

City of Piedmont
COUNCIL AGENDA REPORT

DATE: February 3, 2020

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Consideration of the 2nd Reading of Ord. 747 N.S., Amending Chapter 17 to Regulate Accessory Dwelling Units in Accordance with Recent State Legislation

RECOMMENDATION

Approve the 2nd reading of Ordinance 747 N.S., which amends Chapter 17 of the City Code to regulate Accessory Dwelling Units in accordance with recent state regulation as well as determines that the proposed revisions to the City Code are statutorily exempt from CEQA.

BACKGROUND

At its meeting of January 21, 2020, the Council approved the first reading of Ordinance 747 N.S., which amends Chapter 17 of the City Code to regulate Accessory Dwelling Units in accordance with recent state regulation as well as determines that the proposed revisions to the City Code are statutorily exempt from CEQA.

Since the January 21st meeting, the State of California has not issued any additional documentation on the implementation of the new state laws.

A second and final reading is required for adoption. Since the first reading, the ordinance has been posted on the bulletin board in City Hall as well as on the City's web site. No public comments have been received by the City Clerk's office since the first reading. If passed, this ordinance will become effective March 4, 2020.

By: John O. Tulloch, City Clerk

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

<p>Lot coverage; Landscaping</p>	<p>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..</p>
<p>Structure height</p>	<p>Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.</p>
<p>Street yard setback</p>	<p>Minimum 20 feet for primary or accessory structure. Site feature of any height may require a design review permit under division 17.66.</p>
<p>Side yard and rear yard setback</p>	<p>Minimum 5 feet for primary or accessory structure, except that a setback 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.</p>
<p>Floor area ratio</p>	<p>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.</p>

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

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

<p>Lot area; frontage; coverage; height; front, rear and side yards; floor area ratio.</p>	<p>All as set forth for Zone A. See section 17.20.040.”</p>
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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: <ul style="list-style-type: none"> • 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.”
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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.
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* 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	2
5-6 bedrooms	3
7 or more bedrooms	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

¹Or 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

Exhibit A to Ordinance
 Revisions to Division 17.38 Accessory Dwelling Units

DIVISION 17.38 ACCESSORY DWELLING UNITS

Sections

- 17.38.010 Purpose and intent
- 17.38.020 Definitions
- 17.38.030 Legal accessory dwelling units; Non-conforming accessory dwelling units; Requirements for rented accessory dwelling units
- 17.38.040 Permit requirement
- 17.38.050 Permit application and review procedures
- 17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory; dwelling unit development standards; Projects subject to state mandated approval
- 17.38.070 Accessory dwelling unit size exception
- 17.38.080 Enforcement

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)

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

- 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

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

- 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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

- 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

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Exhibit A to Ordinance
Revisions to Division 17.38 Accessory Dwelling Units

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.

Item #2 – 2nd Reading of Ord. 747 N.S. Revisions to ADU Regulations
Correspondence received before 4:00 p.m. on Monday, February 3rd

Dear Mayor McBain and Council,

I find it so unfortunate and contrary to what is so well established and critical to the very essence of Piedmont that going forward for ADUs there will be no requirement for affected neighbors notification and City encouraged involvement in the process. Whether new construction or adding to existing architecture, it appears the modifications to Ch 17 before you do does away with City concern for neighbor's possible loss of light, loss of privacy and loss of significant views if an ADU is being added. How will these essential elements be handled going forward?

Both creating an easier path to ADUs and commensurately creating a legally defensible position against CaRLA is prudent. However, must the baby be thrown out with the bathwater?

Sincerely,

Rick Schiller

Dear Mayor and Council,

It is understood that cities like Piedmont are under State pressure to do more for affordable housing and for Accessory Dwelling Units. However, by rushing the current ADU process through without sufficient study and review, opportunities are lost for mitigations which might improve the final result.

For example, Planning Commission Chair Jonathan Levine had suggested looking at a process whereby there might be notice to immediate neighbors, but without the prohibited discretionary hearing. How could alerting neighbors to the fact that construction is about to ensue be contrary to the the State ADU requirements? For example, EBMUD and PGE provide notice for their work. Such notice might allow suggestions from the neighbors to be voluntarily incorporated into the project.

I am sure that this and other potential suggestions could be helpful to the community, and not conflict with State law, but the opportunity is lost in the current rushed schedule.

Sincerely,
Michael Henn
