance of 10 feet from the abutting property line.
Street yard setback	No minimum setback.	Along Wildwood, Sunnyside and Linda Avenues: 10 feet minimum from lot line. Along Grand Avenue: 15 feet minimum from curb or 3 feet from lot line, whichever is greater.
Side yard and rear yard setback[3]	No minimum setbacks, but if side or rear yard abuts a single-family residence, the minimum side and rear yard setback is 5 feet from that abutting lot line.	Side Yard: no minimum setbacks, except minimum 5 feet from lot line abutting a single-family residence. Rear Yard: 5 feet minimum.
Floor to ceiling height for ground floor	15 feet minimum	12 feet minimum

[1] The Civic Center Subarea consists of the Zone D parcels bounded by: Highland Way on the north, Highland Avenue on the south; and Highland Avenue on the east, Vista Avenue on the south, and Piedmont Unified School District properties on the north and west.

[2] The Grand Avenue Subarea consists of the Zone D parcels bounded by: Wildwood Avenue to the southeast, Grand Avenue on the west, Zone A parcels on the north and east; and City boundary on the south, Grand Avenue on the east, Linda Avenue on the north, and Zone A properties to the west.

[3] Setback requirements applicable to accessory dwelling unit construction are set forth in division 17.38, rather than this table.

B. In Zone D, for single-family residential use:

Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.	All as set forth for Zone A. See section 17.20.040.

DIVISION 17.28 ZONE E: ESTATE RESIDENTIAL

Sections:

17.28.010 Intent.
Zone E is established for estate residential homes, which tend to be larger lots. The other purposes set forth for Zone A also apply to Zone E.

17.28.020 Permitted uses:
The following are permitted uses in Zone E: ~~a single-family residence, accessory structures and associated uses as listed in section 17.02.010 (for Zone A).~~

A. Single-family residence together with accessory structures and associated uses, located on the same lot.

B. Rented room, subject to section 17.40.020, or short-term rental, subject to a short-term rental permit under section 17.40.030.

C. Accessory dwelling unit, subject to division 17.38.

D. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.

17.28.030 Conditional uses.
The following are allowed as conditional uses in Zone E:

A. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.28.040 Regulations.
In Zone E:

	Zone E requirements
Lot area	Minimum 20,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 120 feet.

	Zone E requirements (continued)
Lot coverage; landscaping	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
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	Minimum 20 feet for primary or accessory structure, except that a set-back of only four feet is required for a new structure to be used as an accessory dwelling unit. However, an accessory structure not to be used as an accessory dwelling unit 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.
Floor area ratio*	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 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. (Ord. 743 N.S., 05/2018)

ARTICLE 3. SPECIAL REGULATIONS

Divisions:

DIVISION 17.30 PARKING

Sections:

17.30.010 Single family residential use. (All zones)

A. Applicability. This section 17.30.010 applies to the following single family residential uses in any zone:

1. new development; and

2. existing development (which may be nonconforming under division 17.50) when an applicant seeks a building permit or land use approval for an improvement or change that will affect the need for parking. Either an increase in the number of bedrooms, as defined, or an increase in the intensity of use will affect the need for parking. Existing street width and existing demand for on-street parking are factors in considering the intensity of use.

B. Regulations.

1. General.

Dwelling unit	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (chapter 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet: 1-4 bedrooms 5-6 bedrooms 7 or more bedrooms	 2 3 4

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

2. Parking spaces may not be located within a 20-foot street setback~~, except for certain accessory dwelling units under section 17.38.060 B.5.a~~.

3. An applicant may increase the primary dwelling unit up to four bedrooms without adding additional parking, as long as:

a. no existing parking space is eliminated if it creates a nonconformance;
b. the required number of parking spaces are provided, even if uncovered or tandem;
c. the parking spaces are not within the required 20 foot street setback; and
d. section B.4 below does not apply.

4. When considering an application, the city may strictly apply the parking regulations under subsection B.1 above if the proposed construction will have an undue adverse impact on neighborhood vehicular congestion. A determination of undue adverse impact must be based on evidence considering one or more of the following factors: existing street width; existing on-street parking conditions; lack of sidewalks; and street slope and curvature.

17.30.020 Multi-family residential use. (Zone C).

This section applies to each multi-family residential use.

Dwelling Unit Size	Minimum number of off-street, covered, non-tandem parking spaces
Accessory Dwelling Unit (division 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet	1.5

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

17.30.030 Commercial use and mixed-use residential/commercial. (Zone D).

A. Residential uses in mixed use commercial/residential:

Dwelling Unit Size	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (division 17.38)	0*
Studio or 1 bedroom	1
2 bedrooms	1.5
3 or more bedrooms	2

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

B. Commercial uses:

Use Type	Minimum number of off-street, covered, non-tandem parking spaces per floor area	
	First 1,500 square feet	In excess of 1,500 square feet
Eating places and similar, high-intensity on premise customer uses	Each 500 square feet: 1[1]	Each 250 square feet: 1[1]
Retail stores, offices, and other low-intensity uses	Each 750 square feet: 1[1]	Each 350 square feet: 1[1]

[1]Or as required by conditional use permit

17.30.040 Location of parking spaces.
Parking for a permitted use in any zone must be located: (1) on the same lot as the permitted use; (2) not within the street setback; and (3) not between the street-facing facade of a building and the lot line in Zone D. Parking for a conditional use in any zone will be provided as required by the conditional use permit authorizing the use.

17.30.050 Size and specifications.
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. (Ord. 743 N.S., 05/2018)

17.30.060 No reduction of existing parking.
Except for (1) the demolition of a garage, carport, or covered parking structure in conjunction with the construction of an accessory dwelling unit, or (2) conversion of a garage, carport, or

covered parking structure for use as an accessory dwelling unit, ~~N~~no person may alter, eliminate, or restrict access to an existing parking space unless the Planning Director first determines that the space is (1) unusable, (2) is to be restored or replaced with a parking space which meets the requirements of this division 17.30, or (3) is permitted with a variance approved by the Planning Commission or City Council. For purposes of making this determination, the term unusable means that the parking space is not large enough to contain a compact-sized automobile or that the driveway to the parking space is so steep, narrow or otherwise configured that it precludes safe passage of the vehicle, and that enlargement to permit safe passage would result in severe economic hardship.

No garage or other off-street parking may be altered for a use other than parking, unless otherwise allowed under this chapter.

17.30.070 Compliance with American with Disabilities Act (ADA).
The Chief Building Official may adjust the parking requirements in zones B, C or D without a conditional use permit or design review permit, to meet the requirements of the Americans with Disabilities Act.

DIVISION 17.38 ACCESSORY DWELLING UNITS

Sections

17.38.010 Purpose and intent.

The State Legislature has declared that accessory dwelling units are a valuable form of housing in California. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices, and within existing neighborhoods. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security. (Gov't. Code § 65852.150.)

The city has a long history of various types of accessory dwelling units. By enacting this division 17.38, the City Council intends to:

A. Establish the requirements for accessory dwelling units and junior accessory dwelling units in the city, consistent with California Government Code section 65852.2 and 65852.22;

B. Encourage the use of existing accessory dwelling units and the construction of new accessory dwelling units, consistent with this Division;

C. Help achieve the goals and policies of the General Plan Housing Element by encouraging a mix of housing types affordable to all economic segments of the community; and

D. Clarify the requirements for the various kinds of accessory dwelling units in the city.

17.38.020 Definitions.

In this division 17.38, the following definitions apply, in addition to the definitions set forth in division 17.90:

Accessory dwelling unit means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and located on the same lot as a proposed or existing primary residence, which may be a single or multi-family dwelling, and has a separate, exterior entrance than that of the primary residence. It includes

permanent provisions for living, sleeping, eating, cooking, and sanitation ~~on the same parcel as a primary unit~~. It may include (1) an efficiency unit, as defined in Health and Safety Code section 17958.1 and (2) a manufactured home as defined in Health and Safety Code section 18007. (Formerly called *second dwelling unit*. See section 17.38.030 for types of accessory dwelling units and permits.)

Affordable housing definitions:

Affordable Rent Level means that the accessory dwelling unit household's monthly cost of rent, plus the cost of electricity, gas, water and sewer service, and garbage collection ("utilities") is 30% or less than the upper limit of the annual gross household income, divided by 12, for a specified income category and household size as last published by the California Department of Housing and Community Development (HCD). The City shall determine maximum affordable rent levels for rent-restricted accessory dwelling units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted accessory dwelling units shall be: studio, 1 person; one-bedroom, 2 persons; two-bedroom, 3 persons; and, three-bedroom, 4 persons. The cost of utilities for the accessory dwelling unit shall be included in the affordable rent level. For rent-restricted accessory dwelling units where utilities are separately metered and billed, and where the accessory dwelling unit household is responsible for the costs of that household's use of utilities, the maximum rent shall be set at 90% of the affordable rent level. (California Health and Safety Code section 50053)

Affordable unit means a dwelling unit for sale or rent that meets the California State Department of Housing and Community Development standards of income eligibility and affordable rent levels for Alameda County. (Health and Safety Code sections 50052.5(h) and 50053.)

Gross Household Income means the total monies earned or received by all occupants of an accessory dwelling unit age 18 and over, including: wages and all types of compensation, before any payroll deductions; spousal and child support; social security, retirement, disability, insurance, and other types of periodic payments; unemployment compensation and other payments in-lieu of earnings; welfare and other public assistance; interest, dividends and other payments generated from any real or personal property; net business income; and, any other type of payment determined to qualify as income by the U.S. Department of Housing and Urban Development (HUD) and as published in HUD's Housing Choice Voucher Program Guidebook. The annual gross household income is calculated by multiplying the monthly amounts earned or received at the time of certification by 12 and adjusting for anticipated payments and changes in amounts over the next 12 months.

Household means those persons who collectively occupy a housing unit. A household shall include any child or dependent, as defined Internal Revenue Code section 152, who is under the age of 18 or who is under the age of 24 and is a full-time student.

Household Size means the number of persons in a household.

Household, Extremely Low Income means a household with an annual gross household income of 30% or less than the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Low Income means a household with an annual gross household income between 50% and 80% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Moderate Income means a household with an annual gross household income between 80% and 120% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50093)

Household, Very Low Income means a household with an annual gross household income between 30% and 50% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Junior accessory dwelling unit means a unit that is no more than 500 square feet in size and contained within a single-family residence, with a separate entrance. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, but shall include an efficiency kitchen that provides for a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

Primary unit means a principal, permitted single-family or multi-family dwelling.

~~*Accessory dwelling unit* means an attached or detached dwelling unit that provides complete and independent living facilities for one or more persons functioning as a single family. It includes permanent provisions for living, sleeping, eating, cooking, bathing and sanitation on the same parcel as a primary unit. A accessory dwelling unit is an accessory use to a primary unit, and has a separate, exterior entrance. (See section 17.38.030 for types of accessory dwelling units.)~~

17.38.030 Legal accessory dwelling units; Non-conforming accessory dwelling units; Requirements for rented accessory dwelling units~~; Units that are not legal accessory dwelling units~~.

A. Legal accessory dwelling units.

The following are kinds of legal accessory dwelling units and permits. Each may be used and rented (subject to the business tax for rental property):

1. Accessory dwelling unit permit. An accessory dwelling unit or junior accessory dwelling unit permitted under an accessory dwelling unit permit is a legally existing accessory dwelling unit. (This includes an accessory dwelling unit approved subject to a variance and an accessory dwelling unit approved subject to exceptions and rent-restrictions, both under section 17.38.070.) If the unit is rent-restricted, then a tenant must be qualified by income level under the permit conditions of approval and the terms of the recorded declaration.

2. Second unit permit. A second unit permit issued before December 31, 2016 is a legal accessory dwelling unit.

3. Conditional use permit second unit. Between January 19, 1994 and July 1, 2003, second units were approved by conditional use permit. A second unit permitted under a conditional use permit during that period of time is a legal accessory dwelling unit.

4. Exempt accessory dwelling unit. If an accessory dwelling unit was established before 1930, and the City has confirmed the exempt status in writing, the accessory dwelling unit is a legally existing accessory dwelling unit.

5. Temporary use permit second unit. A temporary use permit second unit approved by the City between May 6, 1987 and July 1, 2003, under former Chapter 17D, is a legal accessory dwelling unit (and the temporary nature now recognized as permanent).

Any accessory dwelling unit or junior accessory dwelling unit that is not established pursuant to one of the above categories shall not be a legal accessory dwelling unit.

B. Non-conforming accessory dwelling units. A legal, non-conforming unit may not be modified or expanded except in compliance with division 17.50, Nonconforming buildings and uses.

C. Requirements for legal accessory dwelling units that are rented. If an accessory dwelling unit is rented to a tenant, these additional requirements apply:

1. Business tax. An accessory dwelling unit that is rented is subject to an annual business tax for rental property, under City Code chapter 10.

2. Rent restrictions. An accessory dwelling unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See section 17.38.070C.)

~~D. Units which are not legal accessory dwelling units. The following types of units are not legal accessory dwelling units. They may not be used for independent living as an independent dwelling unit or rented apart from the primary unit. The owner of one of these units, may apply to the city for an accessory dwelling unit permit under section 17.38.040.~~

~~1. An unintended accessory dwelling unit. An *unintended accessory dwelling unit* means a living space which meets the definition of an accessory dwelling unit, but which is not approved for habitation as an independent dwelling. An unintended accessory dwelling unit may include a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.~~

~~2. Unapproved exempt accessory dwelling unit. A living unit which might qualify as an exempt accessory dwelling unit under section 17.38.030.A.4 above, for which the owner has not obtained City approval.~~

~~3. Rented room. A rented room(s), permitted under division 17.40, is not a legal accessory dwelling unit.~~

~~4. Other. Any other living unit that is not a primary unit and not an accessory dwelling unit under subsection 17.38.030A, above.~~

17.38.040 Permit requirement.

A. Accessory dwelling unit permit. An accessory dwelling unit permit is required for construction of an ~~new~~ accessory dwelling unit or junior accessory dwelling unit ~~approved after January 1, 2017~~ or the modification of exterior features, size, or height of an existing accessory dwelling unit or junior accessory dwelling unit.

B. Building permit. A building permit ~~(or other verification of compliance by building official) is~~ shall be required for construction or modification of an ~~new~~ accessory dwelling unit or junior accessory dwelling unit as set forth in the California Residential Code and other building standards adopted by the City.

17.38.050 Permit application and review procedures.

A. Application.

1. Application. An owner may apply for an accessory dwelling unit permit (or other city approval) by submitting a complete application to the Director on a form provided by the city. ~~If the accessory dwelling unit requires new exterior construction, the applicant must also submit a separate application for a design review permit (under division 17.66) and, if necessary, a variance.~~

2. Application fee. The owner shall pay an application fee in the amount established by City Council resolution.

B. ~~Reviewing body; Public hearing~~Ministerial review. The Director ~~will~~ shall review each application ministerially to determine if the development standards in section 17.38.060 are met, and ~~will~~ shall within ~~120~~60 days of a completed application approve~~,~~ or deny~~, or refer the application to the Planning Commission~~ the application, except if the application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to

create a new primary dwelling on the lot, the Director shall delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until permits for the new single-family dwelling are approved. The Director will review the application without notice or public hearing. The time period for review may be tolled at the request of the applicant.

~~1. Director. The Director will approve the application without notice or public hearing if:~~
~~a. the application does not require an exception;~~
~~b. any separate related application for a design review permit (with or without a variance) is approved; and~~
~~c. the proposed accessory dwelling unit meets all of the development standards in section 17.38.060.~~

~~2. Planning Commission. The following require a noticed public hearing before the Planning Commission, consistent with divisions 17.62 and 17.64:~~

~~a. If the application requires an exception, the Planning Commission may only approve the application if it meets the requirements of section 17.38.070. If approved, the accessory dwelling unit will be rent-restricted for 10 years. (See section 17.38.070C.)~~

~~b. If the proposed accessory dwelling unit was established before 1930 it may be an exempt accessory dwelling unit. The property owner may apply for approval of the accessory dwelling unit based on sufficient evidence (such as inspection by City staff to verify pre-1930 improvements, rental records, City or County records, written or verbal testimony). An exempt accessory dwelling unit is not subject to the development standards in section 17.38.060. (See section 17.38.030A.4.)~~

C. Decision and conditions. The ~~reviewing body (either the~~ Director ~~or the Planning Commission)~~ shall render ~~its~~ a decision in writing and shall state the reasons for approval or denial. ~~The Planning Commission may impose reasonable conditions of approval.~~ The decision of the Director shall be final.

~~D. Appeal. A decision of the Director or the Planning Commission may be appealed within ten days, in accordance with division 17.78. However, for an accessory dwelling unit permit without an exception, the notice of the appeal shall only be given to the owner and appellant, and the grounds for appeal are limited to whether or not the application meets the development standards in section 17.38.060, or a condition of approval.~~

17.38.060 Zoning regulations; ~~D~~Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval.

A. Zoning regulations~~; Design Guidelines~~. ~~If a~~A proposed accessory dwelling unit ~~requires new exterior construction, the applicant must submit a separate application for a design review permit and~~ must comply with the zoning regulations for the district in which is it located, subject to the requirements or exclusions in this section. (See divisions 17.20 through 17.28.) ~~The applicant may apply for a variance to these zoning regulations.~~

~~The design of the structure(s) housing the proposed accessory dwelling unit must meet the design criteria in the Piedmont Design Guidelines. As provided in section 17.66.030B, an accessory dwelling unit application that proposes only interior remodeling of an existing building and does not propose to change the exterior form of the building is exempt from the design review permit requirement.~~

B. Accessory dwelling unit ~~D~~development standards. An accessory dwelling unit shall comply with all of the following development standards, ~~unless~~ except the ~~City grants~~ Director may grant an exception ~~(~~to the unit maximum size restriction ~~or floor area ratio)~~ under section 17.38.070.

1. Size. An attached accessory dwelling unit may not exceed 50% of the existing living area up to a maximum of ~~800~~850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom, except where a restriction to 50% of existing living area would result in a maximum size of less than 800 square feet, an attached accessory dwelling unit of no more than 800 square feet shall be permitted, subject to the zoning regulations and development standards in this section ~~(including floor area ratio)~~. A detached accessory dwelling unit may not exceed ~~800~~850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom. The minimum floor area for an accessory dwelling unit shall be 150 square feet. ~~subject to the zoning regulations (including floor area ratio). The applicant may seek an exception under section 17.38.070 C.1.~~

2. Access. The accessory dwelling unit must have independent, exterior access.

~~3. Owner occupancy. Except for an exempt accessory dwelling unit, the owner of an accessory dwelling unit must occupy either the primary unit or the accessory dwelling unit, if both units are used for habitation. The owner must record with the County Recorder a declaration of restrictions, in a form provided by the city.~~

~~4~~3. ~~Limit of one accessory dwelling unit~~Subdivision. ~~There may be no more than one accessory dwelling unit on a parcel.~~ No subdivision of land is authorized that would result in an accessory dwelling unit being located on a separate parcel, unless each parcel meets all of the zoning requirements for the zoning district in which it is located.

4. Building Height. A detached accessory dwelling unit shall not exceed a building height of 16 feet.

5. Design Criteria. The design of the structure(s) housing the proposed accessory dwelling unit must meet applicable design criteria in the Piedmont Design Guidelines and any additional design guidelines applicable to accessory dwelling units approved by City Council resolution.

~~5~~6. Limitations on city's approval. Under Government Code section 65852.2, the following limitations apply to any city approval:

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, the City shall not require the replacement of offstreet ~~any required replacement~~ parking spaces. ~~may be located in any configuration on the lot.~~ (Gov't. Code §65852.2 (a)(1)(D)(xi).)

b. Setbacks. No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure. ~~for an existing garage that is converted to an accessory dwelling unit.~~ If an accessory dwelling unit is ~~constructed above an existing garage~~ not converted from an existing structure, the minimum setback is ~~five~~ four feet from the side and rear lot line. (Gov't. Code §65852.2 (a)(1)(D)(~~7~~vii).)

c. Fire sprinklers. ~~Fire sprinklers shall only be required in accessory dwelling units if fire sprinklers are also required for the primary residence. (Gov't. Code §65852.2 (e).)~~ Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

i. When fire sprinklers are currently installed in the primary dwelling unit;

ii. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit; or

iii. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an accessory dwelling unit, which addition triggers any requirement for retroactive installation of fire sprinklers in the primary dwelling unit.

(Gov't. Code §65852.2 (a)(1)(D)(xii).)

d. Passageway. No passageway will be required. (Gov't. Code §65852.2 (a)(1)(D)(~~6~~vi).) ~~(Ord. 743 N.S., 05/2018)~~

e. Minimum lot area or lot size. Notwithstanding anything in divisions 17.20 through 17.28, no minimum lot area or lot size shall be imposed with respect to the approval of permits for an accessory dwelling unit. (Gov't. Code §65852.2(a)(1)(B).)

f. Floor Area Ratio, Lot Coverage, and Landscaping.

i. Lot coverage. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

ii. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

iii. Floor Area Ratio. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum floor area ratio requirement. Maximum floor area ratio for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. (Gov't. Code §65852.2(c)(1)(C).)

g. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling.

h. Nonconforming Zoning Conditions. The City shall not require as a condition for approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit the correction of nonconforming zoning conditions.

i. Utility Connections. For an accessory dwelling unit described in section 17.38.060.D.1, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.

C. Junior accessory dwelling unit development standards.

1. General provisions. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling shall not be constructed unless a single-family dwelling unit exists on a site and such single-family dwelling unit has been constructed lawfully, or the junior accessory dwelling unit is proposed as part of the construction of the single-family dwelling unit. A junior accessory dwelling unit shall be a permitted use in any lot zoned to allow a single-family residential use.

b. No lot shall contain more than one (1) junior accessory dwelling unit.

c. A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling or accessory structure, however, an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling shall be permitted for purposes of accommodating ingress and egress.

d. A junior accessory dwelling unit shall not be sold or otherwise conveyed separate from the single-family dwelling unit.

e. A junior accessory dwelling unit shall have an exterior point of access directly into the junior accessory dwelling unit that is separate and independent from the single-family dwelling unit.

f. A building permit shall be required to construct a junior accessory dwelling unit or to establish a junior accessory dwelling unit within the existing space of a single-family dwelling. Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.

2. Development standards. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes. Installation of fire sprinklers in a junior accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the primary dwelling unit" under the circumstances as specified in section 17.38.060.B.6.c.

b. The minimum floor area for a junior accessory dwelling unit shall be 150 square feet.

c. The maximum floor area for a junior accessory dwelling unit shall not exceed five-hundred square feet. If the sanitation facility is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.

d. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may be constructed only if the following setbacks are maintained:

i. a front setback accordance with the applicable zoning district.
ii. a minimum side yard setback of four feet.
iii. a minimum rear yard setback of four feet.

e. No parking shall be required for a junior accessory dwelling unit.

f. No lot coverage or landscaping requirement shall apply to a junior accessory dwelling unit.

g. No height restriction shall apply to a junior accessory dwelling unit.

h. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.

i. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, provided that it is constructed in compliance with all building standards and other standards of this division.

j. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in the Piedmont Design Guidelines and any additional design guidelines applicable to accessory dwelling units approved by City Council resolution.

3. Use Restrictions. The following restrictions shall apply to junior accessory dwelling units:

a. The property owner shall record a deed restriction with the County Recorder Office and file a copy of the recorded deed restriction with the City. The deed restriction shall prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.

b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. The site's owner shall be required to reside in the single-family dwelling unit as its primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.

c. A site's owner shall not allow occupancy of a junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence.

d. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.

e. A junior accessory dwelling unit may be rented but shall not be used for rentals of a term less than thirty (30) consecutive days.

D. Projects subject to state-mandated Approval. Notwithstanding anything in this code to the contrary, the Director and Building Official shall ministerially approve permits required to create any of the following within a residential or mixed-use zone:

1. One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

b. The accessory dwelling unit has exterior access that is separate from the exterior entrance proposed or existing single-family dwelling.

c. The side and rear setbacks are sufficient for fire and safety.

d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.

2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, subject to the following requirements:

a. A total floor area limitation of not more than 800 square feet.

b. A height limitation of 16 feet.

The new construction detached accessory dwelling unit in this subsection may include a junior accessory dwelling unit described in subparagraph 1 above.

3. Not more than two detached accessory dwelling units that are located on a lot that has an existing multi-family dwelling, subject to a height limit of 16 feet and four-foot rear yard and side yard setbacks.

4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this subsection shall not exceed 25 percent of the existing dwelling units in the multi-family dwelling structure or one new accessory dwelling unit, whichever is greater.

17.38.070 ~~Variance or~~ Accessory dwelling unit size exception.

~~The city may approve a variance, exception, or both, to the development standards.~~

~~A. Variance. The Planning Commission may approve a variance to a zoning regulation based on the required variance procedures and findings in division 17.70, under a separate application.~~

~~B. Exception to floor area ratio for new primary residence and accessory dwelling unit. If a property owner proposes a new primary residence and an accessory dwelling unit, the Planning Commission may approve a floor area ratio exemption without rent restriction as follows: the square footage of the accessory dwelling unit will not count toward the total floor area ratio for the property up to 800 square feet or 10% of the lot size, whichever is less.~~

~~C. Exception: unit size. The Planning Commission may approve an exception to the unit size requirement for the accessory dwelling unit. The decision will be based on the requirements and findings of this section. If an exception is granted, the accessory dwelling unit will be subject to all the terms of section 17.38.070.C.2 below, including rent restrictions.~~

~~1~~A. Exception to unit size. The ~~Planning Commission may~~ Director shall approve ~~an accessory dwelling unit permit with~~ an exception to the maximum unit size set forth ~~of 800 square feet (under~~ in section 17.38.060 B.1 for an accessory dwelling unit upon request of an applicant in accordance with the requirements of this section.~~) up to a maximum unit size of 1,200 square feet, as follows:~~ If an exception is granted, the accessory dwelling unit shall be subject to all the requirements set forth below.

IF THE UNIT INCLUDES:	EXPANSION UP TO 1,000 SQUARE FEET	EXPANSION TO 1,200 SQUARE FEET
One bedroom or less	Imposition of covenants requiring an affordable rent level to households of low income	Imposition of covenants requiring an affordable rent level to households of very low income
More than one bedroom	N/A	Imposition of covenants requiring an affordable rent level to households of very low income

~~IF THE LOT SIZE:~~	~~THE ACCESSORY DWELLING UNIT MAY BE:~~	~~UNIT UP TO 1000 SQ. FT.~~	~~UNIT UP TO 1,200 SQ. FT.~~
~~is less than the minimum for the zoning district:~~	~~only located within an existing building, without expansion of the existing building envelope.~~	~~rent restriction for low income housing applies~~	~~rent restriction for very low income housing applies~~
~~equals or exceeds the minimum for the zoning district:~~	~~within existing building, an expansion, or a detached building~~	~~rent restriction for low income housing applies~~	~~rent restriction for very low income housing applies~~

~~The Planning Commission may approve an accessory dwelling unit permit with an exception to the unit size only if it makes the following findings:~~

~~a. The proposed accessory dwelling unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood.~~

~~b. The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed accessory dwelling unit size without adversely affecting the views, privacy, or access to light and air of neighboring properties.~~

~~2~~B. ~~Accessory dwelling unit permit with a unit size or parking exception:~~ Additional requirements. If an accessory dwelling unit permit with ~~an~~ a unit size exception is approved, it is subject to the following additional requirements.

~~a~~1. Rent restriction.

~~i~~a. Declaration of rent restrictions. The accessory dwelling unit permit with ~~an~~ a unit size exception shall have a condition describing the type of rent restriction applicable to the property. The rent-restriction shall be recorded in the county recorder's office, as a declaration of rent restrictions (in a form provided by the city), and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration.

If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the city will record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

~~ii~~b. Affordable rent certification. An owner who has executed a declaration must submit to the city an accessory dwelling unit affordable rent certification: (i) on an annual basis, by each December 31 and as part of the annual city business license application and renewal; and (ii) upon any change in occupancy of the accessory dwelling unit. The accessory dwelling unit affordable rent certification must be on a form provided by the city and must specify whether or not the accessory dwelling unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the accessory dwelling unit; the names and ages of the accessory dwelling unit occupants; the gross household income of the accessory dwelling unit household; and other information as determined appropriate by the city.

~~b. Single household. An accessory dwelling unit permit with an exception is designed for an accessory dwelling unit that is in a dwelling or portion of a dwelling designed for, or occupied exclusively by, persons living as one household.~~

17.38.080 Enforcement.

Enforcement of notices to correct a violation of any provision of any building standard for any accessory dwelling unit shall comply with Section 17980.12 of the Health and Safety Code.

DIVISION 17.40 RESIDENTIAL RENTALS

Sections

17.40.010 Purpose and intent.

A. Purpose. The purpose of this division is to establish regulations governing the rental of residential property within the city.

B. Intent. By enacting this division 17.40, the city council intends to:

1. Provide a community benefit by allowing alternative forms of lodging, allowing residents to participate in the sharing economy, and allowing residents an opportunity for additional source of income.

2. Allow the renting of homes, apartments, or rooms for periods of 30 days or more.

3. Allow short term renting of single-family dwelling units and rooms in single-family dwelling units for less than 30 consecutive days, while still preserving the single-family character of neighborhoods, and preventing short-term rental activities from becoming a nuisance or a threat to public health, safety or welfare;

4. Establish standards and a permit requirement for short-term rentals; and

5. Prohibit the short-term rental of accessory dwelling units and multi-family dwelling units to preserve them for long-term housing. (Ord. 742 N.S., 05/2018)

17.40.020 Rented room.

A. Applicability. This section 17.40.020 applies to the rental of a room or rooms in a residential property for a period of 30 consecutive days or longer.

B. Definitions. In this section:

Rented room means the renting of a room or any combination of rooms within an existing single-family or multi-family dwelling unit that meets all of the following requirements:

1. one or more rooms, including at least one bedroom, is rented to a lessee under a rental agreement, not for the entire dwelling;
2. the rental period is a minimum of 30 consecutive days;

3. the tenant has the common use of the primary kitchen facilities, with no temporary or permanent cooking facilities in the rented room(s); and
4. either shared or separate bathroom.

C. General. The owner of a single-family dwelling unit in any zoning district is permitted to rent a rented room in such dwelling unit to a limit of one lessee. With the written consent of the property owner, a tenant has the same right. This provision does not authorize an owner or tenant to operate a boarding house or otherwise rent or sublease more than one rented room per dwelling unit.

D. Safety. The property owner is responsible for assuring that the rented rooms meet building codes. The property owner must either (at the owner's discretion):

1. Request that the city inspect the property to assure that the primary residence and the rented rooms meet building codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The property owner shall pay a nominal inspection fee in the amount established by city council resolution; or

2. Submit to the city a signed safety declaration in a form prepared by the city, to be kept in the property file at the city. (Ord. 742 N.S., 05/2018)

17.40.030 Short-term rental.

A. Applicability. This section 17.40.030 applies to short term rentals of less than 30 consecutive days. The short-term rental must be located in a single-family dwelling unit that is the primary residence of the property owner or long-term tenant. It may not be located in an accessory dwelling unit (permitted or unintended) or multi-family dwelling. The short-term rental may be hosted or non-hosted.

B. Definitions. In this section:

Advertising platform means any online site that provides a means for the host to advertise or otherwise offer for rent a short-term rental.

Host or *hosted* means the primary occupant of the dwelling is present during the short-term rental. *Non-hosted* means the primary occupant is not present during the short-term rental.

Operate means the operation of a short-term rental, and includes the acts of establishing, maintaining, or listing for rent a short-term rental with an advertising platform.

Primary Occupant means an occupant who is either the owner of the dwelling or a long-term tenant in the dwelling with a month-to-month lease or lease of a longer duration.

Short-term rental means the use of a dwelling unit, or portion of it, for a rental of less than 30 consecutive days.

Unintended accessory dwelling unit means a living space which meets the definition of an accessory dwelling unit, but which is not approved for habitation as an independent dwelling unit under the provisions of division 17.38. An unintended accessory dwelling unit may include a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.

C. Short-Term Rental Permit; Permit Issuance. No person may operate a short-term rental without first obtaining a short-term rental permit. A short-term rental permit may be approved by the Director, provided that the Director determines the applicant has met the following requirements:

1. Application. The applicant must complete an application on a form provided by the city, accompanied by a fee established by city council resolution.

2. Property owner consent. If the applicant is a tenant, he or she must demonstrate written approval of the property owner to allow short-term rentals.

3. Insurance. The applicant must provide evidence of, and maintain, general liability insurance of at least $1,000,000 during the term of the short-term rental permit that covers the applicant's short-term rental operations.

4. Contact information. The applicant must provide current contact information to the city, and information regarding the advertising platform(s) to be used.

5. Safety. The dwelling or rooms serving as a short-term rental must have a smoke detector, carbon monoxide detector, fire extinguisher, and adequate egress, all as determined by the chief building official. The applicant must either (at the applicant's discretion):

a. Request that the city inspect the property to assure that the primary residence and the rented rooms meet building codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The property owner shall pay a nominal inspection fee in the amount established by city council resolution; or

b. Submit to the city a signed safety declaration in a form prepared by the Director, to be kept in the property file at the city.

D. Appeals. Any interested party may appeal any decision by the Director to approve or deny a short-term rental permit pursuant to division 17.78 of the Piedmont Municipal Code. No permit shall be deemed issued or effective until the appeal period set forth in division 17.78 has expired.

E. Permit Term and Renewal. A short-term rental permit is valid until December 31 of the year it is issued, unless suspended or revoked. The permittee may renew the permit annually, by submitting a renewal application and fee before the expiration of the permit.

F. Operating standards. A short-term rental is allowed only if it conforms to these standards:

1. Permit. The short-term rental is operated under a short-term rental permit issued by the city in accordance with Section 17.40.030.

2. 2-night minimum. The short-term rental must be rented for a minimum of two consecutive nights.

3. 60 days maximum. The short-term rental may not be rented more than 60 days in a calendar year.

4. No Events. The short-term rental may be used for dwelling, sleeping or lodging purposes, but may not be rented for any other commercial purpose, including temporary events or gatherings.

5. Guest Safety. The short-term rental permittee must provide the following materials electronically to any guests before arrival and make available printed materials on-site for the guest with the following information:

a. A diagram of exits, fire extinguisher locations, and fire and police contact numbers;

b. The short-term rental permittee's contact information;

c. The city's noise regulations (sections 12.8 – 12.12);

d. The city's smoking ordinance (chapter 12, article II);

e. The city's garbage and recycling guidelines (available on the city's website, or a print copy of the residential services guide: *recycling, organics and garbage*).

6. Current Information. The short-term rental permittee shall, during the term of the permit, promptly inform the Director regarding any changes regarding information provided in the application, including contact information and information regarding advertising platforms used by the permittee to advertise the short-term rental. (Ord. 742 N.S., 05/2018)

17.40.040 Business license tax.

A person renting a room or operating a short-term rental is considered to have rental property and must pay an annual business license tax under City Code chapter 10. (Ord. 742 N.S., 05/2018)

17.40.050 Enforcement.

The city may enforce this division by any means permitted by law, including but not limited to those set forth in chapter 1 (General Provisions), article 2 (Code Enforcement) of this code, or under division 17.80, Enforcement. The city council may establish fines by resolution. (Ord. 742 N.S., 05/2018)

DIVISION 17.50 NONCONFORMING USES AND STRUCTURES

Sections:

17.50.010 Nonconforming use.

A. General. Use of a structure or land that was lawfully established and maintained, but which does not conform to current use regulations is nonconforming use. A nonconforming use may continue, except as otherwise provided in this section.

B. Regulations. The following regulations apply to each nonconforming use:

1. There may be no increase or enlargement of the area, space of volume occupied and used.
2. There may be no change in the nature or character of the nonconforming use.
3. If the nonconforming use is replaced by a conforming use, the nonconforming use is automatically terminated.
4. If the nonconforming use discontinues active operation for a continuous period of one year, the nonconforming use terminates and the facilities accommodating or serving the activity must thereafter be used only for uses permitted or conditionally permitted by the zoning district. This provision does not apply to a nonconforming dwelling unit.

17.50.020 Nonconforming structure.

A. General. A structure that was lawfully erected but which does not conform to the currently applicable zoning requirements prescribed in the zone district is a nonconforming structure. It may be used and maintained except as otherwise provided in this section. A nonconforming structure is also subject to the California Building Code adopted by the city under chapter 5.

B. Regulations. The following regulations apply to a nonconforming structure:

1. Maintenance and repair. Routine maintenance and repairs may be performed on a nonconforming structure.

2. No alteration or enlargement. A nonconforming structure may not be altered, partially demolished, or enlarged unless required by law, or unless the alteration or enlargement conforms to the standards of the zoning district. An existing nonconforming structure may be altered or enlarged without variance as long as the alteration or enlargement does not relate to or involve the nonconformity. If an alteration or enlargement does relate to or involve a nonconformity of a non-conforming structure, a variance is required under division 17.70.

In this section, *reconstruction* means rebuilding all or a portion of an improvement in a way that differs from the prior construction, including but not limited to differences in design or

materials or both. *Replacement* means rebuilding all or a portion of an improvement to be exactly the same as what was replaced.

3. Accessory dwelling unit. Regarding a nonconforming accessory dwelling unit, exterior design and material modifications beyond those authorized under division 17.38 are permitted if:

a. they make the accessory dwelling unit architecturally consistent with the primary unit and compliant with the current building code;
b. they comply with the Piedmont Design Guidelines; and
c. there is no increase in the size or change to the location of the accessory dwelling unit, no increase in structure coverage or decrease in landscape coverage related to the accessory dwelling unit, and no increase in the number of bedrooms.

4. Destruction; replacement. If a nonconforming primary structure is demolished or destroyed for any reason to the extent of more than 70% of the structure then, and without further action by the City Council, the structure and the land on which the structure was located are subject to the current regulations of the zone in which the structure is located, except as to lot area and lot frontage.

This subsection 4 does not apply to:

a. a garage, pool house, exempt accessory dwelling unit under section 17.38.030, or ~~other~~ accessory structure, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under division 17.70.

b. a deck, balcony, porch, or site feature, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under division 17.70.

If a nonconforming primary structure has been demolished or destroyed less than 70%, reconstruction must be completed within two years from the date of issuance of the building permit. If a property owner of a non-conforming structure has received permission to demolish or destroy less than 70% of the structure, but during renovation, more that 70% is destroyed or demolished, the project approval terminates and the property is subject to current zoning regulations as set forth in the paragraph above.

The percentage of physical building destruction or demolition is determined by the Building Official.

If the nonconforming structure is not rebuilt within the time period allowed under this subsection 4, the nonconforming rights terminate.

ARTICLE 4. ADMINISTRATION

Divisions:

DIVISION 17.60 GENERAL PROVISIONS

Sections:

17.60.010 General.

A. General. This article 4, Administration, sets forth the general administrative authority and procedures for decision making under this zoning ordinance. It includes general administrative provisions and notice and hearing requirements; requirements for various discretionary approvals: design review permit, conditional use permit, variance, zoning amendment, development agreement, and reasonable accommodation; and provisions for appeals and enforcement.

B. Applicant. The applicant is the person or entity, or representative, who submits an application under this chapter. An applicant must either be the legal owner or submit the owner's written consent with the application.

17.60.020 Completeness of application.

A. Initial application. Within 30 calendar days after the city has received an application for a development project, the city will determine in writing whether the application is complete, and shall promptly transmit the determination to the applicant. If the application is determined not to be complete, the city's determination will specify those parts of the application which are incomplete, and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed.

If the determination is not made within 30 calendar days, and the application includes a statement that it is an application for a development permit (as that term is used in Government Code sections 65927 and 65943), the application will be deemed complete.

B. Resubmittal. Upon any resubmittal of an application determined not to be complete, a new 30-day period begins for determining whether the application is complete. The city will determine in writing whether the resubmitted materials are complete and will notify the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials will be deemed complete.

If the city determines, after receiving the resubmitted materials, that the application is still incomplete, the city and the applicant will follow the procedures set forth in Government Code section 65943 (as it may be amended from time to time).

C. Time period extensions. An applicant and the city may mutually agree to extend a time period provided by this subsection.

D. Applications deemed withdrawn. To promote efficient review and timely decisions, an application will automatically be deemed withdrawn when an applicant fails to submit a substantive response within 90 days after the City deems an application incomplete in a written notice to the applicant. The Director may grant a written extension for up to an additional 30 days upon a written request for an extension received before the 90th day. The Director may grant further written extensions only for good cause, based on circumstances outside the applicant's reasonable control.

17.60.030 Environmental review.

Each land use application for a discretionary approval by the city is subject to the requirements of the California Environmental Quality Act (CEQA), and the state CEQA Guidelines.

17.60.040 Fees and deposits.

A. General. Each person submitting an application for a permit, or filing an appeal, under this chapter must pay the required fees and deposits as established by city council resolution. The fee may be either a flat fee or the actual cost incurred by the city in processing an application.

B. Fee calculation. When a flat fee, or sliding scale, is established for a particular type of application, the fee is based on the estimated number of hours of work by city staff at the staff

member's hourly rate. If the estimated number of hours is exceeded, the city may charge for additional hours worked. The hourly cost for city employees is the full, hourly cost of that employee, including overhead.

C. Deposits.

1. Actual cost. If an application does not have an established flat fee, or if an extraordinary cost is involved under subsection D, the fee is based on actual cost. The Director will require that a deposit equal to the estimated cost of processing be submitted concurrently with an application. The actual cost of city staff work is the person's hourly rate, including overhead. For a consultant or contractor, the actual cost is the billed amount plus 10% for the city's administrative cost.

2. Refund; Increase in deposit. If the actual cost is less than the deposit, or if the applicant withdraws an application under section 17.60.080, the city will refund the unused balance to the applicant within 15 working days after final action on the application, or after the withdrawal.

If it appears that the actual cost will be greater than the deposit, the Director may require an additional deposit, and may direct the city staff to cease work on the application until the city has received the additional deposit. The city may not issue a permit based on the application until the balance is paid.

D. Extraordinary costs. Extraordinary costs incurred by the city in processing an application include the cost of consultants and experts determined by city staff, the Planning Commission or the City Council to be necessary for a full and adequate hearing. The applicant is responsible for these costs, which will be included in a deposit amount under subsection C.

E. Reduction for affordable dwelling units. A multi-family residential project that incorporates affordable units is eligible for a 20% reduction in the application fees.

17.60.050 City indemnification.

Each applicant shall defend (with counsel acceptable to the city), indemnify and hold harmless the city (including its agents, officers, and employees) from any claim, action, or proceeding to challenge an approval of the Planning Commission, City Council, or any officer or department concerning a permit granted under this chapter 17.

17.60.060 Approval authority.

A. Planning Director; City Clerk. The Planning Director has the primary authority to approve: some design review permit (including signs), some wireless communication facilities permits, some accessory dwelling unit permits. ~~The~~ Except for accessory dwelling unit permits, the Planning Director may, in the director's discretion, refer any of these applications directly to the Planning Commission.

The City Clerk has the primary authority to approve home occupation permits.

B. Public Works Director. The Public Works Director has the primary authority to approve: encroachments permits, and sign permits on public property.

C. Planning Commission. The Planning Commission has the primary authority to approve applications for variances, some design review permits, some wireless communication facilities permits, ~~some accessory dwelling unit permits,~~ and to make recommendations to the City Council regarding conditional use permits, zoning amendments, and development agreements. The Planning Commission also hears appeals from decisions of the Planning Director, and matters referred from the Planning Director. Combined applications involving multiple permits or approvals will be heard together.

D. City Council. The City Council has the authority to approve conditional use permits, development agreements, zoning ordinance amendments, some wireless communication facilities permits, and to hear appeals from the Planning Commission. Combined applications involving multiple permits or approvals will be heard together.

All actions taken under this section 17.60.020, except for subsection D (City Council), are subject to division 17.78, Appeals and Calls for Review.

17.60.070 Decision; New application.

A. Decision. When considering an application, the hearing body may approve, approve with conditions, or deny the application. The decision is based on the regulations in effect at the time the application is approved or denied. The hearing body will inform the applicant of its reasons, and state the basis for findings, if findings are required. The decision is final and takes effect at the end of the appeal period, or, if appealed, after the appeal has been decided. (See division 17.78, Appeals; Calls for review.) If no appeal is filed, any required time period is measured from the date of the original decision

B. New application. If the hearing body denies an application, it is presumed to be without prejudice, meaning the applicant may re-submit a modified application at any time. However, the hearing body may deny an application with prejudice, meaning that the applicant may not resubmit a new application for substantially the same project for one year.

17.60.080 Withdrawal of application.

An applicant may withdraw an application at any time during the review process before the final decision, by filling out the request for withdrawal form. Upon withdrawal, the applicant may request a partial refund of fees, in proportion to the staff time and costs already expended, in the Director's discretion.

DIVISION 17.62 NOTICE REQUIREMENTS

Sections:

17.62.010 General.

Whenever a public hearing is required, notice of the public hearing will be given in accordance with this section. Unless stated otherwise, notice will be given at least 14 calendar days before the hearing.

In addition to the notices sent to the applicant and other property owners under section 17.62.030 C, notice shall also be mailed or delivered to any person who has filed a written request for notice with the City Clerk. The city may charge a fee that is reasonably related to the cost of providing this service. Requests for notice must be renewed annually.

The failure of any person or entity to receive notice does not constitute grounds for any court to invalidate the actions of the city for which the notice was given. (Gov't. Code §65093.)

A public hearing conducted under this part may be continued from time to time to a specific date and time, without additional notice.

For combined applications with multiple permits, the greater notice requirement applies to the entire packet of applications.

In addition to the notice requirements set forth here, the Planning Director may give notice of a hearing in any other manner the director deems necessary or desirable.

17.62.020 Contents of notice.

When a notice of a public hearing is required, the notice shall include the following information:

1. A general description (in text or by diagram) of the location of the property that is the subject of the hearing;
2. A general explanation of the matter to be considered;
3. The date, time and place of the public hearing;
4. The identity of the hearing body;
5. A reference to application materials on file for detailed information;
6. A statement that any interested person may appear and be heard; and
7. Other information which is required by statute or specific provisions of this chapter or which the Planning Director deems necessary or desirable.

17.62.030 Summary of notice requirements.

A. General. Notice of a public hearing will be given for a particular matter in accordance with the schedule set forth at subsection E below.

Published notice means that the notice will be published at least once in a newspaper of general circulation, at least 14 calendar days before the hearing.

Notice regarding landscape plans will be given as part of the related application.

B. Notice by applicant.

1. Before Planning Commission. The applicant for a design review permit or a variance, to be considered by the Planning Commission, must notify the adjacent property owners of the proposed project at least 30 calendar days before the date of the initial hearing. The notice must be in writing, describe the project in specific detail, and give the date of the hearing on the application. The applicant must submit to the Planning Director at least 30 calendar days before the hearing an affidavit of service by mail or personal delivery and a copy of the written notice.

2. Before Director. The applicant for an expedited design review permit under section 17.66.040 B.3 may be required to notify adjacent neighbors as specified in the Design Guidelines or the application instructions.

C. Method of city notice.

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 E. In addition to these requirements, the city may post notification at the project site.

2. Publication required. If the number of owners to whom notice would be sent under subsection B.1 is greater than 1,000, the city will give notice by placing a display advertisement of at least one-fourth page in a newspaper having general circulation within the city.

3. Property reclassification. If a property reclassification from one zoning district to another has been proposed by a person other than the property owner, including the city, the city will mail notice of all hearings to the property owner.

D. Compliance with public notice requirements. Compliance with public notice requirements prescribed by this chapter are deemed sufficient notice to allow the city to proceed with a public hearing and take action on an application, regardless of actual receipt of mailed, posted or delivered notice. (Gov't. Code §65093.)

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

		Notice by City at least 14 days before the hearing, measured from the project boundary. [2]				
	Notice by applicant 30 days before hearing[1]	**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~~4		X			
Landscape plan	X~~5~~4		X~~5~~4			
Lot line adjustment Between two lots More than two lots			X		X	
Wireless communication facility permit	X~~5~~4		X			
Accessory Dwelling Unit Permit[6]	~~X~~[5]~~X~~No notice for an ADU permit is permitted. See division 17.38.					
Negative declaration or Environmental Impact Report required	X~~5~~4				X	
Tract map or parcel map	X				X	
Conditional use permit, or modification						X
Reasonable accommodation[3]			X			
Zoning Regulation Amendment	Publish notice in newspaper of general circulation within the City.~~7~~5					
Zoning Map Amendment	Publish notice in newspaper of general circulation within the City.~~7~~5					
Other applications		X				
Appeal, Call for Review [4]	~~no~~ Subject to Section 17.78.030.A.					

[1] See section 17.62.030B.
[2] See section 17.62.030C.
[3] Subject to section ~~17.38.050~~17.76.040.
~~[4] Publication under section 17.62.030 is not required for an appeal hearing.~~
~~5~~[4] For an application considered by Planning Commission.
~~[6] For ADU applications subject to sections 17.38.050.B.2 and/or 17.38.070.C~~
~~7~~[5] Subject to section 17.62.030, subsections A and C.
(Ord. 743 N.S., 05/2018)

SECTION 17.70 VARIANCE

Sections:

17.70.010 General; Exceptions.

A. General. The city may approve a variance from the provisions of this chapter, except for those features set forth in subsection B, which do not require a variance.

B. Exceptions.

1. These features do not require a variance: fence, retaining wall, or site feature.

2. A variance is not required to replace a nonconforming:

a. garage, pool house, ~~or~~ exempt accessory dwelling unit ~~under section 17.38.030~~, or ~~other~~ accessory structure, which is destroyed, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under this division; (See section 17.50.020 B.4.)

b. deck, balcony, porch, or site feature, which is destroyed, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under this division. (See section 17.50.020 B.4.)

3. If a proposed improvement of an existing structure is subject only to a design review permit except that a feature of the improvement requires a variance, the city may approve it without the need for a variance if: (1) the extent of the nonconformity is unchanged or reduced; and (2) the proposal meets the design review permit requirements of section 17.66.050, Standards. (See section 17.66.020 F.)

4. A variance shall not be required to construct an accessory dwelling unit meeting the standards of section 17.38.060 C. A variance shall also not be required from any floor area ratio, lot coverage, or landscaping requirement imposed under divisions 17.20 through 17.28, in conjunction with an approval for an accessory dwelling unit permit or building permit for an 800 square foot accessory dwelling unit that is 16 feet in height or less with at least four-foot side and rear yard setbacks and that is constructed in compliance with all other development standards in division 17.38.

17.70.020 Application.

The applicant must submit a written application for a variance on a form provided by the Director. The application shall be accompanied by: plans as set forth in the required materials

for a variance; a statement of the reasons for and evidence in support of the request; and the application fee. Where necessary, the Director or hearing body may waive a requirement or require additional information, including a survey.

17.70.030 Hearing body.

The Planning Commission will hold a hearing and decide on a variance request.

However, when another related application is normally decided by the City Council, the City Council will also be the decision-making body on the variance, and the Planning Commission will make a recommendation to the City Council. For example, this applies to an application for a subdivision (under chapter 19), conditional use permit (under division 17.68), or a wireless communications facility permit (under division 17.46).

17.70.040 Findings.

A. Findings. The hearing body may approve a variance only if it makes the following findings:

1. The property and existing improvements present unusual physical circumstances of the property (including but not limited to size, shape, topography, location and surroundings), so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other conforming properties in the zone;

2. The project is compatible with the immediately surrounding neighborhood and the public welfare; and

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction. In this subsection 3, *unreasonable hardship* refers to the unusual physical characteristics of the property and existing improvements, and not to conditions personal to the applicant. (See also Reasonable accommodation, at division 17.76.)

B. No variance for use. The city may not grant a variance authorizing a use or activity not otherwise permitted.

DIVISION 17.78 APPEALS; CALL FOR REVIEW

Sections:

17.78.010 General.

Except for a decision regarding an accessory dwelling unit under division 17.38, any~~Any~~ interested person may appeal a decision of the Director to the Planning Commission, or a decision of the Planning Commission to the City Council, all under the terms of this division 17.78.

The city will not approve a building permit during the appeal period.

17.78.020 Application.

A person wishing to file an appeal must submit an application, stating the grounds for appeal, within ten calendar days after the date of the decision. The request must be filed with the City Clerk, and accompanied by the appeal fee.

17.78.030 Notice; Hearing; Decision; Remand.

A. Notice. The City Clerk will give notice of the appeal date and time to: the appellant; the applicant if not the appellant; those property owners notified in the original application hearing; any person who has submitted a written comment on the application or who commented in person at the hearing; and to any other person requesting notice.

B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible, taking into account the notice requirements. The appeal body may continue the hearing, but not more than once without the consent of the appellant. At the hearing, the appeal body will consider the written and oral evidence presented.

C. Decision. At the conclusion of the hearing, the appeal body will decide the appeal. The standard of review governing the appeal is set forth in section 17.78.040, Standard of review. The appeal body may sustain, modify, add to, or overrule the decision appealed, and make other findings consistent with this chapter, including the right to require or modify the requirements for story poles, surveys, time periods for completion or extension, and any other conditions relating to the project for which approval is sought. The appeal body will report its decision to the appellant, the original applicant, and the decision maker.

D. Remand. Notwithstanding subsection C above, the City Council acting as the appeal body may remand the matter to the Planning Commission for further consideration. The remand will include either specific issues to be considered, or direction that the Planning Commission open

the entire application for de novo review. Unless the City Council determines otherwise: (1) the remand hearing before the Planning Commission will be scheduled at a Planning Commission meeting, occurring between 14 and 75 days after the date of remand action, or as may be extended by mutual agreement by the appellant and applicant; and (2) no additional fees will be charged to the applicant or appellant relating to the remand. The decision of the Planning Commission on the remand is final unless appealed under this division 17.78, or the City Council retains appeal jurisdiction over the entire matter at the time of the remand and requests only an advisory opinion on specific issues from the Planning Commission. The burden of proof on remand is on the applicant.

17.78.040 Standard of review.

A. General. An appeal is not a de novo hearing, but instead will be governed by the following principles:

1. Deference. Due deference shall be given to the actions of the Planning Commission in light of the substantial number of planning applications heard by them and the major accumulated group experience that those actions represent.

2. Grounds for overruling decision. The appeal body may overrule the action of the decision maker only if one of the following occurs:

a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;

b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;

c. there is a significant error in the application of the Piedmont Design Guidelines; or

d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.

3. Burden of proof. During an appeal, the burden of proof is on the appellant.

B. Definitions. In this division 17.78, the following definitions apply:

Burden of proof means the obligation to provide evidence or proof significant enough to overcome any other evidence presented.

Significant error means an error that has or potentially will have an important negative impact.

Weight of the evidence means more than 50% of the evidence.

17.78.050 Call for review.

A. Initiating call for review. Except for matters where ministerial review is required under state law or where review at a public hearing would be prohibited under state law, a~~A~~ member of the City Council or Planning Commission, or the City Administrator, may call a matter for review, without an appeal fee. The City Administrator, Planning Commissioner, or Council Member may call the matter for review for the good of the city, without stating specific reasons for the call. The act of calling the matter for review does not, by itself, disqualify the Planning Commissioner or Council Member from participating as part of the decision-making body so long as that Commissioner or Council Member is neutral and unbiased and has not previously announced to any member of the public or city staff a preferred outcome on the matter.

B. Hearing body. If a decision of the Director is called for review, it will be heard by the Planning Commission. If a decision of the Planning Commission is called for review, it will be heard by the City Council.

C. Timing. The person calling for review must file a written request within ten days of the decision. (If the tenth day falls on a weekend or city holiday, the deadline is the close of business on the following business day.)

D. De novo hearing. The hearing will be a de novo hearing. The burden of proof is on the applicant.

ARTICLE 5. DEFINITIONS; MEASUREMENTS

17.90.010 Definitions.

In this chapter:

Abutting means next to, or against. It does not include a property across a street.

Accessory use. See *Uses.*

Adjacent means next to, or against. For notification purposes, it includes a property directly across a street.

Affordable housing and related definitions. See section 17.38.020.

Americans with Disabilities Act or *ADA* means the federal act that prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, government services, public accommodations, commercial facilities, and transportation, including amendments made to the Act.

Basement means that portion of a building that is partly or completely below grade.

Bedroom includes any room with features generally characteristic of bedrooms, regardless of its designation on a building plan. A bedroom has adequate privacy and meets the minimum size and habitation requirements of the Building Code. It includes and is not limited to a room with: (a) access to a full bathroom on the same floor or within half a floor, if the house has a split level; (b) access to a full bathroom through a common hallway or other common space such as a kitchen, living room and/or dining room. A *bedroom* need not have a closet.

Building means a structure for the support, shelter, or enclosure of persons, animals, or possessions. See also *Structure*.

> *Nonconforming building* means a building or structure which was legally established, but which does not conform to the regulations of the zone in which it is presently located. See division 17.50.

Building Code means the California Building Codes adopted by the city at chapter 5.

Business (license) tax. See chapter 10.

Day means a calendar day, unless stated otherwise. (See also section 17.04.080 regarding extensions of time for holidays and weekends.

City Code means the Piedmont City Code.

Conditional use permit or *use permit*. See division 17.68.

Daylight plane. See Section 17.90.020, Measurements.

Director or *Planning Director* means the City Planning Director or his or her designee.

Dwellings:

Accessory dwelling unit. (Formerly *second unit*.) See division 17.38.

Dwelling unit means a room or a suite of connecting rooms, which provides complete, independent living quarters for one or more persons, including permanent facilities for living, sleeping, eating, cooking and sanitation, and which complies with all building code requirements.

~~*Guest cottage* means an attached or detached accessory structure that is used for habitation without payment or compensation. A guest cottage may not be used as an independent dwelling unit. (See *unintended accessory dwelling unit*, section 17.38.030 D.1.)~~

Multi-family dwelling means a residential structure containing more than one dwelling unit and designed to be occupied by more than one family independently of each other.

Primary unit means a principal single-family dwelling.

Rented room. See section 17.40.020.

Single-family dwelling or *single-family residence* means a residence for one family.

Short term rental. See section 17.40.020.

Fair Housing Laws means (1) the Federal Fair Housing Act (42 U.S.C. § 3601 and following) and (2) the California Fair Employment and Housing Act (Govt. Code § 12955 and following), including amendments to them.

Family means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses. If the dwelling unit is rented, this means that all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease for the entire dwelling, with joint use and responsibility of the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than by the landlord or property manager.

Fence. See Measurements.

Floor area. See Measurements.

Footprint. See Measurements.

Frontage. See Measurements.

Grade. See Measurements.

Ground floor is the floor level in a commercial or mixed-use building nearest the lowest adjacent grade.

Hearing body or *appeal body* means the Planning Director, Planning Commission, or City Council authorized under this chapter to hear a matter.

Home occupation. See division 17.44.

Improvement(s) means any building, structure, landscaping, or other alteration of the natural or existing state of land.

Includes means includes but not limited to.

Kitchen:

Kitchen, accessory means permanent facilities for the purpose of food storage, preparation and/or cooking, located on a single-family residential property, which are accessory and incidental to a primary kitchen. An accessory kitchen includes, but is not limited to: kitchen facilities or a wet-bar in a pool house, guest cottage, domestic quarters, or recreation room; or a wet-bar or outdoor kitchen.

Kitchen, primary means the main kitchen facilities within a single-family residence or accessory dwelling unit having permanent facilities for the purpose of food storage, preparation and cooking.

Landscape; hardscape; *open space:*

Landscaping means the planting, irrigation, and maintenance of land with living plant and other organic materials.

Hardscape surface means any non-landscaped surface where vegetation would not easily grow. See Measurements at section 17.90.020.

Open space means an expanse of land that is essentially unimproved except for vegetation and walkways.

Living space means space within a dwelling unit or accessory structure used for living, sleeping, eating, cooking, bathing, washing, and sanitation purposes.

Lots; lot lines:

Lot means a parcel of land under one ownership.

Corner lot means a lot located at the intersection of two or more streets and with frontage on at least two of those streets.

Interior lot means a lot not defined as a corner lot or a through lot.

Lot line means one of the boundary lines of a lot.

Rear lot line is the lot line most directly opposite the street lot line.

Side lot line means a lot line that is not defined as a street lot line or rear lot line.

Street lot line means a lot line along a street.

Through lot means a lot both the street lot line and rear lot line of which have frontage on a street.

Person means an individual natural person, firm, corporation, association, organization, partnership, limited liability company, business trust, corporation or company, or the authorized agent of the person. It includes a governmental entity other than the city.

Reasonable accommodation. See division 17.78.

Religious assembly means a facility for religious worship and incidental religious education and social functions, but not including a private school.

Residence. See *Dwelling*.

Rented room. See section 17.40.020.

Setback. See Measurements, section 17.90.020.

Short-term rental. See section 17.40.030.

Sign. See section 17.36.010.

Street means a public vehicular roadway. It does not include a public alley, or a private roadway. (A list of streets is set forth in the Piedmont Design Guidelines.)

Structure; Site feature:

Accessory structure means a detached structure, the use of which is appropriate, incidental to, and customarily or necessarily related to the zone and to the principal use of the lot or to that of the primary structure.

Deck. See Measurements, section 17.90.020.

Primary structure means the structure on a lot in which the principal use is conducted. It does not include an accessory structure, site feature, underground facility, built feature listed in Building Code section 5.2.2, on-grade improvement, or temporary handicap structure.

Site feature means a subordinate structure that is intended to functionally or decoratively enhance a property and that is primarily used for recreation, decoration or as a utility feature. A list of site features is set forth in the Piedmont Design Guidelines. *Site feature* does not include an accessory structure, primary structure, or built feature listed in Building Code section 5.2.2.

Structure means a built feature that is located or attached to the ground, and that is 12 inches or higher above existing or proposed grade. *Structure* does not include fencing or retaining walls. See also *Building*.

Structural change means a physical change in an exterior wall, an interior bearing wall, a floor, or a roof.

Uses.

Use means the purpose for which a parcel or improvement is designed, arranged, or intended.

Accessory use means a use that is appropriate, subordinate, incidental, and customarily or necessarily related to a lawfully existing principal use on the same lot.

Conditional use means a principal use for which a conditional use permit is required. (See division 17.68. See also wireless communication facility permit at division 17.46.)

Mixed use commercial/residential means a development that combines commercial and residential uses and has both (a) ground floor retail, office or service commercial; and (b) a multi-family residential dwelling. See Measurement.

Nonconforming use means a use that was legally established consistent with the zoning in effect at the time of its establishment, but which does not conform to the regulations of the zone in which it is presently located. See division17.50.

Permitted use means a principal use that is allowed as a matter of right in a particular zone.

Principal use means the primary use permitted or conditionally permitted on a lot.

Variance. See division 17.70.

View means an existing significant view involving more than the immediately surrounding properties or a view of sky, including, but not limited to, any of the following: city skyline, historic landmark, bridge, distant cities, geologic feature, significant hillside terrain, wooded canyon or ridge.

Wireless communication facility and related definitions. See section 17.46.020.

Yards.

Rear yard means a yard abutting the rear lot line, measured between the rear lot line and the nearest point of the primary structure.

Side yard means a yard measured between the side lot line and the nearest point of the primary structure.

Street yard means a yard facing a street, measured between the street lot line and the nearest point of the primary structure. (Ord. 742 N.S., 05/2018)

17.90.020 Measurements

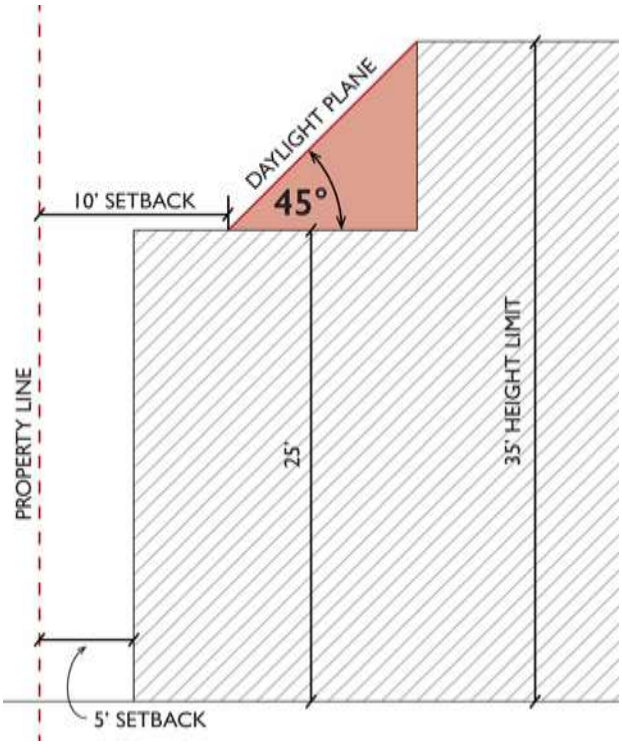
Building envelope is the physical barrier between the interior and exterior, typically a wall, floor, window, skylight, clerestory, door, or other fenestration.

Building height is measured from the average level of the highest and lowest point of that portion of the ground covered by the footprint of the building to the highest point of the roof edge, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of a chimney or communications antenna.

(A + B)/2 = Building height

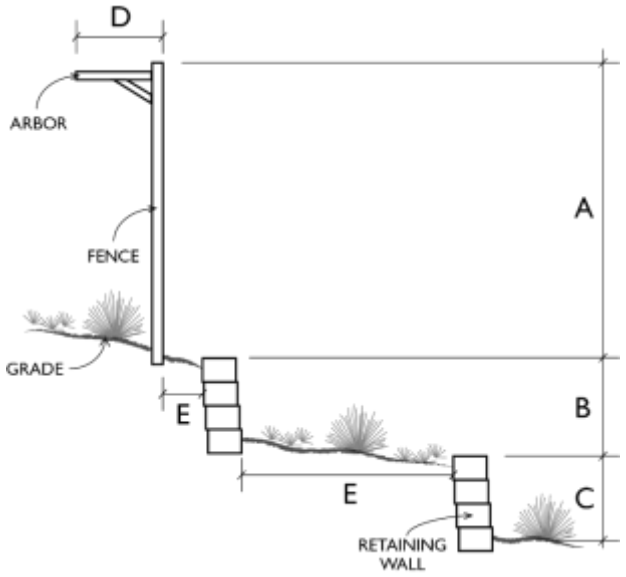
Coverage means the percentage of the lot area that is covered. *Coverage* may refer either to (1) all structures and site features including their vertical projections to the ground except eaves, sills, cornices, awnings that project three feet or less from the wall surface, (2) hardscape surfaces, or (3) to both, as may be specified in the context. (See Design Guidelines.)

Daylight plane means a height limitation that when combined with the maximum height limit, defines the maximum building envelope. A new structure or addition must fall within this envelope. The daylight plane is measured inward toward the center of the property at an angle of 45 degrees from a point defined by its height above grade and distance from the abutting lot line.



Deck means an expanse of wood or other material where any part of the horizontal surface is greater than 12 inches above the ground directly below the point of measurement.

Fence includes a railing, free-standing wall, or a decorative element such as lattice, trellis, and covered gate, or any combination of these features. Neither the trellis or any part of the fence may be wider than 24 inches in the smallest plan dimension. A *fence* may be free-standing or self-supporting.



If measurement "E" is less than 24 inches, the fence and retaining walls are measured together (e.g., A+B=Height).

If measurement "E" is greater than 24 inches, the fence and retaining walls are measured independently.
(e.g., measurement C would be independent of A+B)

If measurement "D" is ≤ 24" the improvement is considered a fence.

If measurement "D" is > 24" the improvement is considered a site feature.

The measurement and terracing of fences and retaining walls. See section 17.30.010.

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 a minimum ceiling height of seven feet, six inches;
4. seventy square feet or more of contiguous non-habitable attic area that has permanent access, a minimum ceiling height of five feet, and an average ceiling height of at least seven feet six inches. *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;
6. enclosed porch or lanai, heated or not;
7. 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
8. 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.

Floor height is measured from the floor level of a story to the floor level of the story directly above or roof surface directly above. See also *Story*.

Footprint means the total land area covered by all accessory and primary structures on a lot, measured from outside the exterior walls and supporting columns or posts, except that the following are not included in determining footprint:

1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than 30 inches above finished grade and which project no more than 36 inches from the footprint;
2. Uncovered and unenclosed stairways, including railings, which are less than six feet above finished grade and which project no more than 36 inches from the footprint;
3. Eave or and roof overhang that projects up to three feet from the exterior wall surface or supporting column or post;
4. Trellis, awning or similar feature that projects horizontally up to three feet from the exterior wall surface or supporting column or post.

Frontage means the length of a lot line of a lot contiguous with a portion of a public or private street, whether or not the entrance to any structure on that lot faces the street. Frontage may occur along a front, side, or rear lot line.

Grade.

Average grade means the average level of land on the surface defined as the shortest distance between finished grade at the highest and lowest sides of a structure.

Existing grade means the level of the ground or pavement as it exists before it is disturbed in preparation for a project.

Hardscape includes: a structure; paving material (concrete, asphalt, brick, stone, gravel, wood, stepping stone or other similar walkway); swimming pool; or patio, deck, balcony, or terrace. *Hardscape* does not include building eaves or landscaping. Nor does it include retaining walls, fences, furniture, statuary, or other individual built features used in conjunction with landscaping which individually do not cover more than ten square feet and cumulatively do not cover more than 100 square feet.

Setback means the required distance that a building, structure or other designated item must be located from a lot line. Setbacks are measured from the lot line to the footprint of the structure or building.

Story means a portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above. See also *Floor height*. (Ord. 743 N.S., 05/2018)

Rev. 2018-06-06 (Ord. 743 N.S., 05/2018)

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California Government Code Sections 65852.2 and 65852.22 as amended by AB-68, AB-881 and SB-13

AB-881 Section 1.5

Section 65852.2 of the Government Code is amended to read:

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily *dwelling residential* use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. *A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.*

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic ~~Places.~~ *Resources. These standards shall not include requirements on minimum lot size.*

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The *accessory dwelling* unit may be rented separate from the primary residence, ~~buy~~ *but* may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily *dwelling residential* use and includes a proposed or existing ~~single-family~~ dwelling.

(iii) The accessory dwelling unit is either attached *to,* or located ~~within the living area of the~~ *within, the* proposed or existing primary ~~dwelling or~~ *dwelling, including attached garages, storage areas or similar uses, or an accessory structure or* detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) ~~The total area of floorspace of~~ *If there is an existing primary dwelling, the total floor area of* an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet.~~ *existing primary dwelling.*

(v) The total *floor* area ~~of floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing ~~garage~~ *living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure* that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ *four* feet from the side and rear lot lines shall be required for an accessory dwelling unit that is ~~constructed above a garage.~~ *not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per *accessory dwelling* unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to ~~a~~ *an accessory dwelling* unit that is described in subdivision (d).
(xi) 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, ~~and~~ the local agency ~~requires~~ *shall not require* that those ~~offstreet~~ *offstreet* parking spaces be ~~replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).~~ *replaced.*
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) ~~When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application~~ *A permit application for an accessory dwelling unit or a junior accessory dwelling unit* shall be considered *and approved* ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits, within 120 days after receiving the application.~~ *permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.* A local agency may charge a fee to reimburse it for costs ~~that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature,~~ *incurred to implement this paragraph,* including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that~~ *If* a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void ~~upon the effective date of the act adding this paragraph~~ and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
(5) No other local ordinance, policy, or regulation shall be the basis for the *delay or* denial of a building permit or a use permit under this subdivision.
(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ *used* or imposed, *including any owner-occupant requirement,* except that a local agency may

require ~~an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or~~ that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision ~~(a) within 120 days after receiving the application.~~ *(a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.*

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

~~(c)~~ *(C)* ~~A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum~~ *Any other minimum* or maximum size for an accessory dwelling unit, ~~or~~ size based upon a percentage of the proposed or existing primary dwelling, ~~shall be established by ordinance~~ *or limits on lot coverage, floor area ratio, open space, and minimum lot size,* for either attached or detached dwellings that does not permit at least an ~~efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~ *800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.*

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile *walking distance* of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
(5) When there is a car share vehicle located within one block of the accessory dwelling unit.
(e) *(1)* Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit ~~to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.~~ *within a residential or mixed-use zone to create any of the following:*
(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
(ii) The space has exterior access from the proposed or existing single-family dwelling.
(iii) The side and rear setbacks are sufficient for fire and safety.
(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
(i) A total floor area limitation of not more than 800 square feet.
(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and

historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) ~~Accessory~~ *An accessory* dwelling ~~units~~ *unit* shall not be considered by a local agency, special district, or water corporation to be a new residential use for ~~the~~ purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service.~~ *service, unless the accessory dwelling unit was constructed with a new single-family dwelling.*

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

~~(A)~~ *(4)* For an accessory dwelling unit described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity ~~charge.~~ *charge, unless the accessory dwelling unit was constructed with a new single-family home.*

~~(B)~~ *(5)* For an accessory dwelling unit that is not described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its ~~size~~ *square feet* or the number of its ~~plumbing fixtures,~~ *drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials,* upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) ~~Local~~ *(1)* ~~agencies~~ *A local agency* shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. ~~The department may review and comment on this submitted ordinance.~~ *After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.*

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

~~(i)~~ *(j)* As used in this section, the following terms mean:

~~(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.~~

~~(2) "Local agency" means a city, county, or city and county, whether general law or chartered.~~

~~(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.~~

~~(4)~~ *(1)* "Accessory dwelling unit" means an attached or a detached residential dwelling unit ~~which~~ *that* provides complete independent living facilities for one or more ~~persons.~~ *persons and is located on a lot with a proposed or existing primary residence.* It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family *or multifamily* dwelling is *or will be* situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

~~(A)~~ *(3)* ~~An efficiency unit,~~ *"Efficiency unit" has the same meaning* as defined in Section 17958.1 of the Health and Safety Code.

~~(B)~~ *(4)* ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~ *"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.*

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

~~(5)~~ *(8)* "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~(6)~~ *(11)* "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

~~(j)~~ *(l)* Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a

delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

AB-68 Section 2:

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ *built, or proposed to be built,* on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the ~~existing~~ walls of the ~~structure, and require the inclusion of an existing bedroom.~~ *proposed or existing single-family residence.*

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the ~~structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *proposed or existing single-family residence.*

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~
~~(B)~~ *(A)* A cooking facility with ~~appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances.*
~~(C)~~ *(B)* A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.
(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine ~~whether~~ *if* the junior accessory dwelling unit ~~is in compliance~~ *complies* with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ *The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.* A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

~~(g)~~ *(h)* For purposes of this section, the following terms have the following meanings:
(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing~~ *a* single-family ~~structure.~~ *residence.* A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Item #3 – 1st Reading of Ord. 747 N.S. – Revisions to ADU Regulations
Correspondence received before 4:00 p.m. on Tuesday, January 21st

Dear Mayor McBain and Council,

In discussing the proposed Chapter 17 changes before the Planning Commission, Mr. Jackson acknowledged that the State has not issued implementation guidelines for a host of new legislation regarding ADUs. With some narrow streets and a built-out housing infrastructure, Piedmont is unique. If there is no urgency and no advantage for the City to implement the Ch 17 changes now, than put this item on hold until the State has issued guidelines. Passing this ordinance now eliminates all neighbor notification and involvement before plans are approved.

Sincerely,

Rick Schiller

Environmental impact rarely comes up in civic debates about accessory dwelling units. This was evident at the Planning Commission Meeting on January 13, 2020. The Planning Department's underlying tone seems focused on the social milieu they hope (or fear) ADUs will engender. Social environment is considered mostly in the architectural and neighborhood sense. But what about environment in the sense of carbon footprint, resource conservation, and so on? ADU advocates are talking about this a lot more, because environmental impact is an area where ADUs have a lot of potential, at least in comparison to the standard American model of housing, the (massive) single family residence. As infill that increases density, ADUs have an advantage over the SFR. The infrastructure is already there for the ADUs to connect to. Studies of density and environmental impact support this idea, for example Ewing & Rong's finding that residential energy use increases with sprawl, & Brownstone & Golob's finding that vehicle and fuel use per household decreases as density increases.

The Piedmont Planning Commission is recommending changes to Chapter 17 that adopt the absolute minimum as required by changes to California law. This would allow an 800sf ADU at 16ft height and 4ft setback, along with other variations as stated in the new law. Given the terrain in Piedmont, I recommended to the City Planner (Kevin Jackson) that the option of a two story (400sf per floor or variations) be discussed as it would allow a better fit for many sites in Piedmont and allow more residents to incorporate ADUs. As expected, this was not mentioned. I fear that our City leaders have lost touch with whom they represent. Piedmont is more dynamic and have a youth that are more engaged in the out daily environments choices (and consequences). It is important that we Citer leaders to more to address both social and environmental issues. By adopting minimum standards set by California law does not make Piedmont a leader, but a follower in addressing urban sprawl and its environments impacts.

As this will not be presented as an option to you by Kevin, I kindly request you consider a option in Chapter 17 that allows a two story 20 foot ADU. In order to ease the pain of reviewing a true story option, specific terminology could be added to Ch. 17 that limits a two-story option to sites that do not have an 800 square foot area available within the setbacks and other boundary requirements.

I appreciate your taking the time to consider this option and hope that it will be discussed in the open forum at your next City Council or City Planning meeting.

Thank you kindly,

Eric Downing

City Council:

Is it really necessary to proceed this quickly with the first reading of the ADU ordinance? The state is clearly forcing this issue on local communities but as the letter from Michael Henn indicates cities seem to have some discretion and indeed responsibility to evaluate ADU zones withIn their jurisdiction. I think you should table the first reading and have staff conduct the analyses that Michael points out.

Two I would emphasize are privacy and notice. I think ADUs could have serious impact on neighbor privacy. The photo shows my neighbor's two car garage, an expansion added over 20 years ago. Below the trellis to the right are double doors facilitating the use of this space for entertaining. But they also make this garage easy for conversion to an ADU. If that were to happen would windows be allowed in the structure, directly overlooking our private backyard? This would seem a clear violation of neighbor privacy which piedmont design review guidelines go to great length to preserve. As a hypothetical for your discussion, would windows be allowed on this wall were it to convert to an ADU?

Likewise, are ADU conversions/constructions required to give notice to neighbors?

Garrett Keating

Dear Mayor and Members of the City Council

As a planner, I have long supported allowing more ADUs when they were virtually outlawed by most cities. However, it now seems like the State may have overreached in taking away cities' rights to regulate ADUs.
Piedmont may be rushing action on a revised ADU ordinance when the state law only became effective three weeks ago. I have checked with several other jurisdictions and they are just beginning to study the issue and have not yet began public hearings. There is a lack of urgency because the State Housing and Community Department has not yet published its implementation guidelines. Our premature actions may necessitate subsequent otherwise unneeded revisions when the HCD guidelines are issued. Also, if Piedmont does not have its own local ordinance in place, then there would be no impact on the potential production of ADUs, because the state's rules would apply by default, until we adopted our own. So there is little real urgency and there is time for proper study. What is being proposed largely precludes the normal community discussion which Piedmont residents are used to. In particular, just following the law and accurately measuring the half mile walking distance from bus stops will require some time. And if we were to provide for street-safety thresholds, also consistent with the law, additional time would be required for analysis.

I have including pertinent sections of the newly adopted state law to illustrate the following concerns:

66582.2 (a) A local agency may…
(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
(Presumably this section means that the jurisdiction may designate areas where accessory dwelling units <u>may not</u> be permitted, or, there should also be latitude to allow ADUs but with some minimum of off-street parking provided)

66582.2 (d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:
(1) The accessory dwelling unit is located within one-half mile <u>walking distance</u> of public transit.

66582.2 (j) (10): "Public transit" means a location, including, but not limited to, a bus stop, or train station where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(This definition would preclude counting mere proximity to a bus route where there is no designated bus stop)

66582.2 (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

<u>Analysis</u>

Transit Availability: Some of the restrictions on cities' powers largely apply to homes within a half mile, by foot, from a bus stop (66582.2 {d} {1) The staff report declares that every part of Piedmont is within a half mile of a bus stop. While largely true, that conclusion was apparently based on a crow-fly review since it's not entirely true. For example, I took well-known Wildwood School as a starting point, and using my admittedly less accurate car's odometer, I have checked the distance along streets, (not crow-fly distance), and found that it is at least a half mile to the nearest bus stops for AC Transit Lines 29, 12, 33 and P. Because of curving streets and a few cul-de-sacs, there are probably several other areas which are beyond a half mile. Also Line 33 above the central area has only weekday commuter service with no midday or weekend service. These transit deficiencies are important because the statute's justification for not providing any new parking for an ADU, is that convenient transit is available. Where transit is not available, some relief seems justified.

Traffic and Emergency Vehicle Safety: There are a few existing, seriously impacted and unusually narrow streets where on-street parking is already extremely impacted, and emergency vehicles may already have trouble getting through. The extremely narrow stretch of Scenic Avenue comes to mind. The new state law (66582.2 {a}) allows a city to designate areas not suitable for additional ADUs for safety reasons. To be objective and defensible, I'd suggest language like: The City has determined that certain existing streets which are of insufficient width according to accepted Fire Protection standards, and such streets already allow on-street parking, and accordingly, the provision of one parking space per ADU is required, and such spaces may be open and tandem: (street names to follow).

Correction of Existing Code Violations: As I am sure you all know, there have been a lot of historic or even recent conversions of garages to living quarters for the primary dwelling unit. This is distinct from cases where a parking deficiency is legally non-conforming (grandfathered). If such a residence were now to further worsen the on-street parking demand by adding one or even 2 ADUs, that would add to the existing on street parking conflicts. Without violating the new law's prohibition on requiring any parking for the ADU, the city could ask/require that existing zoning/building violations regarding parking be corrected. This would mandate that a parking analysis be done in concert with the ADU review. Merely suggesting that the building inspector will catch past violations is unrealistic.

Summary: In crafting the legislation, the legislature made some concessions for where transit was not conveniently available and for valid public safety reasons. I would expect that a good faith effort that is tailored to the unique nature of a city and supports its specific exceptions with a logical nexus to traffic safety and emergency vehicle access would escape much criticism. A PC member has suggested finding a legal way to provide notice of new construction to neighbors, but not deter from the ministerial approval requirement. There can be a lot of good ideas to protect neighborhoods, but not if the new ordinance gets rapidly approved as written.

We can ask, How can we work within the law, but tailor it to the uniqueness of Piedmont? I of course agree that most of Piedmont can and should accommodate additional ADUs with little impact. However, areas where most of the once existing one-car garages have already been converted to living quarters, and where the narrow streets are already jammed with parked cars, really shouldn't have to accept more units with no new parking or even correcting past violations.

Therefore, I urge the Council to take a step back and allow the normal community involvement to take place. A citizens' committee could assist the staff in reviewing the options and look at how other jurisdictions have looked at the issue.

Thank you for your consideration,

Michael Henn

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City of Piedmont
City Council

Dear Council Members,

I am writing this letter to comment on Ordinance 747 N.S., to amend the Piedmont Accessory Dwelling Unit (ADU) development standards. The proposed ordinance makes a number of changes that will make it much easier for Piedmont homeowners to build ADUs on their properties. I support these changes, and am particularly glad to see that the ordinance would remove the design review requirement for new construction ADUs.

My one comment on the current proposal would be to consider revising the design review standards applicable to ADU permits. While requiring matching with the existing or proposed single-family home is widespread among California cities, my concern is that this standard is not objective, and would therefore be difficult to administer through a ministerial permitting process. A more specific design criteria, suck as requiring thee exterior finish materials to match, would help to make sure ADUs would be subject to only objective design standards that can be administered through a ministerial process.

Overall, Piedmont is taking a giant leap forward in promoting ADU development in the city which will dramatically improve housing opportunities in Piedmont. With this ordinance, Piedmont will be one of the first cities to adopt local ADU regulations responding to the new state laws. These new standards will help out many homeowners in Piedmont, and make affordable homes available for new residents to move into. CaRLA supports the proposed ordinance.

Thank you for considering these comments.

Sincerely,

Dylan Casey

Executive Director, California Renters Legal Advocacy and Education Fund