

City of Piedmont
COUNCIL AGENDA REPORT

DATE: January 21, 2025

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Approval of the Second Reading of Ordinance 777 N.S. - Amending divisions 17.02 Title; Intent; City Charter, 17.30 Parking, and 17.38 Accessory Dwelling Units; to implement AB 2533, and SB 1211

RECOMMENDED ACTION

Approve the Second Reading of Ordinance No. 777 N.S., Attachment A, Amending divisions 17.02 Title; Intent; City Charter, 17.30 Parking, and 17.38 Accessory Dwelling Units; to implement AB 2533, and SB 1211

BACKGROUND AND DISCUSSION

On January 6, 2025, the City Council approved a first reading of Ordinance 777 N.S. amending divisions 17.02 Title; Intent; City Charter, 17.30 Parking, and 17.38 Accessory Dwelling Units; to implement AB 2533, and SB 1211, and make other conforming changes.

City Council conducted a first reading and adopted Ordinance 777 N.S. as presented. Recognizing the need to ensure clarity and consistency with State Law, the City Council requested staff to review and revise the code language drafted for section 17.38.080. This revision aims to make the language more clear, such as avoiding double negatives, while maintaining the City's compliance with the intent of AB 2533, as outlined in State law. The updates are presented below:

“17.38.080 Unpermitted accessory and junior accessory dwelling unit.

A. ~~A.~~ An owner may apply for an accessory dwelling unit permit (or other city approval) to legalize and permit an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020.

B. 1. An application to legalize an unpermitted accessory dwelling unit or junior accessory dwelling unit under section 17.38.090 above shall be approved if the City can make findings that the unpermitted construction complies with the standards specified in Section 17920.3 of the California Health and Safety Code. Compliance with either of the following shall not be required:

- a. building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; and

- b. division 17.38 of Piedmont City Code regulating accessory dwelling units or junior accessory dwelling units, or California Government Code Section 66333 et seq., as may be amended, applicable.

2. The application shall be denied if the City finds that the accessory dwelling unit or junior accessory dwelling unit is in violation of standards specified in Section 17920.3 of the California Health and Safety Code.

~~A. The City shall not deny an accessory dwelling unit permit for an unpermitted accessory dwelling unit or unpermitted junior accessory dwelling unit that was constructed before January 1, 2020, due to either of the following, unless the City makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the California Health and Safety Code:~~

- ~~a. The accessory dwelling unit or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.~~
- ~~b. The accessory dwelling unit or junior accessory dwelling unit does not comply with division 17.38 of Piedmont City Code regulating accessory dwelling units or junior accessory dwelling units, or California Government Code Section 66333 et seq., as may be amended, applicable.~~

~~BC.~~ This section shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the California Health and Safety Code.

~~CD.~~ A homeowner applying for an accessory dwelling unit permit under section 17.38.080.A above, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the California Health and Safety Code and when the fee is authorized by Government Code Section 66324(e).

~~DE.~~ Upon receiving an application pursuant to section 17.38.080.A, an inspector from the City shall inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the City shall not penalize an applicant for having the unpermitted accessory dwelling unit or junior accessory dwelling unit, shall provide in writing how the building can be brought into compliance, and shall approve necessary permits to correct noncompliance with health and safety standards.”

Other proposed draft amendments and related discussions for divisions 17.02, 17.30, and 17.38, remain unchanged from the January 6, 2025, [council report](#).

REVIEW BY CITY ATTORNEY

The proposed amendments to the City Code and the ordinance have been reviewed.

CONCLUSION

A second and final reading is required for adoption. If passed, this ordinance will become effective February 20, 2025.

Prepared By: Gopika Nair, Associate Planner

ATTACHMENTS

A 4-9 Ordinance No. 777 N.S. – Revisions to City Code Chapter 17 Planning and Land Use

Attachment A

ORDINANCE NO. 777 N.S.

AN ORDINANCE AMENDING SECTIONS OF DIVISIONS 17.02 TITLE; INTENT; CITY CHARTER, 17.30 PARKING, AND 17.38 ACCESSORY DWELLING UNITS, OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO IMPLEMENT AB 2533 (2024) AND SB 1211 (2024) RELATED TO ACCESSORY AND JUNIOR ACCESSORY DWELLING UNITS

WHEREAS, the proposed amendments comply with recent California State enacted bills AB 2533 and SB 1211, that will become effective January 1, 2025; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and has taken public testimony on the proposed amendments to City Code Chapter 17 on December 9, 2024, consistent with existing City Code section 17.72.040, and recommended approval of the proposed Zoning Ordinance amendments; and

WHEREAS, the City Council has held a duly noticed public hearing and took public testimony on the proposed amendments to City Code Chapter 17 on January 6, 2025, consistent with existing City Code section 17.72.050.

NOW, THEREFORE, the City Council of the City of Piedmont hereby ordain, based on the oral and written staff report, all oral and written comments received and all other evidence in the record, as follows:

SECTION 1 – BACKGROUND AND INTENT

In recent years, the California Legislature has enacted bills that reduce local control over the development of ADUs and JADUs. Recent examples include legislation requiring ministerial approval of ADU and JADU applications within 60 days, authorizing ADUs on lots with multifamily dwellings, prohibiting local agencies from imposing local development standards (e.g., height and setbacks) beyond state-set limits, and requiring local agencies to allow ADUs to be sold separately from the lot's primary dwelling if certain conditions are met.

Governor Gavin Newsom signed into law AB 2533, and SB 1211 in September 2024, which will each take effect on January 1, 2025. This new state legislation places further limits on local jurisdiction's ability to regulate ADUs/JADUs (including unpermitted ADUs/JADUs). The recommended revisions to Piedmont's ADU ordinance would ensure consistency with new requirements being imposed under state laws as follows:

1. Allow an uncovered parking space to be used for an ADU/JADU without requiring replacement parking.
2. Allow up to 8 detached ADUs on a multi-family residential project, with the maximum equal to the number of primary multifamily units on the lot.
3. Develop procedures for approval of an unpermitted ADU/JADU.

SECTION 2 – Findings. The City Council hereby makes the following findings:

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- A. The above recitations are true and correct and incorporated herein by reference.
- B. The proposed revisions to Chapter 17 are a project within the meaning of the California Environmental Quality Act (“CEQA”), however, the proposed City Code amendments related to ADUs and JADUs are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h) which exempts adoption of ordinances implementing state law regarding accessory dwelling units. Further, the proposed City Code amendments are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of proposed amendments will have a significant effect on the environment. CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3).
- C. The proposed revisions implement amendments to Government Code Sections 65852.27 and 66313, 66323, and 66332, related to accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU).
- D. Pursuant to City Code Section 17.72.050(B), the amendments are consistent with the Piedmont General Plan, as amended, the purposes of Chapter 17, and the provisions in City Charter Section 9.02.
- E. The proposed amendments further public health, safety, and welfare of the community.

SECTION 3 – ADDITION OF SUBSECTION 17.02.010.B.9

Subsection (9) is hereby added to Section 17.02.010.B, Intent, of the City Code is added as follows:

“9. create incentives for the development of accessory dwelling units affordable to households with moderate, low and very low incomes.”

SECTION 4 – AMENDMENT OF SECTION 17.30.060

Section 17.30.060, No reduction of existing parking, of the City Code is amended in its entirety to read as follows:

“Except for (1) the demolition of a garage, carport, uncovered parking space, or covered parking structure in conjunction with the construction of an accessory dwelling unit, or (2) conversion of a garage, carport, uncovered parking space, 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,

Attachment A

narrow or otherwise configured that it precludes safe passage of the vehicle, and that enlargement to permit safe passage would result in severe economic hardship.

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

SECTION 5– AMENDMENT OF SUBSECTION 17.38.060.B.6.

Subsection 17.38.060.B.6. of Section 17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval, of the City Code is amended in its entirety to read as follows:

- “6. Limitations on city's approval. Under Government Code section 66314, or any successor statute, the following limitations apply to any city approval:
- a. Parking. When a garage, carport, uncovered parking space, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City shall not require the replacement of off-street parking spaces.
 - b. Side and Rear Setbacks. No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure. If an accessory dwelling unit is not converted from an existing structure, the minimum setback is four feet from the side and rear lot line.
 - c. Street Yard Setback. Accessory dwelling units of 800 square feet or less can be constructed in the street yard setback only if it is determined by the Director that there is no other configuration on the property that would allow for the construction of an 800 square foot accessory dwelling unit outside the four feet side and rear setbacks and in compliance with all other standards in this section, including height limits.
 - d. Fire sprinklers. Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in any other existing dwelling. Fire sprinklers shall be considered “required for the primary dwelling unit” in any of the following circumstances:
 - i. When fire sprinklers are currently installed in the primary dwelling unit; or
 - ii. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit.
 - e. Passageway. No passageway will be required.

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- f. Minimum lot area or lot size. Notwithstanding anything in divisions 17.20 through 17.28, no minimum lot area or lot size shall be imposed with respect to the approval of permits for an accessory dwelling unit.
- g. Floor Area Ratio, Lot Coverage, and Landscaping.
 - i. Lot coverage. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
 - ii. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
 - iii. Floor Area Ratio. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum floor area ratio requirement. Maximum floor area ratio for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
- h. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling or multi-family dwelling.
- i. Utility Connections. For an accessory dwelling unit described in section 17.38.060.D.1, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.”

SECTION 6– AMENDMENT OF SUBSECTION 17.38.060.C.2.j

Subsection 17.38.060.C.2.j of Section 17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval, of the City Code is amended in its entirety to read as follows:

- “j. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in the Piedmont Design Standards and Guidelines. This 150-square-foot of expansion can include removal of an uncovered parking space.”

SECTION 7– AMENDMENT OF SUBSECTION 17.38.060.D.3

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Subsection 17.38.060.D.3 of Section 17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval, of the City Code is amended in its entirety to read as follows:

“3. Not more than eight (8) detached accessory dwelling units located on a lot that has an existing multi-family dwelling, with the maximum number of allowed accessory dwelling units equal to the number of existing primary multi-family units on the lot, subject to a height limit of 18 feet and four-foot rear yard and side yard setbacks. If the existing multi-family dwelling has a rear or side setback of less than four feet, modification of the existing multifamily dwelling is not required as a condition of constructing the accessory dwelling unit.”

SECTION 8– AMENDMENT OF SECTION 17.38.080.

Section 17.38.080 Enforcement, of the City Code is deleted and replaced in its entirety with the following:

“17.38.080 Unpermitted accessory and junior accessory dwelling unit.

A. An owner may apply for an accessory dwelling unit permit (or other city approval) to legalize and permit an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020.

B. 1. An application to legalize an unpermitted accessory dwelling unit or junior accessory dwelling unit under section 17.38.080 above shall be approved if the City can make findings that the unpermitted construction complies with the standards specified in Section 17920.3 of the California Health and Safety Code. Compliance with either of the following shall not be required:

- a. building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; and
- b. division 17.38 of Piedmont City Code regulating accessory dwelling units or junior accessory dwelling units, or California Government Code Section 66333 et seq., as may be amended, applicable.

2. The application shall be denied if the City finds that the accessory dwelling unit or junior accessory dwelling unit is in violation of standards specified in Section 17920.3 of the California Health and Safety Code.

C. This section shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the California Health and Safety Code.

D. A homeowner applying for an accessory dwelling unit permit under section 17.38.080.A above, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the California Health and Safety Code and when the fee is authorized by Government Code Section 66324(e).

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E. Upon receiving an application pursuant to section 17.38.080.A, an inspector from the City shall inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the City shall not penalize an applicant for having the unpermitted accessory dwelling unit or junior accessory dwelling unit, shall provide in writing how the building can be brought into compliance, and shall approve necessary permits to correct noncompliance with health and safety standards.”

SECTION 9 – CONFLICTS

If a previous City Council ordinance or resolution is in conflict with this ordinance, that ordinance or resolution is superseded, and the provisions of this ordinance prevail.

SECTION 10 – SEVERABILITY

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

SECTION 11 – CODIFICATION

The City Clerk is directed to codify this ordinance in a manner which reflects the legislative intent of the City Council

SECTION 12 – POSTING, EFFECTIVE DATE, AND SUBMISSION

This Ordinance shall be posted at City Hall after its second reading by the City Council for at least 30 days and shall become effective 30 days after the second reading. The City Clerk is directed to submit a copy of this ordinance to the Department of Housing and Community Development in the manner required by law.

[END OF ORDINANCE]