



## MEMORANDUM

DATE: December 11, 2023

TO: Planning Commission

FROM: Gopika Nair, Associate Planner  
Steven Lizzarago, Assistant Planner

SUBJECT: Study Session on Updates to the Zoning Ordinance

### AGENDA ITEM NUMBER 3

#### OBJECTIVE:

This agenda item is a study session to introduce and review the draft updates to City Code Chapter 17, Planning and Land Use (Zoning Ordinance) that implement the key programs from Piedmont's adopted 6th Cycle Housing Element for the 2023-2031 term (Housing Element) and the updates that implement relevant State laws that are already in effect and that are going into effect January 1, 2024.

The draft revisions discussed in this report are to add a new division 17.54: Urban Lot Splits and Two-Unit Housing Developments (SB 9), and update divisions 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, 17.30 Parking, 17.40 Residential Rentals, and 17.90 Definitions & Measurements.

This agenda item provides an opportunity for the Planning Commission and the Piedmont community to study and comment on the draft updates to the Zoning Ordinance. This is an informational item only.

#### EXECUTIVE SUMMARY:

The City has begun the process of implementing the Housing Element. At its regular meeting on October 9, 2023, staff presented [an introduction to the implementation process](#), including an implementation plan and timeline. The [first study session](#) for the Planning Commission was held on November 13, 2023, to discuss revisions to Zone A-E, revisions to Definitions and Measurements, and the addition of division 17.52-Density Bonus.

This second study session introduces further revisions to the Zoning Ordinance as follows:

1. Implement Housing Element programs and California Assembly Bill (AB) 1308, that relaxes and regulates parking standards for all zones.

2. Revise the “Intent” section for Zone A: single family residential based on the discussion at the November 13 Planning Commission study session.
3. Revise and refine permitted and conditional uses in zones A, B, C and D.
4. Implement California Senate Bill (SB) 9 and part of Housing Element program 1.J, which allow for the construction of up to four housing units on single-family lots under a ministerial review process.
5. Revise division 17.40 Residential Rentals to comply with SB 9 regulations.
6. Revise development regulations in zones A and E to allow for developments consistent with SB 9; require the construction of ADUs with a new single-family house or when a remodel of an existing residence is proposed where 70% or more of the structure is demolished; and other revisions to better align with the intent of certain Housing Element programs.
7. Add definitions that clarify new terms used in revised sections.

### BACKGROUND:

This second study session on the Zoning Ordinance update introduces a number of revisions implementing the Housing Element programs 4.L, 4.Q, 1.E, 1.J and State law AB 1308. These revisions primarily focus on relaxing existing parking standards, adding new parking standards for certain housing types and implementing the SB 9 law.

The purpose of on-site parking standards is to ensure that all the land uses in the city provide adequate on-site parking facilities associated with a use. Housing Element Programs 1.G and 1.H require the City to relax parking requirements in Zones C and D to remove barriers and facilitate the development of new multi-family housing, particularly affordable housing.

AB 1308 adds section 65863.3 to the Government Code. AB 1308 prohibits public agencies from enforcing minimum parking requirements applicable to single-family residences for projects remodeling, renovating or adding to a single-family residence, as long as the project does not cause the residence to exceed applicable zoning regulations (e.g., floor area ratio, lot coverage and height). In essence, this means that jurisdictions can no longer enforce minimum parking requirements for single-family residences when additional bedrooms are proposed. The legislature declared the prohibition necessary because the imposition of minimum parking standards "can increase the cost of housing, limit the number of available units" and "lead to an oversupply of parking spaces."

Program 1.J of the Housing Element requires the City to encourage lot splits under SB 9 (Government Code sections 66452.6, 65852.21 and 66411.7), which requires ministerial approval of a housing development with no more than two primary dwelling units in a single-family residential zone, the subdivision of a parcel within a single-family residential zone into two parcels, or both. In sum, SB 9 facilitates the develop of up to four housing units on a parcel used for one single-family home. SB 9 establishes eligibility criteria addressing environmental site constraints, anti-displacement measures for renters and low-income households, and the protection of historic structures. Furthermore, jurisdictions can enforce only objective design standards for an eligible lot split and the construction of up to two units at least 800 square feet in size.

Attachment B, report pages 60-61 provide some additional background on SB 9 Law and demonstrates various development scenarios. This study session introduces Zoning Ordinance revisions encouraging SB 9-type development, including objective zoning standards. Related objective design standards and factsheets for SB 9 development will follow in the coming months.

### RECOMMENDED DRAFT REVISIONS TO THE ZONING ORDINANCE:

This section outlines the draft revisions to the Zoning Ordinance. With the exception of a number of clean-up items, all revisions are a result of the programs listed in recently adopted Housing Element programs. A redlined version of the edits to the current Zoning Ordinance is included as Attachment 1, report pages 13-59.

1.	<b>Revisions to Parking Regulations (Division 17.30)</b>
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In order to implement Housing Element program 4.L, 4.Q, and State law AB 1308, the revisions are proposed to modify the parking applicability and regulations for single family or similar residential use and multi-family residential and similar group residential uses. The revisions are intended to clarify the existing and new uses to which this division would apply, and to set parking standards for the new uses. The draft revisions and state law requiring these revisions are summarized below:

***Revised sections: 17.30.010.A., 17.30.010.A.2., 17.30.020.B.1***

*Revisions to single family residential or similar use: to add all the new uses to which parking regulations would apply, revisions that implement State law AB 1308, and amended parking regulations for existing and new uses.*

New uses include: manufactured and mobile homes on permanent foundation, low barrier navigation centers, residential care facilities or group homes that provide licensable services for up to 6 residents, residential care facilities or group homes that do not provide licensable services regardless of the number of residents, supportive and transitional housing developments, employee housing for up to 6 employees, and development projects under division 17.54.

Implementing AB 1308 [Government Code (GC) 65863.3. (a)] means that the City cannot impose additional parking requirements for projects like adding a bedroom, as long as the project complies with existing zoning regulations, including height, lot coverage, and floor-to-area ratio. The City can only impose parking requirements if the project results in the single-family residence exceeding a maximum size limit in these areas. Furthermore, the City cannot use parking requirements to limit the scope of remodeling, renovation, or addition projects to single-family residences. So, consistent with the State law, Code revisions under this section would eliminate existing parking regulations that are tied with the number of bedrooms and add new regulations that require parking when a residential project as defined in AB 1308 exceeds the maximum floor area ratio (FAR), lot coverage or structure height of the underlying zone.

Amended parking regulations under this section are proposed to be consistent with State law AB 1308 (as explained in the paragraph above) and a new division related to SB 9 development. The

revisions also set new parking standards for smaller and larger homes. State laws that regulate construction of Accessory Dwelling Units (ADU) and SB 9 development use a unit size threshold of 800 square feet or less to regulate parking and other development standards. Based on this, staff recommends that all new primary unit construction up to 800 square feet in size (currently 700 square feet) provide 1 parking space and units larger than 800 square feet in size provide 2 parking spaces. In addition, the proposed regulations require that existing single-family homes undergoing renovations to provide 1 additional parking space up to a maximum of three spaces only if a proposed project exceeds the underlying zone's FAR, lot coverage or structure height. This would eliminate the current bedroom-based parking standards in compliance with State law.

Existing Parking Regulations (17.30.020.B.1):

<b>Dwelling unit</b>	<b>Minimum number of off-street, covered, non-tandem parking spaces</b>
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

Proposed Parking Regulations (17.30.020.B.1):

<b>Dwelling Unit</b>	<b>Minimum number of off-street, covered, non-tandem parking spaces</b>
Accessory dwelling unit (division 17.38)	0
New primary unit 800 square feet or less	1
New primary unit greater than 800 square feet	2
Primary unit that exceeds FAR, lot coverage or structure height of the underlying zone	1 additional parking space; for a maximum total of 3 parking spaces.
SB-9 development (division 17.54)	1 per primary unit. If the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code, then parking is not required for the new primary unit.

Finally, the recommended parking standards would also reflect the parking standards for SB 9 developments consistent with the State law.

***Revised section: 17.30.020.A. and New section: 17.30.020.B.***

*Revisions to multi-family residential or similar group use: add all the new uses to which this section would apply and amended parking regulations for existing and new uses.*

New uses include: large family day care home, residential care facilities or group homes that provide licensable services for more than 7 residents, single-room occupancy, co-housing, multi-family residential, and religious institution affiliated housing.

Program 4.L of the Housing Element supports reducing constraints to multi-family housing development and amending the Zoning Ordinance to reduce parking for multi-family housing, including such housing in mixed-use development and affordable housing projects. Current multi-family parking regulations for zone C are inappropriately similar to parking regulations for single family residential use. To remove barriers to the construction of multiple housing the proposed revised parking regulations are based on the different unit mixes (i.e., studio, 1-bedroom, 2 or more bedrooms). The revised parking regulations for multifamily development allow for reductions if a certain affordability threshold is met. The new parking standards would apply to multifamily and similar group residential in zones A, B, C and D, and would include parking for licensed residential facility or group homes for 7 or more residents, single room occupancies, co-housing, religious institution affiliated housing and multifamily developments. The parking standards for single room occupancy, co-housing and group homes would be based on the bedroom count as typically these housing types once developed tend to be rented/leased per bedroom as opposed to an entire unit.

Program 4.Q of the Housing Element supports parking reductions or waivers for housing for persons with disabilities, seniors, and other housing types to reduce development constraints. Current parking regulations do not have any specific standards for the housing types described in Housing Element Program 4.Q and would be regulated like multifamily residential development. As such, staff recommends adding parking standards for regulating independent living senior housing, independent living disabled housing, assisted living senior housing and assisted living disabled housing. "Assisted living" is housing that provides a special combination of traditional housing with personalized supportive services and care. "Independent living" is housing that is designed to enable seniors to live an independent lifestyle that includes recreational, educational and social activities. Staff also recommends that for assisted living senior and disabled housing, there be 1 parking space for every staff at peak staffing. "Peak staffing" means the maximum number of employees on site at any point in time.

Most of these housing types would allow a 50% reduction in required parking space if:

- ✓ the housing development is within ½ mile of regularly scheduled public transit stop; and
- ✓ at least 50% of the units are deed-restricted for a period of 55 years to low-income households.

From staff's analysis of zone C lots on ArcGIS, most of the parcels are within ½ mile of a regularly public scheduled transit stop. By incentivizing the developments to provide affordable housing, City can achieve its goal of housing diversity and provide greater housing choices for residents at all income levels. Additionally, these revisions would align with the City's efforts to strengthen its relationship to the Bay Area region by providing more housing options for residents seeking greater mobility.

Staff also proposes to eliminate the need for multifamily and similar group use parking to be non-tandem. This is because there are several lots in zones C and D that are smaller in size and accommodating non-tandem parking for more than 1 space would be challenging. The intent of these revisions is to support the construction of multi-family housing and to encourage on-site parking provisions.

## Existing Parking Regulations (Multi-family for Zone C):

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

## Proposed Parking Regulations (Multi-family or similar group residential for Zones A, B, C and D):

	<b>Minimum number of off-street covered parking spaces</b>	
Accessory dwelling unit (division 17.38)	0*	
Multi-family development, Independent living senior housing, independent living disabled persons housing	1 space per studio or 1 bedroom unit	Exception: Planning Commission shall reduce to 50% of required spaces when: a. Development is within ½ mile of regularly scheduled public transit stop; and b. At least 50% of units are deed-restricted for a period of 55 years to low-income households.
	1.5 space per 2 or more bedroom unit	
Licensed residential facility or group home for 7 or more residents	1 space per bedroom	
Single room occupancies or co-housing	1 space per bedroom Exception: Planning Commission shall reduce to 50% of required spaces when: a. Development is within ½ mile of regularly scheduled public transit stop; and b. At least 50% of units are deed-restricted for a period of 55 years to low-income individuals.	
Religious institution affiliated housing	as provided in Section 65913.6 of the Government Code	
Assisted Living Senior housing, Assisted Living disabled persons housing	0.5 space per studio or 1 bedroom unit	Additionally, 1 parking space for each employee on-site at peak staffing.
	0.75 space per 2 or more bedroom unit	

To address visitor parking congestion in group residential developments, staff proposes additional parking standards for guest or management parking. These standards encourage the efficient use of on-site parking spaces and promote smart parking strategies. Some of these strategies include guest parking rental, timed guest parking and efficient parking layout. This would benefit both

residents and development owners by reducing parking congestion, improving parking availability, and potentially generating additional revenue.

Existing Guest/Management Parking Regulations (Multi-family for Zone C): None

Proposed Guest/Management Parking Regulations (Multi-family or similar group residential for Zones A, B, C and D): Additional Parking

Guest or management Parking	<p>1 space plus an additional parking space for every 10 dwelling units. Exception: Planning Commission shall reduce to 50% of required spaces when:</p> <ul style="list-style-type: none"> <li>a. Development is within ½ mile of regularly scheduled public transit stop; and</li> <li>b. At least 50% of units are deed-restricted for a period of 55 years to low-income households.</li> </ul>
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**Revised section: 17.30.030.**

*Revisions to commercial use and mixed-use residential/commercial: amend the parking standards to reflect those for multi-family development standards.*

<b>2. Revisions to the “Intent” section in Zone A (Division 17.20)</b>
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**Revised section 17.20.010**

Following discussions at the November 13, 2023, Planning Commission meeting, staff has prepared proposed revisions to the intent section of Zone A, as detailed in Attachment 1, page 14 of this report. These revisions aim to further promote the development of more diverse and inclusive housing options within Zone A, while maintaining consistency with the policies outlined in the 6th cycle Housing Element.

<b>3. Revisions to “Permitted Uses” and “Conditional Uses” in zones A, B, and D.</b>
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**Revised sections 17.20.020, 17.20.030, 17.22.020, 17.26.020, 17.26.030**

Consistent with the uses permitted by right and conditionally in other zones, staff proposes to make large family day care home a conditional use in Zone A.

Where it describes the different types of land uses, the Land Use Element of the City’s General Plan describes parks and open spaces as a singular land use category. To maintain consistency with the General Plan language, staff proposes to amend “parks” as a permitted use in zone B Public Facilities to “parks and open spaces”.

Staff recommends revising the permitted uses in Zone B to state explicitly that the permitted multifamily residential development use is inclusive of senior and disabled housing.

Upon further evaluation of program 1.H, Staff proposes two revisions to uses in Zone D: one that

allows multifamily residential development inclusive of SROs, senior housing, co-housing, and disabled housing that are part of mixed-use development as a permitted use; and a second revision that enables multifamily residential projects that are 100% affordable to be eligible for a waiver from the requirement for ground floor commercial uses.

<b>4.</b>	<b>Adding a new City Code Division 17.54 Urban Lot Splits and Two-Unit Housing Developments.</b>
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A new City Code division, 17.54, is proposed to provide regulations and standards for applications for SB 9 development. The new division provides a ministerial process for the review of such a permit. The division outlines related definitions, the permit application procedure, and applicability for a proposed project.

For an SB 9 Urban Lot Split, the applicant must conform to the following criteria:

- ✓ The parcel subdivision may not create more than two parcels of approximately equal area, and one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for the subdivision. The newly created parcels shall have a minimum size of 1,200 square feet.
- ✓ The lot split shall not require the demolition or alteration of housing that is:
  - a. Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  - b. Subject to any form of rent or price control through a public entity's valid exercise of its police power
  - c. On a parcel on which an owner of residential real property has exercised the owner's rights withdraw accommodations rent or lease within 15 years before the date that the development proponent submits an application.
  - d. Occupied by a tenant in the last three years.
- ✓ The parcel cannot be located within a historic district or property included in the State Historic Resources Inventory. A new unit or lot split may only occur on a parcel that is not located in an area that contains various environmental constraints including farmland, wetlands, fire hazard areas, earthquake hazard areas, flood risk areas, conservation areas, wildlife habitat areas, or conservation easements.
- ✓ The parcel has not been subdivided through a prior exercise of an urban lot split under SB 9.
- ✓ Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split.
- ✓ The property owner must live for a period of no less than three years after an approved new urban lot split.

The new lot must have access to the public right of way. However, it is permissible to have a frontage that does not meet the lot frontage standards if the frontage would preclude the development of an 800 square foot primary dwelling unit. Nonetheless, the creation of a flag lot would not be permissible; rather, the City is proposing regulations that would allow for an

easement to access a newly created parcel so that street frontage for existing developed lots does not become nonconforming or more nonconforming.

For an SB 9 Two-Unit Housing Development, the application must conform to the following criteria:

- ✓ Two primary dwelling units of at least 800 square feet are permitted ministerially under an SB 9 development application.
- ✓ The new primary unit shall adhere to a four-foot side and rear setback. The street side setback, including on corner lots, is 20 feet. For development of new housing within an existing structure that does not meet the required setback dimensions is allowed to keep the nonconforming condition so long as the nonconformity is not increased within the setback area. The converted structure must be in the same footprint and dimensions as the existing non-conforming structure.
- ✓ The new primary unit shall adhere to the underlying structure coverage and landscape coverage requirements of the underlying zoning district if over 800 square feet. If one property has two primary units, the floor area may exceed the maximum allowed so long as the structure and landscape coverage conform to the underlying zoning district.
- ✓ New primary units are required to have one parking space, unless the parcel is located within one-half mile of either a high-quality transit corridor or a major transit stop. Currently, no parcels in Piedmont meet either definition and parking is a requirement.

<b>5.</b>	<b>Revisions to Division 17.40 Residential Rentals.</b>
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*Revised sections: 17.40.010.B.5, 17.40.030.A*

The SB 9 law states that a rental created under SB 9 shall be rented for a term longer than 30 days. Staff would add clarification that short term rentals are not permitted under a housing unit developed under SB 9.

<b>6.</b>	<b>Revisions to development regulations in all zones.</b>
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*Revised sections: 17.22.040.D, 17.28.040.A and 17.28.040.C.*

*Revisions to Zones A Single-Family Residential and E Single-Family Residential Estate: allow for SB-9 construction and mandate the construction of ADUs when a new house is proposed.*

[The Association of Bay Area Governments \(or ABAG\)](#) clarifies that the SB 9 law applies only to parcels in single-family residential zones. Since the intent of the legislation is to upzone or densify areas where only single-family development is currently permitted, it does not apply in areas where multi-family or denser uses are already permitted. ABAG further clarifies that SB 9 also does not apply to a parcel that is currently developed with a single-family home, if that parcel is located in anything other than a single-family residential zone. This interpretation is consistent with Housing and Community Development (HCD) SB 9 fact sheet. Staff recommends revising development regulations in Zones A and E to allow for construction of housing units under SB 9.

Program 1.E of the Housing Element calls for requiring the construction of an ADU or JADU with the construction of a new residence, whether on vacant property or on any property that is proposed to be redeveloped, when the property meets certain size thresholds to be established in the implementing ordinance. Consistent with the program requirement and reviewing the current property size thresholds for other development standards in these zones, staff recommends a property size threshold of larger than 5,000 square feet for requiring an ADU. ADU construction would be required when a new residence is proposed on a vacant property and when a remodel of an existing residence is proposed where 70% or more of the structure is demolished. Finally, City staff would explore an alternative which will allow for an in-lieu fee to fund the City’s affordable housing programs, in the coming years.

**Revised sections: 17.20.040.A, 17.20.040.C, 17.24.040.C and 17.26.050.E**

*Revisions to Zones B Public facilities, C Multi-family residential and D Commercial and Mixed-Use Commercial/Residential: mandate the construction of ADUs when a new single-family residence is proposed.*

As stated in the paragraph above and because single family residences are allowed in all zones, staff proposes the recommended revisions to development standards in Zones B, C and D.

**Revised sections: 17.24.040, 17.26.050**

*Revisions to Zones C Multi-family residential and D Commercial and Mixed-Use Commercial/Residential: keep existing minimum lot size and lot frontage requirements; and add a waiver from commercial uses for 100% affordable housing projects.*

Senate Bill (SB) 330 prohibits local jurisdictions from enacting new laws that would have the effect of reducing the legal limit on new housing within their borders or delay new housing via administrative or other regulatory barriers. Upon further examination of Housing Element programs staff found that there are no program requirements in the Housing Element that require the City to reduce minimum lot size and frontage requirement for lots in zone C or add a new minimum lot requirement for lots in zone D. Accordingly, staff proposes to keep the minimum lot size in zone C as 10,000 square feet and lot frontage as 90 feet, and to keep the current lot size regulations for zone D: no minimum.

Consistent with the Housing Element program 1.H, staff proposes a revision that enables multifamily residential projects to be eligible for a waiver from the requirement for ground floor retail, office, or service commercial uses, if 100% units of the residential project are affordable to households earning 80% or less of the area median income established by Department of Housing and Urban Development (HUD).

Ground floor	Zone D developments must have: <ol style="list-style-type: none"> <li>1. ground floor retail, office, or service commercial uses to primarily serve the neighborhood. Ground floor residential use is not permitted, except for an entry and lobby to the upper floor(s), except that:                         <ol style="list-style-type: none"> <li>a. the requirement for ground floor retail, office, or service commercial uses shall be waived for development in which 100% of the units are</li> </ol> </li> </ol>
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	affordable to households earning 80% or less of the area median income (AMI) established by HUD.
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<b>7. Revisions to Article 5. Definitions; Measurements.</b>
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***Revised section: 17.90.010.***

Staff recommends adding definitions for regularly scheduled public transit, low-income households, assisted living, independent living and peak staffing as these terms are used in division 17.30 Parking. Additionally, staff has modified the definition of co-housing.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

While a formal California Environmental Quality Act (CEQA) analysis is not required for the study session, an [Environmental Impact Report](#) (EIR) has been prepared for the proposed revisions to the Zoning Ordinance associated with the Housing Element programs. This EIR is available for public review and comment until 5:00 p.m. on December 18, 2023. A separate CEQA analysis will be provided for the remaining proposed revisions that are not directly tied to the Housing Element programs.

**CITY CHARTER:**

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

**COMMISSION ACTION:**

This is an informational item intended to present the draft revisions to the Zoning Ordinance for the Planning Commission's study. The Commission is requested to receive the staff presentation, review the City Code updates, encourage public discussion, and provide feedback to staff. No action is required.

**CONCLUSION AND NEXT STEPS**

The Zoning Ordinance update is required in order to implement the Housing Element. The update will also bring the Zoning Ordinance into compliance with current and new California housing laws and thereby provide clarity to the community, design professionals, and other interested parties. Consistent with the Housing Element Implementation Plan timeline outlined in Exhibit A, report page 62, Next steps include:

1. Study session at January 8, 2024, regular meeting of the Planning Commission discussing any revisions to the Zoning Ordinance stemming from the December Planning Commission and City Council study sessions and any necessary outstanding revisions from the Housing Element Implementation plan.

2. A special meeting of the Commission on Monday, January 29, 2024, during which and in conformance with City Code section 17.72.040, the Commission will consider a recommendation to the City Council regarding the Zoning Ordinance update, General Plan amendments, and a related Environmental Impact Report.

ATTACHMENTS AND RELEVANT DOCUMENTS:

	<u>Pages</u>	
1	13- 59	Redline edits of the Zoning Ordinance: Article 2, Article 3 & Article 5
2	60-61	SB 9 Additional Information
Exhibit A	62	Housing Element Implementation Schedule

Separate Attachment and Links:

- The City of Piedmont’s 6<sup>th</sup> Cycle [Housing Element](#)
- [November 13, 2023, Planning Commission staff report and meeting video.](#)

## **Chapter 17 PLANNING AND LAND USE**

### **ARTICLE 1. GENERAL PROVISIONS**

- 17.02 Title; Intent; City Charter
- 17.04 Applicability and interpretation
- 17.06 General requirements
- 17.08 Establishment of zones; Zoning map; Interpretation

### **ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS**

- 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

### **ARTICLE 3. SPECIAL REGULATIONS**

- 17.30 Parking
- 17.32 Fences; Walls; Retaining walls
- 17.34 Landscaping
- 17.36 Signs
- 17.38 Accessory dwelling units
- 17.40 Residential rentals
- 17.42 Additional bedrooms in existing dwelling units
- 17.44 Home occupations
- 17.46 Wireless communication facilities
- 17.48 Cannabis cultivation and facilities
- 17.50 Non-conforming uses and structures
- 17.52 Density Bonus
- 17.54 Urban Lot Splits and Two-Unit Housing Developments (SB 9)

### **ARTICLE 4. ADMINISTRATION**

- 17.60 General provisions
- 17.62 Notice requirements
- 17.64 Hearings; Review; Term of approval; Conditions
- 17.66 Design review
- 17.68 Conditional use permits
- 17.70 Variances
- 17.72 Zoning amendments
- 17.74 Development agreements
- 17.76 Reasonable accommodation
- 17.78 Appeals; Calls for review
- 17.80 Enforcement

### **ARTICLE 5. DEFINITIONS; MEASUREMENTS**

- 17.90 Definitions & Measurements

## ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS

### Divisions

- 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
- 17.28 Zone E: Estate residential

### DIVISION 17.20

### ZONE A: SINGLE FAMILY RESIDENTIAL

#### Sections:

- 17.20.010 Intent
- 17.20.020 Permitted uses
- 17.20.030 Conditional uses
- 17.20.040 Regulations

#### **17.20.010 Intent.**

Zone A is established for single-family residential and other allowed uses. The intent is to:

- Preserve, ~~protect~~ maintain, and enhance Piedmont's residential character and the quiet community atmosphere of neighborhoods., ~~protecting the quiet, family atmosphere of neighborhoods.~~
- ~~Protect~~ Mitigate adverse environmental impacts and site constraints, such as ~~residents from the harmful effects of~~ excessive noise, light deprivation, ~~intrusions on~~ privacy incompatible land uses, ~~unsafe~~ overcrowding, ~~excessive traffic obstructed~~ pedestrian and vehicular access and circulation, ~~insufficient parking, and~~ blockage of significant views, ~~and other adverse environmental impacts.~~
- Create, maintain, and enhance a living environment that builds community for people of all income levels.
- Maintain openness and areas of vegetation ~~between residences~~ to enhance a healthy environment.
- Achieve design compatibility and orderly arrangement of development by establishing regulations for the siting, massing, and building form on properties throughout the zone ~~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)~~
- E. Religious institution affiliated housing development projects, and religious institution affiliated emergency shelters.
- F. Manufactured and mobile homes on a permanent foundation.
- G. Low barrier navigation centers.
- H. Residential care facilities -or group homes that provide licensable services for up to six residents.
- I. Residential care facilities or group homes that do not provide licensable services.
- J. Supportive housing and transitional housing developments.
- K. Accessory structures with accessory uses located on the same lot as the primary structure.
- L. Employee housing for 6 or fewer persons.

### 17.20.030 Conditional uses.

The following are allowed in Zone A with aas conditional use permituses 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.
- E. Residential care facilities or group homes that provide licensable services for seven or more residents.
- F. Large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.

#### 17.20.040 Regulations:-

- A. The following development standards apply to the development of all uses in Zone A, except those listed in Section 17.20.040.B. In Zone A:-

	<b>Zone A requirements</b>
Lot area	Minimum 8,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38 <u>or for a lot split under SB 9 set forth in division 17.54.</u>
Frontage, on public or private street	Minimum 60 feet, <u>subject to an exception for a lot split under SB 9 as set forth in division 17.54. -</u>
Lot coverage; Landscaping	Maximum 40% <u>lot coverage for</u> 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, subject to exception for accessory dwelling unit construction set forth in division 17.38. No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.

Side yard and rear yard setback	<p>Minimum 5 feet for a primary or accessory structure, <del>but</del> <u>unless the yard is street facing, in which case the minimum is 20 feet-in a street-facing yard</u>, except that a setback of only <del>four</del> <u>4</u> feet is required for a new structure to be used as an accessory dwelling unit, and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.**</p> <p>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.</p> <p><u>A dwelling unit developed under SB 9 is subject to a 4 foot side and rear setback.</u></p> <p>A site feature proposed within these distances may require a design review permit under division 17.66.</p>
Floor area ratio*	<p>Subject to exception for accessory dwelling unit construction set forth in division 17.38 <u>or for a dwelling unit developed under SB 9 set forth in division 17.54:</u></p> <p><u>Maximum</u> 55% of the lot area if the parcel is 5,000 square feet or less.</p> <p><u>Maximum</u> 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet.</p> <p><u>Maximum</u> 45% of the lot area if the parcel is more than 10,000 square feet.</p>

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

\*\* Pursuant to Government Code section 65852.2(a)(1)(D)(vii). ~~(Ord. 743 N.S., 05/2018; Ord. 747 N.S., 02/2020; Ord 768 N.S., 01/2023)~~

Please refer to division 17.54 for standards for a lot split and two-unit housing developments performed under SB 9.

B. The development standards for the following uses are as indicated below:

a. Wireless communications facility, as provided in division 17.46.

b. Religious institution affiliated housing development projects, as provided in section 17.24.040.A., except that there is no minimum density and maximum allowable density is 21 dwelling units per acre.

c. Reservoir has no applicable development standards.

C. For lots that are larger than 5,000 square feet, an ADU shall be constructed:

a. when a new residence is proposed on a vacant lot.

b. when a remodel of an existing residence is proposed where 70% or more of structure is demolished.

**DIVISION 17.22****ZONE B: PUBLIC FACILITIES**

## Sections:

- 17.22.010 Intent
- 17.22.020 Permitted uses
- 17.22.030 Conditional uses
- 17.22.040 Regulations

**17.22.010 Intent.**

Zone B is established to regulate and control development of public facilities and other allowed uses 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.

~~B. Accessory, 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.~~

~~C. Building occupied by a public agency or other nonprofit entity. B. City building, used by a governmental entity or other nonprofit entity.~~

~~DC.~~ Public school.

~~ED.~~ Parks and open space, including recreational uses and facilities.

~~FE.~~ Cemetery, public utility.

~~GF. Emergency shelter, supportive housing or transitional housing, as defined in Health and Safety Code sections 50801(e)I, 50675.14(b)(2) and 50675.2(h), or successor statute, as may be amended from time to time, respectively. (Ord. 747 N.S., 02/2020)~~

H Manufactured and mobile homes on a permanent foundation.

I. Low barrier navigation centers.

J. Residential care facilities or group homes that provide licensable services for up to six residents.

K. Residential care facilities or group homes that do not provide licensable services.

L. A multi-family residential development, including senior housing, and disabled housing.

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

N. Employee housing for 6 or fewer persons.

O. Accessory structures and accessory uses affiliated with the primary structure on the same lot under this section.

**17.22.030 Conditional uses.**

The following are allowed as conditional uses in Zone B:

- A. ~~City~~Except for schools, a public 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.
- C. Licensed residential care or group homes that provide licensable services to seven or more residents.
- D. Large family day care home in accordance with California Health and Safety Code sections 1597.43 – 1597.47.

**17.22.040 Regulations.**

- A. ~~Certain city~~City projects are not subject to development standards, except those listed below:
  1. the green building requirements of chapter ~~58, article 4,~~ section ~~5.358.10~~ and following;  
~~and~~
  2. the bay-friendly landscaping requirements of chapter 3, section 3.30 and following.
- B. In Zone B, for ~~residential~~uses other than those set forth in 17.22.040(A) and (C), the development standards are as follows~~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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- C. In Zone B, the development standards for the following uses are set forth below:
  - a. Wireless communications facility as provided in division 17.46.
  - b. Multi-family residential as provided in section 17.24.040.A.
  - c. Cemetery, public utility – no standards.
  - d. Building occupied by a public agency or other nonprofit entity – no standards, except as set forth in Section 17.22.040.A.
  - e. Parks and open space, including recreational uses and facilities – no standards.
- D. For lots that are larger than 5,000 square feet, an ADU shall be constructed:

a. when a new residence is proposed on a vacant lot.

b. when a remodel of an existing residence is proposed where 70% or more of structure is demolished.

**DIVISION 17.24****ZONE C: MULTI-FAMILY RESIDENTIAL**

## Sections:

- 17.24.010 Intent
- 17.24.020 Permitted uses
- 17.24.030 Conditional uses
- 17.24.040 Regulations

**17.24.010 Intent.**

Zone C is established to regulate and control residential development, including ~~some~~ multi-family dwellings, ~~in harmony that enhances with the the~~ character of the neighborhood and builds community for people of all income levels.

**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 residential development. 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. (Ord. 747 N.S., 02/2020)~~

D. Manufactured and mobile homes on a permanent foundation.

E. Low barrier navigation centers.

F. Residential care facilities or group homes that provide licensable services for up to six residents.

G. Residential care facilities or group homes that do not provide licensable services.

H. Supportive housing and transitional housing.

I. Accessory structures with accessory uses located on the same lot as the primary structure under this section.

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

K. Employee housing for 6 or fewer persons.**17.24.030 Conditional uses.**

The following are allowed as conditional uses in Zone C:

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

B. Residential care facilities or group homes that provide licensable services for 7 or more people.

C. Large family day care home in accordance with California Health and Safety Code sections 1597.43 – 1597.47.

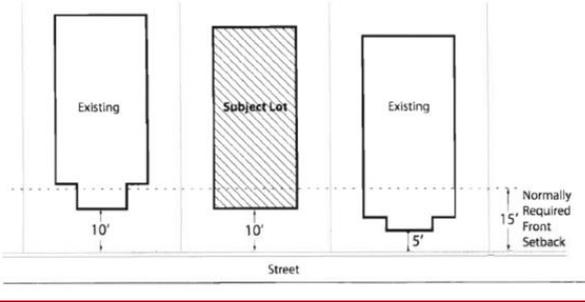
D. Single room occupancy dwellings.

E. Co-housing.

**17.24.040 Regulations.**

A. In Zone C, for multi-family residential use, licensed residential care facility for 7 or more residents, co-housing and single room occupancy dwellings, the standards are as follows:∴

	<b>Zone C requirements</b>
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 <del>50</del> <u>70</u> % lot coverage <del>for% of the total by</del> primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. Minimum <del>30</del> <u>15</u> % landscaping, or <del>20</del> <u>10</u> % 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 <del>35</del> <u>45</u> feet <u>for buildings on lots with lot area 4,000 sq.ft. or more.</u> except accessory dwelling units shall be subject to restrictions set forth in division 17.38.

	<p><u>Maximum 35 feet for buildings on lots with lot area less than 4,000 sq.ft., except accessory dwelling units shall be subject to restrictions set forth in division 17.38.</u></p>
<p>Street yard setback</p>	<p><u>Minimum 15 feet for primary or accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38. If adjacent lots abutting the side lot lines of the subject lot both contain principal single family residential buildings that have front setbacks with a depth of less than ten (10) feet, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principal single family residential buildings on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principal may apply if the two (2) lots adjacent to the corner lot or lot along its front lot line have less than a fifteen (15) foot front setback. See illustration below:</u></p> <p><del>Minimum 20 feet for primary or accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38.</del></p>  <p>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><u>Minimum 5-4 feet for primary or accessory structure, except as provided below. If adjacent lots abutting the side and rear lot lines of the subject property are single family residential, the proposed building shall further step back depending on the lot area:</u></p> <ul style="list-style-type: none"> <li><u>• If lot area is less than 4,000 sq.ft., the building shall step back 8 ft. from the side and/or rear property line abutting the single family residential after 2 stories or 22 ft., whichever is less.</u></li> </ul> <p><u>If lot area is 4,000 sq.ft. or more, the building shall step back 8 ft. from the side and/or rear property line abutting the single family residential after 3 stories or 35 ft, whichever is less., <del>stepback</del> except, except that a setback of only four feet is required for a new structure to be used as an accessory dwelling unit and no setback is required for</u></p>

	<p><del>conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.*</del></p> <p><del>•</del></p> <p><del>If the <u>an existing multi-family dwelling</u> has a rear or side setback of less than four feet, no modification of the existing multifamily dwelling shall be required for construction of an accessory dwelling unit.**</del></p> <p>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>
<u>Floor area ratio</u>	<p><del>Subject to exception for accessory dwelling unit construction set forth in division 17.38:</del></p> <p><del>Maximum 55% of the lot area if the parcel is 5,000 square feet or less.</del></p> <p><del>Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet.</del></p> <p><del>Maximum 45% of the lot area if the parcel is more than 10,000 square feet.</del></p>
<u>Density</u>	<p><del>Minimum density of 20 dwelling units/acre, and maximum density of 60 dwelling units/acre, unless otherwise required by State Law.</del></p>

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

\*\* Pursuant to Government Code section 65852.2(e)(1)(D)(ii). (Ord. 747 N.S., 02/2020, Ord. 768 N.S., 01/2023)

B. In Zone C, for uses other than those listed above, the development standards are as follows:

1. Wireless communications facility as provided in division 17.46.
2. Single-family residence as provided in section 17.20.040.A.
3. Manufactured and mobile homes as provided in section 17.20.040.A.
4. Large day care home as provided in section 17.20.040.A.
5. Licensed residential care facility or group home for up to 6 residents and unlicensed residential care facility or group home as provided in section 17.20.040.A.
6. Low barrier navigation centers as provided in section 17.20.040.A.
7. Transitional and supportive housing as provided in section 17.20.040.A.
8. Employee Housing for up to six employees as provided in section 17.20.40.A
9. Small day care home as provided in section 17.20.40.A

C. For lots that are larger than 5,000 square feet, an ADU shall be constructed:

- a. when a new residence is proposed on a vacant lot.

b. when a remodel of an existing residence is proposed where 70% or more of structure is demolished.

**DIVISION 17.26****ZONE D: COMMERCIAL AND MIXED USE**

## Sections:

- 17.26.010 Intent
- 17.26.020 Permitted uses
- 17.26.030 Conditional uses
- 17.26.040 Prohibited uses
- 17.26.050 Regulations

**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, including manufactured and mobile homes on a permanent foundation, 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. (Ord. 747 N.S., 02/2020)
- C. Low barrier navigation centers.
- D. Residential care facilities or group homes that provide licensable services for up to six residents.
- E. Residential care facilities or group homes that do not provide licensable services.
- F. Supportive housing and transitional housing developments.
- G. Accessory structures with accessory uses located on the same lot as the primary structures under this section.
- H. Small family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.
- I. Multi-family development including single-room occupancy, co-housing, senior housing, and disabled housing, that is part of a mixed-use development.
- J. Employee housing for 6 or fewer persons.

**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. ~~Large~~~~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 ~~be~~ primarily neighborhood serving~~serve city residents~~. This includes minor auto servicing, fueling station, and EV charging station. Commercial uses that ~~are will~~ primarily serve city neighborhood residents ~~are serving are~~ those uses neighbors 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 neighborhood. ~~;~~

A structural change (including reduction or addition in structure) 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. Commercial portion of a Mixed mixed-use commercial/residential development, including ground-floor retail, office, or service commercial uses to primarily serve the neighborhood. ~~Mixed-use commercial and residential developments must have both:~~
  - ~~1. ground floor retail, office, or service commercial uses to primarily serve city residents~~the neighborhood. ~~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.
- G. Residential care facilities or group home that provide licensable services for seven or more residents.

**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 ~~restaurants; and restaurant;~~ drive-through ~~establishments~~ establishment.

**17.26.050 Regulations.**

A. In Zone D, for commercial, mixed-use commercial/residential, and private school facilities ~~mixed use development each conditional uses,~~ the standards are as follows~~use~~:

<b>Zone D requirements</b>		
	<b>Civic Center Subarea <sup>1</sup></b>	<b>Grand Avenue Subarea <sup>2</sup></b>
Lot area	No minimum <u>lot</u> area, but an existing lot may not be subdivided into smaller lots.	No minimum lot 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	<del>45 feet Maximum 40 feet, and 3 stories.</del>	Maximum <del>35-45 feet, and 3 stories.</del> For a building site adjacent to a single family residence: A. within 10 feet of the abutting lot line: maximum <del>25-35</del> feet measured from adjacent grade; and B. daylight plane starting at <del>25-35</del> feet above grade and a distance of 10 feet from the abutting property line.
<b>Zone D requirements (continued)</b>		
	<b>Civic Center Subarea <sup>1</sup></b>	<b>Grand Avenue Subarea <sup>2</sup></b>
Street yard setback	No minimum setback.	Along Wildwood, Sunnyside and Linda Avenues: <del>40-5</del> feet minimum from lot line. Along Grand Avenue: <del>45-5</del> feet minimum from curb or 3 feet from lot line, whichever is greater.

Side yard and rear yard setback	No minimum setbacks, but if side or rear yard abuts a single-family residence, the minimum side and rear yard setback is <u>5-4</u> feet from that abutting lot line.	Side Yard: no minimum setbacks, except minimum <u>5-4</u> feet from lot line abutting a single-family residence. Rear Yard: <u>5-4</u> feet minimum.
Floor to ceiling height for ground floor <u>commercial use</u>	15 feet minimum	12 feet minimum
<u>Ground floor</u>	<p><u>Zone D developments must have:</u></p> <p><u>1. ground floor retail, office, or service commercial uses to primarily serve the neighborhood. Ground floor residential use is not permitted, except for an entry and lobby to the upper floor(s), except that:</u></p> <p><u>a. the requirement for ground floor retail, office, or service commercial uses shall be waived for development in which 100% of the units are affordable to households earning 80% or less of the area median income (AMI) established by HUD.</u></p>	

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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, small family day care home, manufactured and mobile homes, low barrier navigation center, licensed residential care facility or group home for up to 6 residents and unlicensed residential care facility or group home, employee housing for 6 or fewer persons, and supportive and transitional housing, the development standards are as follows:

Lot area; frontage; coverage; height; front,	All as set forth for Zone A. See section 17.20.040.
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rear and side yards; floor area ratio.	
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~~(Ord. 747 N.S., 02/2020)~~

C. In Zone D, for uses other than those listed above, the development standards are as follows:

1. Wireless communications facility as provided in division 17.46
2. Religious assembly as provided in section 17.20.040.A.
3. Stand-alone multi-family development including single-room occupancy and co-housing, and multi-family that is part of a mixed-use development as provided in section 17.24.040.A, except for density standards provided in 17.26.50.D.
4. Large day care home as provided in section 17.24.040.A.
5. Licensed residential care facility or group home for 7 or more residents as provided in section 17.24.040.A.

D. Density and Floor Area Ratio.

The following density and floor area ratio standards apply to all development that includes residential uses in this division, including multifamily developments, residential development within mixed-use development, SROs, and co-housing.

1. The developer/property owner may choose to develop property in this zone at a maximum of 81 dwelling units/acre.
2. The maximum non-residential FAR in a mixed-use development is 75%.

E. For lots that are larger than 5,000 square feet, an ADU shall be constructed:

- a. when a new residence is proposed on a vacant lot.
- b. when a remodel of an existing residence is proposed where 70% or more of structure is demolished.

**DIVISION 17.28****ZONE E: ESTATE RESIDENTIAL**

## Sections:

- 17.28.010 Intent
- 17.28.020 Permitted uses
- 17.28.030 Conditional uses
- 17.28.040 Regulations

**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, ~~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. 747 N.S., 02/2020)~~
- E. Manufactured and mobile homes on a permanent foundation.
- F. Low barrier navigation centers.
- G. Residential care facilities or group homes that provide licensable services for up to six residents.
- H. Residential care facilities or group homes that do not provide licensable services.
- I. Supportive housing and transitional housing developments.
- J. Accessory structures with accessory uses located on the same lot as the primary structures under this section.
- K. Employee housing for 6 or fewer persons.

**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.

C. ~~B.~~ Residential care facilities or group homes that provide licensable services for seven or more residents.

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

#### **17.28.040 Regulations.**

A. The following development standards apply to the development of all uses in Zone E, except those listed in Section 17.28.040.B.~~In Zone E; In Zone E;~~

	<b>Zone E requirements</b>
Lot area	Minimum 20,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38 <u>or for a lot split under SB 9 set forth in division 17.54;</u>
Frontage, on public or private street	Minimum 120 feet, <u>subject to an exception for a lot split under SB 9 as set forth in division 17.54;</u>
Lot coverage; landscaping	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 40% <del>lot coverage for</del> 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, subject to exception for accessory dwelling unit construction set forth in division 17.38. 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, <u>unless the yard is street facing, in which case the minimum is 20 feet, except that a setback of only 4</u> <del>except that a setback of only four</del> feet is required for a new structure to be used as an accessory dwelling unit, and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.**

	<p>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.</p> <p>No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.</p> <p><u>A dwelling unit developed under SB 9 is subject to a 4 foot side and rear setback.</u></p>
Floor area ratio*	<p>Subject to exception for accessory dwelling unit construction set forth in division 17.38, <u>or for a dwelling unit developed under SB 9 set forth in division 17.54:</u></p> <p><u>Maximum</u> 55% of the lot area if the parcel is 5,000 square feet or less.</p> <p><u>Maximum</u> 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet.</p> <p><u>Maximum</u> 45% of the lot area if the parcel is more than 10,000 square feet.</p>

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

\*\* Pursuant to Government Code section 65852.2(a)(1)(D)(vii). (Ord. 743 N.S., 05/2018; Ord. 747 N.S., 02/2020; Ord. 768 N.S., 01/2023)

Please refer to division 17.54 for standards for a lot split and two-unit housing developments performed under SB 9.

B. In Zone E, for uses other than those listed above, the development standards are as follows:

1. Wireless communications facility as provided in division 17.46.

C. For lots that are larger than 5,000 square feet, an ADU shall be constructed:

a. when a new residence is proposed on a vacant lot.

b. when a remodel of an existing residence is proposed where 70% or more of structure is demolished.

### ARTICLE 3. SPECIAL REGULATIONS

#### Divisions:

17.30	Parking
17.32	Fences; Trash enclosures; Corner obstructions
17.34	Landscaping
17.36	Signs
17.38	Accessory dwelling units
17.40	Residential Rentals
17.42	(Not used)
17.44	Home occupations
17.46	Wireless communications
17.48	Cannabis cultivation and facilities
17.50	Non-conforming uses and structures

#### DIVISION 17.30

#### PARKING

#### Sections:

- 17.30.010 Single family residential and similar use (All zones)
- 17.30.020 Multi-family residential and similar group residential use (Zones A, B, C and D)
- 17.30.030 Commercial use and mixed-use residential/commercial (Zone D)
- 17.30.040 Location of parking spaces
- 17.30.050 Size and specifications
- 17.30.060 No reduction of existing parking
- 17.30.070 Compliance with Americans with Disabilities Act (ADA)

#### **17.30.010 Single family residential use and similar use.** (All zones)

A. Applicability. This section 17.30.010 applies to the following single family residential uses: single-family residential, small and large family day care homes, manufactured and mobile homes, low barrier navigation centers, supportive and transitional housing, residential care facilities or group homes that provide licensable services for up to 6 residents, residential care facilities or group homes that do not provide licensable services, and employee housing for up to 6 employees, and development projects under division 17.54- 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 may affect the need for parking. Either an increase in the number of

bedrooms Exceeding certain underlying zoning regulations as indicated in the table in section 17.30.010.B.1; ~~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.

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

<b>Dwelling Unit</b>	<b>Minimum number of off-street, covered, non-tandem parking spaces</b>
<u>Accessory dwelling unit (division 17.38)</u>	0*
<u>New primary unit** 800 square feet or less</u>	1
<u>New primary unit** greater than 800 square feet</u>	2
<u>Primary unit that exceeds FAR, lot coverage or structure height of the underlying zone</u>	1 additional parking space; for a maximum total of 3 parking spaces.
<u>SB-9 development (division 17.54)</u>	1 per primary unit. If the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code, then parking is not required for the new primary unit.

\* 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.

\*\* primary unit refers to single family residence, small and large family day care homes, manufactured and mobile homes, low barrier navigation centers, supportive and transitional housing, residential care facilities or group homes that provide licensable services for up to 6 residents, residential care facilities or group homes that do not provide licensable services, and employee housing for up to 6 employees.

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. (Ord. 747 N.S., 02/2020)

**17.30.020 Multi-family residential and similar group residential use. (Zones A, B, C and D).**

A. Applicability. This section applies to each multi-family and similar group residential use in Zones A, B, C and D, including but not limited to: large family day care home, residential care facilities or group homes the provide licensable services for more than 7 residents, single-room occupancy, co-housing, multi-family residential, senior housing, housing for persons with disabilities, and religious institution affiliated housing.

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

	<b>Minimum number of off-street covered parking spaces</b>	
<u>Accessory dwelling unit (division 17.38)</u>	<u>0*</u>	
<u>Multi-family development, Independent living senior housing, independent living disabled persons housing</u>	<u>1 space per studio or 1 bedroom unit</u> <u>1.5 space per 2 or more bedroom unit</u>	<u>Exception: Planning Commission shall reduce to 50% of required spaces when:</u> <u>a. Development is within ½ mile of regularly scheduled public transit stop; and</u> <u>b. At least 50% of units are deed-restricted for a period of 55 years to low-income households.</u>
<u>Licensed residential facility or group home for 7 or more residents</u>	<u>1 space per bedroom</u>	
<u>Single room occupancies or co-housing</u>	<u>1 space per bedroom</u> <u>Exception: Planning Commission shall reduce to 50% of required spaces when:</u>	

	<u>a. Development is within 1/2 mile of regularly scheduled public transit stop; and</u> <u>b. At least 50% of units are deed-restricted for a period of 55 years to low-income individuals.</u>	
<u>Religious institution affiliated housing</u>	<u>as provided in Section 65913.6 of the Government Code</u>	
<u>Senior housing, disabled persons housing (Assisted Living)</u>	<u>0.5 space per studio or 1 bedroom unit</u>	<u>Additionally, 1 parking space for each employee on-site at peak staffing.</u>
	<u>0.75 space per 2 or more bedroom unit</u>	

\* 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.  
 (Ord. 747 N.S., 02/2020)

B. Additional Parking. Guest or management parking shall be provided for all development types under this section with the exception of accessory dwelling units and religious institution affiliated housing development.

<u>Guest or management Parking</u>	<u>1 space plus an additional parking space for every 10 dwelling units. Exception: Planning Commission shall reduce to 50% of required spaces when:</u> <u>a. Development is within 1/2 mile of regularly scheduled public transit stop; and</u> <u>b. At least 50% of units are deed-restricted for a period of 55 years to low-income households.</u>
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**17.30.030 Commercial use and mixed-use residential/commercial. (Zone D).**

A. Residential uses in mixed use commercial/residential: same as provided in section 17.30.020.

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

~~\* 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 <sup>1</sup>	Each 250 square feet: 1 <sup>1</sup>
Retail stores, offices, and other low-intensity uses	Each 750 square feet: 1 <sup>1</sup>	Each 350 square feet: 1 <sup>1</sup>

<sup>1</sup>Or as required by conditional use permit. (Ord. 747 N.S., 02/2020)

#### **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, 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. (Ord. 747 N.S., 02/2020)

**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 17.40 RESIDENTIAL RENTALS

### Sections

17.40.010	Purpose and intent
17.40.020	Rented room
17.40.030	Short-term rental
17.40.040	Business license tax
17.40.050	Enforcement

### **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, and units developed under division 17.54 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), ~~a or~~ multi-family dwelling unit, or a dwelling unit created under division 17.54. 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; Ord. 747 N.S., 02/2020)

**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 17.54      URBAN LOT SPLITS and TWO-UNIT HOUSING  
DEVELOPMENTS (SB 9)**

Sections

17.54.010	Purpose and intent
17.54.020	Permit requirement
17.54.030	Definitions
17.54.040	Permit Application and review procedures
17.54.050	Urban Lot Split Standards
17.54.060	Two-Unit Housing Development Standards
17.54.070	Accessory Dwelling Units
17.54.080	Waivers from Standards

**17.54.010      Purpose and intent**

The State Legislature has declared that local jurisdictions must allow for a ministerial review of up to two residential dwelling units on each lot where single-family uses are authorized, and urban lot splits in order to allow for the construction of additional housing units. (Government Code Sections 66411.7 and 65852.21.) Proposed housing developments of up to two dwelling unit and urban lot splits shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development or urban lot split meets all of the applicable requirements. This division shall adhere to the Government Code sections referenced below, which Government Code provisions may be amended from time to time. This division shall be interpreted in accordance with state law requirements.

**17.54.020      Permit requirement**

A. SB9 – Urban lot split permit. A permit is required for an urban lot split under the provisions of Government Code Section 66411.7.

B. SB9 – Two-unit housing development permit. A permit is required for a housing development of up to two units under the provisions of Government Code section 65852.21.

C. An application for a two-unit housing development permit may be submitted in conjunction with an urban lot split permit application.

D. Building permit. A building permit shall be required for construction of any proposed new dwelling units.

**17.54.030      Definitions**

In this division:

*Accessory dwelling unit* or “ADU” shall have the same meaning as specified in Section 17.38.020 of the Piedmont City Code.

*Existing dwelling unit* means a primary dwelling unit or other dwelling unit on a parcel that exists prior to any voluntary demolition or reconstruction or remodel where more than 50 percent of the exterior wall framing has been removed or altered. Any existing dwelling

unit where more than 50 percent of the exterior wall framing has been removed is considered a new dwelling for purposes of this division.

*Flag lot* means a parcel that has less than the minimum required frontage on a public road and has access to the public right-of-way by a narrow strip of land, with the largest portion of the lot being situated behind adjoining lots which front a public right-of-way.

*Junior accessory dwelling unit* or “JADU” shall have the same meaning as specified in Section 17.38.020 of the Piedmont City Code.

*Primary dwelling unit* means a single-family residence or a residential unit within a multi-family residential development. A primary unit is distinct from an ADU or a JADU. Examples of primary units include a single-family residence (i.e., one primary unit) and a duplex (i.e., two primary units).

*SB 9 dwelling unit* or *SB 9 unit* means a dwelling unit that is developed using the provisions in this division and the provisions identified in California Government Code Section 65852.21.

*Two-unit housing development* means a development containing no more than two primary dwelling units. A two-unit housing development may include two new units or one new unit added to an existing unit.

*Unusual shape* means a property with more than 6 sides. The lot lines shall have lot angles, unless the curvature of an existing street or lot line precludes the possibility of a right-angled corner.

*Urban lot split* means the subdivision of a parcel within a residential single-family zone into no more than two parcels pursuant to the authority set forth in Government Code section 66411.7.

#### **17.54.040 Permit application and review procedures**

##### **A. Application.**

**1. Application.** An owner is required to submit an application for an urban lot split permit and a two-unit housing development permit. An application for an urban lot split may be submitted concurrently with an application for a two-unit housing development. A complete application will be reviewed for conformance with this division and the applicable standards by the Planning & Building Director.

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

**3. Affidavit.** Upon the submittal of an urban lot split application, the property owner must sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum period of three years from the date of the lot split. If there

is no residence existing on either lot, the applicant shall sign the affidavit stating that they will intend to live in one of the new units for a minimum of three years.

B. Ministerial Review. The Director shall review each application ministerially to determine if the development standards in section 17.54.050 are met for an urban lot split or the development standards in section 17.54.060 are met for a two-unit housing development. The Director will review the application without notice or public hearing, and shall approve the application if the application meets the applicable requirements of the division.

C. Subdivision Map Act. An application for an urban lot split permit must adhere to the objective requirements outlined in the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section. A tentative map shall be submitted to the City Engineer for a lot split application.

D. Inconsistencies. If the proposed urban lot split or two-unit housing development is inconsistent with applicable requirements, the planning director shall provide the applicant notice describing the inconsistency(ies) in the same manner prescribed by Government Code section 65589.5(j)(2).

E. 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. The City may deny an urban lot split permit or a two-unit housing development permit if the Director makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

### **17.54.050 Urban Lot Split Standards**

The Director may not approve an application for an urban lot split permit unless the project conforms to all of the standards listed below. A waiver may be granted for an exception to the standards as described under section 17.54.080.

#### A. Size Requirements

1. The parcel subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
2. The newly created parcels are no smaller than 1,200 square feet.

#### B. Location Requirements

1. The parcel is not located in an area identified in subparagraphs (B) to (K) of paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code.
  - a. The parcel is not located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to

Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

- b. The parcel is not located on a hazardous waste site, as defined by Government Code Section 65913.4(a)(6)(H).
  - c. The parcel is not located within a special flood hazard area subject to inundation by the one percent annual chance flood (one hundred (100)- year flood) as defined by Government Code Section 65913.4(a)(6)(G).
  - d. The property is not located within a regulatory floodway, as defined by Government Code Section 65913.4(a)(6)(H).
2. The proposed urban lot split would not require demolition or alteration of the housing types listed in Government Code section 66411.7(a)(3)(D)(i)-(iv). following types of housing:
    - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - c. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 of the California Government Code (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
    - d. Housing that has been occupied by a tenant in the last three years.
  3. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
  4. The parcel has not been established through prior exercise of an urban lot split as provided for in this division.
  5. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this division.

### C. Lot Configuration

1. Access to Public Right-of-Way. The new parcel shall have vehicular access to the public right-of-way, either through direct lot frontage or an easement through the existing parcel.
2. Existing Dwelling Unit. If an urban lot split is proposed for a property with an existing dwelling unit, the split must result in the existing dwelling unit being completely located on one parcel.
3. Lot Frontage. The lot shall have a minimum frontage of 60 feet, unless the frontage requirement precludes the development of two lots containing an 800 square foot primary

structure. A new lot may be accessed via an easement across a pre-existing lot that contains street frontage.

4. Flag Lots. Flag lots are not permitted under an urban lot split permit. If a new parcel is created without direct access to the public right-of-way, an easement shall be provided through the original lot. The easement shall meet the following requirements:
  - a. The easement shall have a minimum width of 12 feet.
  - b. The easement shall provide access for utilities to be connected to the public right-of-way.
5. The side line of all lots shall be at right angles to the street which the lot faces, or approximately radial to the center of the curvature, if the street is curved. Side lines of lots shall be approximately radial to the center of the curvature of a cul-de-sac on which the lot faces.
6. For a newly created lot that is located in both Piedmont and Oakland, the applicant shall obtain all the required permits in both jurisdictions.
7. Lots of an unusual shape, as defined in section 17.54.030, are not permitted.
8. Access to the new lot shall meet the driveway width and slope standards outlined in Chapter 3.07 of the Piedmont Design Standards and Guidelines.

D. Utilities

1. The new parcel shall have separate utilities, including but not limited to electric, gas, water, and sewer. The new parcel shall adhere to the standards outlined in the Piedmont Public Works Standards.
2. Utility easements shall be recorded prior to final map recordation.

**17.54.060 Two-Unit Housing Development Standards**

The Director may not approve an application for a two-unit housing development permit unless the project conforms to all of the standards listed below. A waiver may be granted for an exception to the standards as described under section 17.54.080.

A. Size.

- a. The SB 9 unit is no more than 800 square feet in size.
- b. For an SB 9 unit that exceeds the 800 square foot size limit, the SB 9 unit shall meet the floor area ratio criteria for the underlying zoning district, unless the development falls under section E below.

B. Height. The maximum height of a new SB 9 unit shall meet the requirements of the underlying zoning district.

C. Setbacks.

- a. The side and rear setback is four feet for an SB 9 unit in any zone.
- b. The street-side setback, including for corner lots, is 20 feet.
- c. For the development of a new SB 9 unit within an existing structure that does not meet the four-foot setback requirement, the new unit is allowed to keep the nonconforming condition so long as the nonconformity is not increased within the setback area. The converted structure must be in the same footprint and dimensions as the existing non-conforming structure.

D. Parking. New SB 9 units are required to have at least one parking space that meets the size requirements in Section 17.30 of the Piedmont City Code. If the parcel is located within one-

half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code, then parking is not required for the new SB 9 unit.

E. Lot Coverage.

- a. When a two-unit housing development is proposed on a new lot created pursuant to the urban lot split provisions specified in this division, the new SB 9 unit(s) shall conform to the structure coverage, landscape coverage, and floor area ratio of the underlying zoning district.
- b. When a new SB 9 unit is constructed on a lot with an existing dwelling unit, the floor area ratio may exceed the code required maximums so long as structure and landscape coverage conform to the requirements of the underlying zoning district.

F. Path of Travel. The path of travel to the new SB 9 unit shall be clearly marked by providing an address marker visible from the street and at the main entry door to the new unit. If needed, path lights shall also be installed. The path of travel shall have a minimum width of 3 feet.

**17.54.070 Accessory Dwelling Units**

Accessory dwelling units (ADU) and junior accessory dwelling units (JADU) are permitted on a parcel that has undergone an SB9 urban lot split or is a two-unit housing development that conforms with California Government Code Sections 65852.2 (ADUs) and 65852.22 (JADUs). Once a parcel has been divided pursuant to the urban lot split provisions, the maximum number of dwellings on each resulting parcel, inclusive of any ADUs or JADUs, is two. On a parcel with a two-unit housing development, the maximum number of units allowed is four (inclusive of two primary units, an ADU, and a JADU).

**17.54.080 Waivers from Standards**

- A. An applicant may request a waiver from the development standards provided in this division if the following criteria are met:
1. Application. The applicant requests an exception as a part of the application materials.
  2. Approval Authority. The exception request shall be submitted to the Director for review. The Director shall determine if the exception meets the standards for approval.
  3. Standards for Approval. An exception from a development standard shall be granted if the standard would have the effect of physically precluding:
    - (1) an urban lot split where the minimum lot size is at least 1,200 square feet for both parcels; or
    - (2) the construction of up to two units, or precluding either of the two units from being at least 800 square feet in floor area.

A waiver cannot be approved for an application that proposes new construction within the four-foot side and rear setbacks.

## ARTICLE 5. DEFINITIONS; MEASUREMENTS

17.90.010	Definitions
17.90.020	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.

*Assisted living means housing that provides a special combination of traditional housing with personalized supportive services and care.*

*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.

City Code means the Piedmont City Code.

Co-housing means rental communities or developments where shared common spaces, such as kitchens, living rooms, and outdoor areas, are managed communally or by the landlord, but each household has a private bedroom or living space. A “Co-housing unit” means a unit rented for periods of 30 days or more containing one or more private bedrooms and providing a minimum of one shared living room, kitchen, and bathroom for every five bedrooms or fewer.

Conditional use permit or use permit. See division 17.68.

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

Day care facility means an existing or proposed building, equipment and any accessory structures on a site, in which there are programs and personnel licensed by the state for direct child or adult care services including, but not limited to shelter, food, education and play opportunities for a portion of the day.

~~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.

Density (residential) means the General Plan established minimum and maximum densities for residential uses in all parts of the city. Residential density is a computation expressing number of dwelling units per acre. See Section 17.90.020, Measurements for density calculation.

*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.

Dwelling unit, studio means any dwelling unit wherein one habitable room provides for combines living, sleeping, cooking, dining, and sanitation.

*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 building or structure, which is designed or used exclusively as a residence, including only one dwelling unit for one family.

*Short term rental.* See section 17.40.020.

*Emergency Shelter* means housing with minimal supportive services that is limited to occupancy of up to 180 days by persons who are homeless, victims of domestic violence, individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.). Emergency shelter shall include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care.

*Employee Housing* means housing provided by an employer and maintained in connection with any work or place where is being performed, as more particularly defined in California Health and Safety Code Subdivision 17008, or successor statute, as may be amended from time to time.

*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.~~

*Family* means: (i) two or more persons related by birth, marriage, or adoption, or (ii) an individual or a group of persons living together who constitute a bona fide housekeeping unit in a dwelling unit, not including a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind.

*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.

*Group home means housing shared by unrelated persons with disabilities that provide peer and other support for their resident's disability related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities.*

*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.

*Independent living means housing that is designed to enable seniors to live an independent lifestyle that includes recreational, educational, and social activities.*

*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.

*Low Barrier Navigation Centers* means a low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing, as more particularly defined in California Government Code section 65600, or a successor statute, as may be amended from time to time.

*Low-income household* means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to California Health and Safety Code Section 50052.5.

*Manufactured home* means a single-family detached or attached structure that is either wholly or substantially manufactured off-site, to be wholly or partially assembled on site, manufactured under the authority of 42 USC Section 5401, the National Manufactured Home Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes. It is transportable in one or more sections, is built on a permanent chassis, and is used as a residence, but is not constructed with a permanent hitch or other device allowing transport other than for the purpose of delivery to a permanent site, and does not have wheels or axles attached permanently to its body.

*Minor servicing* means any premises developed with facilities for the sale of motor vehicle fuels; and which may also provide lubricants, tires, batteries, accessory items, and other customary services for motor vehicles. The servicing of motor vehicles shall be generally limited to lubrication, minor repairs, and washing. Minor servicing shall not include major motor vehicle repair.

*Mobile home* means a transportable, manufactured home, designed to be used as a year-round residential dwelling unit, connected to required utilities, and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became

effective June 15, 1976. A mobile home does not include a recreational vehicle, motor coach, trailer coach or travel trailer.

Multifamily means a building designed or used exclusively as a residence that includes two or more separate dwelling units. This definition includes, but not limited to, duplexes and triplexes, apartments, and townhomes under a common ownership.

Peak staffing means the maximum number of employees on site at any point in time.

*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.

Public transit stop means a regularly scheduled bus stop, as posted in a transit agency's most current publication of routes and stops, including but not limited to Alameda-Contra Costa Transit District (AC Transit) bus service.

*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.

Religious institution affiliated housing is as defined in California Government Code section § 65913.6(a)(5) or a successor statute, as may be amended from time to time.

Religious institution affiliated emergency shelters means emergency shelters, as defined above, that meet the locational requirement for religious institution affiliated housing.

Religious-use parking spaces means parking that are required under the local agency's parking requirements for existing places of worship, or parking spaces that would be required in a proposed development for a new place of worship.

*Residence.* See *Dwelling*.

Residential care facilities means facilities for residential care for the elderly, adult residential facilities, group homes for children, and small family homes for children. Residential care facilities that provide licensable services provide licenses under State law. Residential care facilities that do not provide licensable services may provide some supportive services for their residents but not services that require licenses under State law.

*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.

*Single-room occupancy (SRO)* means -a type of group residential use where there are at least five single rooms with no more than two occupants in each unit. The single rooms are habitable rooms that may have a bathroom and/or limited cooking facilities, and are intended for combined living and dining purposes.

*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, addition, or reduction in an exterior wall, an interior bearing wall, a floor, or a roof and/or the addition of a new structure.

*Supportive housing* means housing with no limit on length of stay that is linked to on-site or off-site services, as more particularly defined in Health and Safety Code section 50675.14(b)(2), or successor statute, as may be amended from time to time, respectively.

*Transitional housing and transitional housing development* means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, as more particularly defined in Health and Safety Code section 50675.2(h), or successor statute, as may be amended from time to time, respectively.

### *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 division 17.50.

*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.*

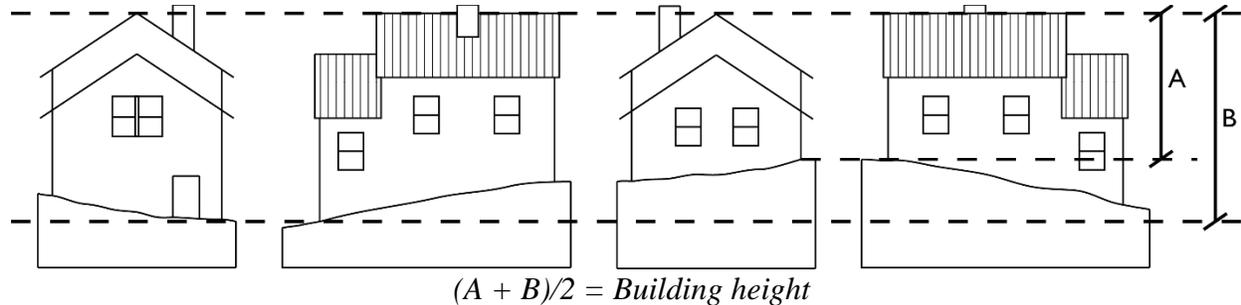
*Rear yard* means a yard abutting the rear lot line, measured between the rear lot line and the nearest point of the primary structure.

*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, Ord. 747 N.S., 02/2020)

## **17.90.020     Measurements**

*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.



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

*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.)

## **Background Information on SB 9**

On September 6, 2021, Governor Newsom signed Senate Bill 9 (SB 9) intended to help spur the development of new housing units by creating a ministerial process for certain two-unit developments. This bill applies to all single-family zones and requires jurisdictions to ministerially approve of:

1. A one-time, two-lot subdivision and subsequent development of up to two (2) units per resulting lot; or
2. The development of up to four (4) units on a lot that is not subdivided.

The Housing Element calls for an increase of Piedmont's housing stock. The inclusion of SB 9 standards as a part of the zoning revisions can help Piedmont achieve its housing goals. In particular Housing Element Program 2.B, Availability of Small Homes, can be promoted through an SB 9 urban housing development. The new standards and code section are to be in compliance with California Government Code Section 65852.21.

### **Current Process for Lot Splits and New Home Construction**

Currently, a single-family residentially zoned property allows for one primary dwelling unit, one accessory dwelling unit (ADU), and one junior accessory dwelling unit (JADU), for a total of three housing units. The current process for a new single-family home to be constructed is that an applicant must submit a discretionary design review permit to be reviewed by the Planning Commission. This is a discretionary review process with neighbor noticing and a public hearing. In order to subdivide a lot, an applicant must meet the minimum size and frontage requirements for the underlying zoning district.

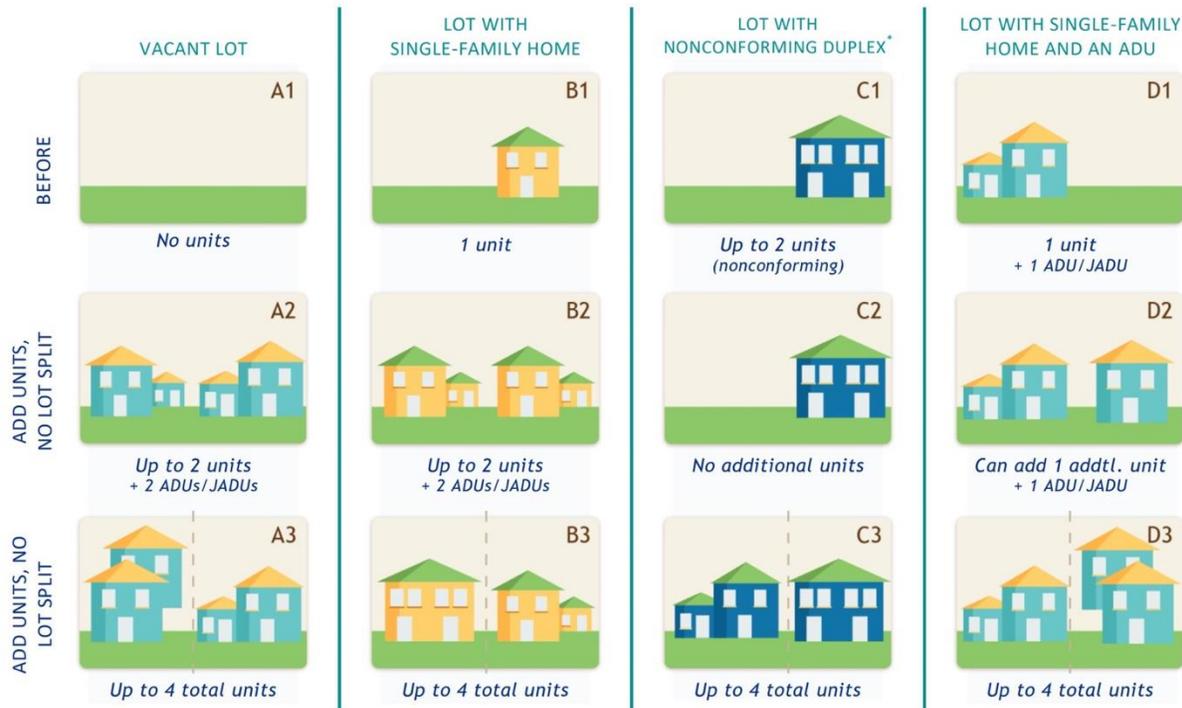
### **SB 9 Process**

The proposed subdivision or housing development project is required to meet certain objective qualifying location and development criteria. The Director shall render a decision on if the proposed housing development or lot split meets the criteria. Jurisdictions may only deny an SB 9 proposal if the Building Official finds that it would have a "specific, adverse impact [as defined by the law], upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact." Any denials must be based on objective, identified public health and safety standards, policies or conditions that existed when the application was submitted.

### **Scenarios**

The following graphic illustrates potential scenarios that could occur on a single-family property under SB 9:

## Background Information on SB 9



\*Legally constructed but not currently permitted. Check your local ordinance for nonconforming use policies.

### USING SB 9 WITHOUT A LOT SPLIT:

- Without a lot split, SB 9 does not limit the number of ADUs or JADUs (B2, D2) - but other laws might.
- SB 9 **could be interpreted** to allow 2 new units beyond an existing unit (up to 3 units/lot, plus any allowed ADUs/JADUs).

### USING SB 9 WITH A LOT SPLIT:

- SB 9 does not require jurisdictions to approve more than 4 units total, including any ADUs/JADUs.



### SINGLE-UNIT DEVELOPMENTS

SB 9 can be used to develop single units - but projects must comply with all SB 9 requirements.

## Accessory Dwelling Units

Accessory dwelling units (ADU) and junior accessory dwelling units (JADU) are permitted on a parcel that has undergone an SB9 lot split or housing development application. Once a parcel has been divided the maximum number of dwellings on each resulting parcel, inclusive of any ADUs or JADUs, is two. On a housing development application without a lot split, the maximum number of units allowed is four (inclusive of two primary units, an ADU, and a JADU).

# HE Implementation Schedule

