

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:

- (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.