

City of Piedmont
COUNCIL AGENDA REPORT

DATE: July 1, 2024

TO: Mayor and City Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Public Hearing- Consideration of Introduction and First Reading of Ordinance No. 774 N.S. Adding Division 17.56 Emergency Shelters to Chapter 17 of the Piedmont Municipal Code; and Amending Divisions 17.02, 17.40, 17.46, 17.50, 17.62, 17.64, 17.66, 17.68, 17.78, and 17.90 to Implement the 2023-2031 Housing Element Implementation Project, as well as other maintenance items recommended by staff. (CEQA Review: Consistent with Housing Element Implementation EIR (SCH 2022020362) and Exempt under CEQA Guidelines 15061(b)(3), and 15378).

RECOMMENDED ACTION

Conduct a First Reading of Ordinance No. 774 N.S., Attachment C, adding division 17.56 Emergency Shelters to Chapter 17 of the Piedmont Municipal Code and amending divisions 17.02 Title; Intent; City Charter, 17.40 Residential Rentals, 17.46 Wireless Communication Facilities, 17.50 Nonconforming Uses and Structures, 17.62 Notice Requirements, 17.64 Hearing; Term of Approval; Conditions, 17.66 Design Review Permit, 17.68 Conditional Use Permit, 17.78 Appeals; Call for Review, and 17.90 Definitions; Measurements to implement various programs from the City of Piedmont's adopted 6th Cycle Housing Element and make other minor code maintenance edits.

EXECUTIVE SUMMARY

The City's Housing Element lays out a plan to achieve its housing goals. To implement this plan, the City of Piedmont is proposing changes to its Zoning Ordinance (Chapter 17 Planning and Land Use). These changes include new standards, clearer procedures, and benchmarks for guiding housing development throughout the City. Specifically, the Housing Element identified an urgent need and established a program to update the City Code to include emergency shelter regulations in conformance with California Government Code Section 65583 (Senate Bill 2, statutes of 2007). If approved, the proposed amendments would formally update local regulations to comply with State law, facilitate the production of affordable housing developments, and clarify existing planning procedures in the City.

Additionally, during its day-to-day business, staff has identified sections of City Code Chapter 17 that can be improved to provide clarity to staff, the Planning Commission, and community members, and to ensure consistency with other sections of the City Code. Several such updates are proposed.

DISCUSSION

The City's General Plan includes the Housing Element. The Element outlines strategies to: preserve existing housing stock, create new affordable housing for all income levels, and meet the needs of diverse residents, including seniors, people with disabilities, and special needs groups. Senate Bill 2 (SB 2) supports these goals by strengthening Housing Element laws. SB 2 ensures zoning regulations encourage and facilitate emergency shelters, transitional housing, and supportive housing. SB 2 also limits denials for these types of uses. Ultimately, this law is intended to help address the critical needs of homeless populations and individuals with special needs across California.

To comply with SB 2, the City recently updated its Zoning Ordinance to allow:

- Emergency shelters as a permitted use in specific zones (Zone A and Zone B), with development standards similar to that of a single-family residence, such as height, setbacks, parking, etc.; and
- Transitional and supportive housing developments in all zones, with development standards similar to single-family residences.

The currently proposed revisions to the Zoning Ordinance include specific standards for operating emergency shelters within the permitted zones. These standards are consistent with State law and Housing Element Program 4.T, Establish Standards for Emergency Shelters, and will ensure responsible management and operation of these facilities.

Other proposed revisions to the Zoning Ordinance include:

- Clarifying the interpretation of the City Charter with respect to zoning as described in Housing Element program 4.H,
- Implementing Housing Element program 5.B by relaxing home-sharing limits to promote affordable housing,
- Making minor updates to various divisions as recommended by staff to align with the Housing Element and provide clarity and consistency.

The report section below discusses the proposed amendments to the City Code. Housing Element requirements for programs 4.H, 4.T and 5.B are included at the end of this report, Attachment C, report pages 66-67.

Zoning Ordinance Amendments:

This section outlines the draft revisions to the Zoning Ordinance and describes the draft revisions made, where necessary. A redlined version of the edits to the current Zoning Ordinance is included as Attachment B, report pages 17-65.

1) Adding a New Division 17.56 Emergency Shelters

The purpose and intent of this division is to establish regulations for emergency shelters in

designated zones, in compliance with State housing law, including Government Code section 65583. The proposed new division outlines a permitting process, standards for operation (including resident capacity, security, and location restrictions), and a procedure for appealing permit decisions. The goal is to comply with State law, which limits a local jurisdiction's review of emergency shelters, and to ensure safe and compatible shelters that meet the needs of emergency shelter residents while comporting with the surrounding neighborhood.

2) Revisions to Rules, Interpretation, and Provisions of the Zoning Ordinance

The updates proposed in division 17.02 implement Housing Element program 4.H and staff recommended revisions. Staff proposes language that clarifies the City's role in enforcing private agreements. The proposed new section 17.02.01.D. makes clear that the City will not get involved in enforcing or regulating agreements between private parties concerning land use.

3) Other Revisions to Several Divisions throughout the Zoning Ordinance.

Other updates throughout the Zoning Ordinance are recommended by staff for consistency with current practices and other divisions recently updated, as well as with the Housing Element programs, including the following key updates:

- Allowing up to three lessees under separate rental agreements in a single-family residence. This revision implements part of Housing Element program 5.B requirements (see §17.40.020).
- Updating the term of approval section in 17.64.020 to include new ministerial permit types.

CALIFORNIA ENVIRONMENTAL QUALITY ANALYSIS (CEQA REVIEW)

On February 20, 2024, the City of Piedmont adopted a program-level [Environmental Impact Report](#) for the Housing Element Implementation Project (Housing Element Implementation EIR) (SCH 2022020362). The potential environmental impacts of the proposed amendments to Piedmont Municipal Code Chapter 17, Articles 1 and 3, have been evaluated by staff and are determined to be consistent with the Housing Element Implementation EIR, which analyzed the impacts of implementing the Housing Element programs. As noted above, the revisions to address emergency shelters, clarify the impact of the City Charter, and relax home sharing regulations are required by the Housing Element. Therefore, their impacts were analyzed under the Housing Element Implementation EIR, and no further CEQA analysis is required.

Other proposed amendments to Piedmont Municipal Code Chapter 17, Articles 1, 3, 4 and 5 are not a project as they are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of these provisions would have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3)), and the revisions are not a project as they modify organizational or administrative activities that will not result in a direct or indirect physical changes to the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3)).

PLANNING COMMISSION DISCUSSION AND RECOMMENDATION

The Planning Commission held a study session on May 13, 2024, discussing the proposed amendments to the Zoning Ordinance. Subsequently on June 10, 2024, the Planning Commission held a public hearing. The Commission's discussions during the meetings focused on State regulations surrounding emergency shelters and shared housing and the white paper released by the City Attorney's office in November 2022 regarding the City Charter. A public comment, received prior to the Planning Commission meeting on June 10, 2024, expressed concerns over a Zoning Ordinance amendment (Code Section 9.02) regarding public vote requirements. The commenter argued the City Charter requires public votes for both zone boundary and zone use changes, and questioned the current practice of only requiring votes for map changes (boundaries). The commenter cited potential negative impacts and a lack of community outreach. They requested the Commission's perspective on the broader zone use changes and submitted a detailed comment letter for review (Attachment D). Hyperlinks to the June 10th meeting video and the staff report are provided at the end of this report.

At the conclusion of the public hearing on June 10, 2024, the Commission received this public comment and unanimously recommended that the City Council adopt the proposed updates to the Zoning Ordinance, including the amendments related to zoning changes.

PUBLIC ENGAGEMENT AND PUBLIC NOTICE

The Planning Commission has held one study session and City staff publicized the study session and released two newsletters informing residents of the proposed updates to the Zoning Ordinance. One public comment has been received (Attachment D). A Public Hearing Notice of the City Council hearing to consider the proposed Zoning Ordinance amendments was published in The Piedmonter on June 14, 2024, in compliance with California Government Code requirements.

FISCAL IMPACT

If adopted by City Council, the proposed Code revisions are not anticipated to result in a fiscal impact. The proposed amendments to the City Code are a routine component of project review and approval administered by the Planning & Building Department, which collects fees established in the Master Fee Schedule to help cover the costs of the services provided. Cities are obligated to expend resources needed to regulate development in compliance with both local goals and State law. City staff will develop application materials using existing resources and personnel.

CITY CHARTER

The modifications to the City Code are in conformance with the City Charter, including sections 9.01 and 9.02. No zones have been reduced or enlarged, and no zones have been reclassified. City Charter provisions are expressly referred to in City Code division 17.02.C.

REVIEW BY CITY ATTORNEY

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

CONCLUSION AND NEXT STEPS

Ensuring Piedmont adheres to State housing law necessitates the implementation of programs outlined within the City's 6th Cycle Housing Element. This critical undertaking directly addresses local housing needs. Furthermore, consistent maintenance of zoning regulations promotes clarity and ensures ongoing effectiveness.

The City Council is the decision-making body for the adoption of amendments to the City Code. Should the Council approve a first reading of the recommended ordinance on July 1, 2024, a second reading could occur as soon as July 15, 2024, and the Code amendments would go into effect thirty days after that time.

Staff recommends that the City Council receive the Planning Commission's recommendation and adopt the amendments to the Zoning Ordinance.

Prepared By: Kevin Jackson, Director of Planning & Building
Gopika Nair, Associate Planner

ATTACHMENTS

Pages

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|---|--------|---|
| A | 6- 16 | Draft Ordinance of Amendments to Piedmont City Code Chapter 17, Planning and Land Use |
| B | 17- 65 | Proposed Redline Edits of the Zoning Ordinance |
| C | 66- 67 | Verbatim Program Descriptions of Housing Element Programs 4.H, 4.T and 5.B. |
| D | 68-69 | Public Comments received through June 27, 2024 |

Separate Related Documents and Links:

- The City of Piedmont's 6th Cycle [Housing Element](#)
- [Piedmont City Code Chapter 17, Planning and Land Use](#)
- May 13, 2024, Planning Commission study session [report](#) and [meeting video](#)
- June 10, 2024, Planning Commission public hearing [report](#) and [meeting video](#)

ORDINANCE NO. 774 N.S.

AN ORDINANCE

ADDING DIVISION 17.56 EMERGENCY SHELTERS TO CHAPTER 17 OF THE PIEDMONT MUNICIPAL CODE; AND AMENDING SECTIONS OF DIVISIONS 17.02 TITLE; INTENT; CITY CHARTER, 17.40 RESIDENTIAL RENTALS, 17.46 WIRELESS COMMUNICATION FACILITIES, 17.50 NONCONFORMING USES AND STRUCTURES, 17.62 NOTICE REQUIREMENTS, 17.64 HEARING; TERM OF APPROVAL; CONDITIONS, 17.66 DESIGN REVIEW PERMIT, 17.68 CONDITIONAL USE PERMIT, 17.78 APPEALS; CALL FOR REVIEW, AND 17.90 DEFINITIONS; MEASUREMENTS, OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO IMPLEMENT VARIOUS PROGRAMS FROM THE 2023-2031 HOUSING ELEMENT AND MAKE OTHER MINOR MAINTENANCE UPDATES

WHEREAS, to comply with State housing element law, the City Council adopted the 2023-2031 6th Cycle Housing Element (the 6th Cycle Housing Element) on March 20, 2023; and

WHEREAS, the City conducted extensive community outreach in support of the Housing Element update process including presentations to various City commissions, committees, and the City Council. Additionally, staff engaged in a range of outreach activities, such as hosting webinars and workshops, and disseminating information at popular community events. Direct feedback from residents led to the development of new, revised, and modified programs, many of which specify the changes necessary to implement the programs and remove barriers to the development of new diverse housing types that are affordable to occupants at all income levels; and

WHEREAS, the 6th Cycle Housing Element requires consistency within the elements of the General Plan and consistency between the City's General Plan and the City's Zoning Ordinance, codified in Chapter 17, Planning and Land Use, of the Piedmont City Code ("City Code"); and

WHEREAS, the City adopted the first tranche of 18 programs from the Piedmont's 2023-2031 Housing Element on April 3, 2024 and has prepared further amendments to Chapter 17 of the Piedmont City Code to implement additional Housing Element programs, make changes necessary for conformance with State law, and implement best practices to ensure consistency throughout the Zoning Ordinance. The proposed amendments include new standards, clearer procedures, and benchmarks for guiding housing development throughout the city; and

WHEREAS, these amendments implement Housing Element programs 4.H: Reform the Municipal Code to Clarify the Charter, 4.T: Establish Standards for Emergency Shelters, and 5.B: Shared Housing Matching Services; and

WHEREAS, these amendments also implement staff recommended maintenance updates to ensure consistency with current planning practices and state regulations; and

WHEREAS, on February 20, 2024, the City adopted an Environmental Impact Report prepared for the Housing Element Implementation project pursuant to the California

Environmental Quality Act (CEQA) to analyze the environmental impacts of the project, including the proposed amendments to implement Housing Element programs 4.H: Reform the Municipal Code to Clarify the Charter, 4.T: Establish Standards for Emergency Shelters, and 5.B: Shared Housing Matching Services; and

WHEREAS, the proposed maintenance updates to Piedmont Municipal Code Chapter 17, Articles 1, 3, 4 and 5 are categorically exempt or not a project under CEQA because it can be seen with certainty that there is no possibility that they would have a significant effect on the environment or they are organization or administrative revisions that have no physical impacts; and

WHEREAS, the proposed amendments to the Zoning Ordinance were presented and discussed as study session at the regular meeting of the Planning Commission held on May 13, 2024, during which members of the public had the opportunity to comment on the proposed amendments; 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 June 10, 2024, consistent with existing City Code section 17.72.040 and recommended City Council approval of the proposed 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 July 1, 2024, consistent with existing City Code section 17.72.050.

NOW, THEREFORE, the City Council of the City of Piedmont hereby ordains, 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 – INTENT

It is the intent of the City Council of the City of Piedmont to adopt new and updated provisions in City Code Chapter 17 that implement the adopted Housing Element and State laws and make minor maintenance updates related to:

- The clarification of the interpretation of the Charter with respect to zoning;
- The revisions that relax the limits on the number of home sharing leases allowed per single-family residence;
- The addition of a new division 17.56 establishing standards for the Emergency Shelters;
- The revision of definitions for existing terms and measurements;
- The revision that clarifies regulations surrounding nonconforming structures;
- The revisions that clarify permitting procedures and public hearing notice standards; and
- The revisions that update the expiration dates of all permit types, including ministerial permits.

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

- A. The above recitations are true and correct and incorporated herein by reference.
- B. This ordinance is consistent with the [Environmental Impact Report](#) for the Housing Element Implementation Project EIR as to the code revisions to implement the Housing Element and no further CEQA review is required. The minor maintenance updates are either not a project as they are categorically exempt from CEQA under Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3) and 15378.
- C. The proposed amendments implement the 2023-2031 Housing Element goals, policies and programs, and are consistent with the 2023-2031 Housing Element.
- 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 – AMENDMENT OF SUBSECTION 17.02.010.C.

Subsection 17.02.010.C. of Section 17.02.010, Title; Intent; City Charter, of the City Code is amended to read in its entirety as follows:

“C. City Charter.

1. The city's zoning ordinance is also subject to the City Charter, particularly Section 9.01, General Plan, Section 9.02, Zoning System, and Section 9.04, General Laws Applicable. Those sections read as follows:

Section 9.01 General Plan. The City Council shall adopt, and may from time to time, modify a general plan setting forth policies to govern the development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services. The plan shall also serve as a guide to Council action concerning such City planning matters as land use, development regulations and capital improvements.

Section 9.02 Zoning system. The City of Piedmont is primarily a residential city, and the City Council shall have the power to establish a zoning system within the City as may in its judgment be most beneficial. The Council may classify and reclassify the zones established, but no existing zones shall be reduced or enlarged with respect to size or area, and no zones shall be reclassified without submitting the question to a vote at a general or special election. No zone shall be reduced or enlarged and no zones reclassified unless a majority of the voters voting upon the same shall vote in favor thereof; provided that any property which is zoned for uses other than or in addition to a single-family dwelling maybe

voluntarily rezoned by the owners thereof filing a written document executed by all of the owners thereof under penalty of perjury stating that the only use on such property shall be a single-family dwelling, and such rezoning shall not require a vote of the electors as set forth above.

Section 9.04 General laws applicable. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances hereafter enacted, shall be applicable to the City. The City Council may adopt and enforce ordinances that, in relation to municipal affairs, shall control as against the general laws of the State.

2. In Section 9.02 of the City Charter, the prohibition not to reduce, enlarge, or reclassify a zone without a vote is understood to mean the city may not change the zone boundaries, or change (reclassify) a property from one zone to another. However, the City may make amendments to the zoning ordinance within the established zoning districts.”

SECTION 4 – ADDITION OF SUBSECTION 17.02.010.D.

Subsection 17.02.010.D. is added to Section 17.02.010, Title; Intent; City Charter, of the City Code as follows:

“D. Private Agreements. The City regulates land use in accordance with the City’s zoning ordinance and does not enforce or regulate private agreements.”

SECTION 5 – AMENDMENT OF SUBSECTION 17.40.010.B.3.

Subsection 17.40.010.B.3. of Section 17.40.010, Purpose and intent, of the City Code is amended to read in its entirety as follows:

“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 residential character of neighborhoods, and preventing short-term rental activities from becoming a nuisance or a threat to public health, safety or welfare.”

SECTION 6 – AMENDMENT OF SUBSECTION 17.40.020.B.1

Subsection 17.40.020.B.1 of Section 17.40.020, Rented room, of the City Code is amended to read in its entirety as follows:

- “1. one or more rooms, including at least one bedroom, is rented to up to three lessees under separate rental agreements, not for the entire dwelling;”

SECTION 7 – AMENDMENT OF SUBSECTION 17.40.020.C

Subsection 17.40.020.C of Section 17.40.020, Rented room, of the City Code is amended to read in its entirety as follows:

“C. General. The owner of a single-family dwelling unit in any zoning district is permitted to rent multiple rented rooms in such dwelling unit to a limit of three lessees. With the written consent of the property owner, a tenant has the same right. This provision authorizes the owner or tenant to rent or sublease a room or multiple rooms to support boarding housing, transitional and supportive housing, employee housing, and housing for residents needing residential care facilities.”

SECTION 8 – AMENDMENT OF SECTION 17.40.040

Section 17.40.040, Business License Tax, of the City Code is amended to read in its entirety as follows:

“A person renting a room or multiple rooms 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.”

SECTION 9 – AMENDMENT OF SUBSECTION 17.46.040.B.2

Subsection 17.46.040.B.2 of Section 17.46.040, Location; City site agreement, of the City Code is amended to read in its entirety as follows:

“2. Consideration by City Council. When the principal terms for a proposed agreement have been prepared and approved by city staff, staff will schedule the matter for hearing before the City Council. The City Council will consider the proposed agreement as part of an ordinance, to the extent required by City Charter Section 2.11(6). The City Council may defer its final decision regarding the agreement until after the wireless communication facility permit is approved.”

SECTION 10 – AMENDMENT OF SUBSECTION 17.50.020.B.4

Subsection 17.50.020.B.4 of Section 17.50.020, Nonconforming structure, of the City Code is amended to read in its entirety as follows:

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

SECTION 11 – ADDITION OF DIVISION 17.56 EMERGENCY SHELTERS

Division 17.56, Emergency Shelters, is hereby added to the City Code as follows:

“DIVISION 17.56

EMERGENCY SHELTERS

Sections:

- 17.56.010 Purpose and intent
- 17.56.020 Applicability
- 17.56.030 Emergency Shelter Permit; Application and Issuance
- 17.56.040 Standards for Emergency Shelters
- 17.56.050 Appeal Process

17.56.010 Purpose and intent

The purpose and intent of this division is to establish standards for emergency shelters that ensure compatibility of shelter activities with surrounding uses and provide a safe place for individuals and families to obtain temporary shelters, in compliance with state housing law, including Government Code section 65583.

17.56.020 Applicability

This division applies to all emergency shelters established as permitted uses in Zones A and B.

17.56.030 Emergency Shelter Permit; Application and Issuance.

A. An application for an emergency shelter permit shall be filed with the Planning and Building Department on a form approved by the City together with a fee fixed by resolution of the City Council. The Director shall approve an application that meets the objective development standards set forth in section 17.56.040 without discretionary review or a public hearing. In the event of disapproval, the Director shall set forth in writing the standards to which the application did not comply. A decision by the Director shall be made as soon as practicable, and in no event more than 30 days after the application has been deemed complete.

B. Pursuant to section 17.64.020 of the Piedmont Municipal Code, any approval granted pursuant to section 17.56.030 shall expire one year from the approval date unless a building permit has been issued for the project. The Director may also grant an extension pursuant to section 17.64.020.B.

17.56.040 Standards for Emergency Shelters

A. The following standards and regulations apply to emergency shelters.

1. Each operator of an emergency shelter shall have a written management plan that uses best practices to address the housing needs of those using the shelter. The written management plan shall address the standards in this section. The operator shall also establish a liaison to coordinate with City staff, school district officials, local businesses, and residents on issues related to the operation of the facility.
2. Emergency shelters shall provide on-site personnel during hours of operation when individuals who are utilizing the emergency shelter are present. The management plan shall include procedures for screening residents to ensure compatibility with services provided at the facility.
3. The maximum number of beds or persons permitted to be served nightly is 15.
4. No emergency shelter facility shall be located within 300 feet of another emergency shelter, measured from the property line.
5. When abutting a residence, all waiting and intake areas shall be located indoors. A minimum of 100 square feet of waiting area must be provided to ensure that the public

sidewalks or private walkways are not used as queuing or waiting areas. The onsite client intake area must be equal to one-quarter of the area provided for client beds. This may be a multi-use area.

6. Any outdoor storage, including, but not limited to, items brought on site by clients for overnight stays, shall be screened from public view by a minimum six-foot-tall decorative wall or fence on a non-street facing yard.
7. Facility improvements shall comply with the development standards specified in sections 17.20.040 and 17.22.040 of the Piedmont Municipal Code, applicable building and safety codes, and State and Federal laws.
8. The facility shall comply with the parking standards outlined in section 17.30.010.B. of the Piedmont Municipal Code.
9. The facility shall include other amenities as may be required by State of California provisions for emergency shelters.
10. Lighting shall be provided in all exterior areas, including pathways, parking areas, courtyards, rear yard areas, and spaces between structures. Lighting shall be directed in a manner that does not cast light onto neighboring properties.
11. Service providers will ensure that the maximum stay at the facility shall not exceed 120 days in a 365-day period.
12. The facility shall comply with all other laws, rules, and regulations that apply including, but not limited to, building and fire codes. The facility shall be subject to City inspections prior to the commencement of operation. In addition, the City may inspect the facility at any time for compliance with applicable laws and standards.
13. Emergency shelter operator shall obtain a City of Piedmont business license.

17.56.050 Appeal Process

Any interested parties may appeal any decision to approve or deny an emergency shelter permit application pursuant to division 17.78 of the Piedmont Municipal Code.”

SECTION 12 – AMENDMENT OF SUBSECTION 17.62.030.C.2

Subsection 17.62.030.C.2 of Section 17.62.030., Summary of notice requirements, of the City Code is amended to read in its entirety as follows:

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

SECTION 13 – AMENDMENT OF SUBSECTION 17.64.020.A

Subsection 17.64.020.A of Section 17.64.020, Term of approval, of the City Code is amended to read in its entirety as follows:

“A. General. An approved conditional use permit, design review permit, accessory dwelling unit permit, SB 9 ministerial housing development or variance lapses one year after its date of final approval, or at an alternative time specified as a condition of approval, unless one of the following has occurred:

1. A building permit has been issued, substantial money expended, and construction diligently pursued; or
2. A final inspection has been issued; or
3. The conditional use is established in reliance on the approval.

An applicant is not allowed to proceed with construction if the approval has expired.”

SECTION 14 – AMENDMENT OF SUBSECTION 17.64.020.B

Subsection 17.64.020.B of Section 17.64.020, Term of approval, of the City Code is amended to read in its entirety as follows:

“B. Administrative extension. Except for permits where an extended alternative term of approval was provided through a condition of approval as provided in 17.64.020.A, the Director will grant one six-month extension for any permit or variance approval by the Planning Commission, City Council, or staff, upon written application by the property owner on a form provided by the Director, along with submission of the extension fee, prior to expiration of the original approval. The extension fee is the amount established by City Council resolution.”

SECTION 15 – AMENDMENT OF SUBSECTION 17.66.030.A.1.

Subsection 17.66.030.A.1 of Section 17.66.030, Permit required; Exceptions, of the City Code is amended to read in its entirety as follows:

“1. improvement requiring a variance or building permit;”

SECTION 16 – AMENDMENT OF FOOTNOTE 1 TO SUBSECTION 17.66.040.A.2.b.

Footnote in relation to Subsection 17.66.040.A2.b of Section 17.66.040, Approval authority, of the City Code is amended to read in its entirety as follows:

“1 The amount of \$125,000 is automatically adjusted for inflation annually on July 1 of each year beginning in 2018 based upon the California Construction Cost Index published by the California Department of General Services from data produced by the Engineering News Record.”

SECTION 17 – AMENDMENT OF SUBSECTION 17.68.050.A.

Subsection 17.68.050.A. of Section 17.68.050, Review, of the City Code is amended to read in its entirety as follows:

“A. Review. Each conditional use permit is subject to review two years after the permit is approved, or a longer period if provided in the approved permit, and each five years after that, or longer as determined by the City Council. The Director will initiate the review and provide a report to the Planning Commission. If the Director or Planning Commission determines that

there may be grounds for revocation of the permit, the Director will schedule the matter for a revocation hearing under section 17.80.050.”

SECTION 18 – AMENDMENT OF SUBSECTION 17.78.030.B.

Subsection 17.78.030.B. of Section 17.78.030, Notice; Hearing; Decision; Remand, of the City Code is amended to read in its entirety as follows:

“B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible or as set forth in section 17.64.010.B, taking into account the notice requirements. The appeal body may continue the hearing, but not more than once without the consent of the appellant. At the hearing, the appeal body will consider the written and oral evidence presented.”

SECTION 19 – AMENDMENT OF SUBSECTION 17.78.040.A.1.

Subsection 17.78.040.A.1. of Section 17.78.040, Standard of review, of the City Code is amended to read in its entirety as follows:

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

SECTION 20 – AMENDMENT OF SUBSECTION 17.90.010 TO MODIFY DEFINITION OF “THROUGH LOT”.

The definition of “*Through lot*” of Section 17.90.010., Definitions, of the City Code is amended to read in its entirety as follows:

“*Through lot* means a lot where both the street lot line and rear lot line have frontage on a street.”

SECTION 21 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “BUILDING HEIGHT”.

The measurement of “*Building height*” of Section 17.90.020., Measurements, of the City Code is amended to read in its entirety as follows:

“*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 ridge, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of a chimney or communications antenna.”

SECTION 22 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “BUILDING HEIGHT OF AN ACCESSORY STRUCTURE”.

The measurement of “*Building height of an accessory structure*” of Section 17.90.020., Measurements, of the City Code is amended to read in its entirety as follows:

“*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 ridge, 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.”

SECTION 22 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “FENCE”.

The measurement of “*Fence*” of Section 17.90.020., Measurements, of the City Code is amended to read in its entirety as follows:

“*Fence* means a vertical barrier that is attached to the ground or atop a retaining wall. Fencing may include a railing, free-standing wall, or a decorative element such as lattice, trellis, and covered gate, or any combination of these features. Neither the trellis or any part of the fence may be wider than 24 inches in the smallest plan dimension. A *fence* may be free-standing or self-supporting.”

SECTION 23 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “FLOOR AREA”.

The measurement of “*Floor area*” of Section 17.90.020., Measurements, of the City Code is amended to read in its entirety as follows:

“*Floor area* of a building means the sum of the gross horizontal area of the floors of the building, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, and includes, but is not limited to:

1. living space on all levels, including within a basement or attic;
2. elevator shafts and stairwells at each floor;
3. bay window or window seat that projects beyond the exterior wall in which a person can reasonably stand or sit, even if the window or seat does not have a minimum ceiling height of seven feet, six inches;
4. seventy square feet or more of contiguous non-habitable attic area that has permanent access, a minimum ceiling height of five feet, and an average ceiling height of at least seven feet six inches. *Permanent access* includes built-in stairs (even if they do not meet all of the building code requirements), but does not include built-in or pull-down ladders;
5. seventy square feet or more of contiguous non-habitable basement area that has a minimum ceiling height of seven feet and at least 42 inches of the basement level, measured from the basement ceiling, is above grade at the exterior wall;
6. enclosed porch or lanai, heated or not;
7. high-volume space that exceeds an average height of 15 feet, measured from finished floor to the outer roof, is counted as two stories; and

8. area within a building used for commercial purposes.

Unless listed above, living space not considered habitable under the Building Code because of window size, ventilation, access, ceiling height, heating, or electrical service (e.g. unconditioned storage area) is not counted in the floor area, but if the space is actually used for living, sleeping, eating, bathing, washing, or cooking, the space will be included, subject to the interpretation of the Director. Mechanical rooms containing gas-burning furnaces or gas-burning hot water heaters are not considered a living space.”

SECTION 24 – 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 25 – 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 26 – CODIFICATION

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

SECTION 27 – 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]

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**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
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ARTICLE 3. SPECIAL REGULATIONS

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- 17.42 Additional bedrooms in existing dwelling units
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- 17.48 Cannabis cultivation and facilities
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- 17.52 Density Bonus
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ARTICLE 5. DEFINITIONS; MEASUREMENTS

17.90 Definitions & Measurements

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ARTICLE 1. GENERAL PROVISIONS

Divisions

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

DIVISION 17.02**TITLE; INTENT; CITY CHARTER**

Sections:

17.02.010 Title; City Charter

17.02.010 Title; Intent; City Charter.

A. Title. This chapter 17, Planning and Land Use, is also known as the zoning ordinance.

B. Intent. The City of Piedmont consists primarily of unique single-family residences set among mature trees and other vegetation. The residents wish to:

1. preserve the architectural heritage and beauty of the city's homes, the mature vegetation, the tranquility and privacy that now exist, and significant views;
2. reduce on-street parking and traffic in the neighborhood streets and facilitate pedestrian and bicycle activity;
3. mitigate overcrowding and build a thriving environment for all, where growth benefits schools, services, facilities, and amenities;
4. preserve the city's historical heritage;
5. preserve the existing stock of small homes and otherwise allow for a variety of housing types for all income levels, including single-family and multi-family dwellings;
6. ensure excellence of architectural design, and compliance with the Piedmont Design Standards and Guidelines, as approved by the City Council and amended from time to time;
7. allow retail, office, and service commercial uses that are primarily neighborhood serving; and
8. promote property improvements without sacrificing the goals already mentioned.

These zoning regulations are designed to implement these purposes.
(Ord. 772 N.S., 03/2024)

C. City Charter.

1. The city's zoning ordinance is also subject to the City Charter, particularly Section 9.01, General Plan, Section 9.02, Zoning System, and Section 9.04, General Laws Applicable. Those sections read as follows:

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Section 9.01 General Plan. The City Council shall adopt, and may from time to time, modify a general plan setting forth policies to govern the development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services. The plan shall also serve as a guide to Council action concerning such City planning matters as land use, development regulations and capital improvements.

Section 9.02 Zoning system. The City of Piedmont is primarily a residential city, and the City Council shall have the power to establish a zoning system within the City as may in its judgment be most beneficial. The Council may classify and reclassify the zones established, but no existing zones shall be reduced or enlarged with respect to size or area, and no zones shall be reclassified without submitting the question to a vote at a general or special election. No zone shall be reduced or enlarged and no zones reclassified unless a majority of the voters voting upon the same shall vote in favor thereof; provided that any property which is zoned for uses other than or in addition to a single-family dwelling maybe voluntarily rezoned by the owners thereof filing a written document executed by all of the owners thereof under penalty of perjury stating that the only use on such property shall be a single-family dwelling, and such rezoning shall not require a vote of the electors as set forth above.

Section 9.04 General laws applicable. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances hereafter enacted, shall be applicable to the City. The City Council may adopt and enforce ordinances that, in relation to municipal affairs, shall control as against the general laws of the State.

2. In ~~this subsection C,~~ Section 9.02 ~~of the City Charter,~~ the prohibition not to reduce, enlarge, or reclassify a zone without a vote is understood to mean the city may not change the zone boundaries, or change (reclassify) a property from one zone to another. ~~However, the City may make amendments to the zoning ordinance within the established zoning districts.~~

D. Private Agreements. The City regulates land use in accordance with the City's zoning ordinance and does not enforce or regulate private agreements.

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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

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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~~residential 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, multi-family dwelling units, and units developed under division 17.54 to preserve them for long-term housing. (Ord. 742 N.S., 05/2018, Ord. 772 N.S., 03/2024)

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~~up to three lessees under ~~a~~separate rental agreements, not for the entire dwelling;
2. the rental period is a minimum of 30 consecutive days;

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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 multiple~~ rented rooms in such dwelling unit to a limit of ~~one three~~ lessees. 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. This provision authorizes the owner or tenant to rent or sublease a room or multiple rooms to support boarding housing, transitional and supportive housing, employee housing, and housing for residents needing residential care facilities.~~

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 multi-family dwelling unit, or a dwelling unit created under division 17.54. The short-term rental may be hosted or non-hosted. (Ord. 772 N.S., 03/2024)

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.

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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.

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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 multiple rooms 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)

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DIVISION 17.46 WIRELESS COMMUNICATION FACILITIES

Sections:

17.46.010	Purpose
17.46.020	Definitions
17.46.030	Applicability; Exemptions
17.46.040	Location; City site agreement
17.46.050	Permit; Application.
17.46.060	Independent Technical Review
17.46.070	Standards
17.46.080	Hearings; Findings

17.46.010 Purpose.

The purpose of this division is to provide a comprehensive set of standards for the development and installation of wireless communication facilities. The regulations are designed to protect and promote public safety and community welfare, property values, and the character and aesthetic quality of the city, while at the same time not unduly restricting the development of wireless communication facilities, and not unreasonably discriminating among wireless communication service providers of functionally equivalent services, including retail and other commercial providers of wireless communication services. This division applies to applications for approval of the installation of new or modified wireless communication facilities, including applications previously received by the city but not yet approved, disapproved or conditionally approved by a final city decision.

17.46.020 Definitions.

In this division:

Antenna means a device for transmitting and receiving radiofrequency signals. *Antenna* includes panel antennas, reflecting discs, microwave dishes, whip antennas, directions and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations. The height of the antenna includes all array structures. *Antenna* includes a Distributed Antenna System (DAS), which is a network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

Base station means all equipment and apparatus, excluding antennas, that are components of the WCF, including any antenna support system regular and backup power supply, other associated electronics, electronic receiving and relay equipment, enclosed equipment, electrical meters, and the necessary housing and foundations.

Camouflaged means designed to mask or blend with the surrounding environment in such a manner to render it generally unnoticeable to the casual observer. By way of example, a wireless communication facility may be camouflaged in a faux tree, faux bush, flagpole, or otherwise designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings.

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Collocation means the location of two or more wireless communication facilities on a single support structure.

Concealed means not observable. By way of example, a wireless communication facility will be considered concealed if it is contained within new or existing architectural details of a building, e.g., real or faux clock or bell tower, or on the roof of a building and concealed by parapets or screenwalls, or concealed by any other means, so long as the wireless communications facility does not substantially compromise the aesthetics of the building, and the new concealment element has been approved under a wireless communication facility permit.

Equipment cabinet means a cabinet or structure used to house equipment associated with a wireless communication facility.

FCC means Federal Communications Commission.

Monopole means a single free-standing pole, post, or similar structure, used to support equipment associated with a wireless communication facility.

Public right-of-way means a public highway, street, alley, sidewalk, or parkway that is subject to Public Utilities Code section 7901.

Related equipment means equipment ancillary to the transmission and reception of voice and data via radio frequencies. *Related equipment* may include, but is not limited to, cable, conduit and connectors.

Service provider means an authorized provider of wireless communication services.

Tower means a structure built for the sole or primary purpose of supporting wireless communication facilities, including a monopole. This does not include a structure that was installed to replace or collocate upon an existing power pole, light standard, energy transmission tower, or building.

Wireless communication facility means an unstaffed facility, generally consisting of antennas (including a Distributed Antenna System), an equipment cabinet or structure, and related equipment that receives and/or transmits radio frequency signals.

17.46.030 Applicability; Exemptions.

A. Applicability. This division 17.46 applies to all wireless communication facilities, except those exempted in subsection B below (though other permit requirements may apply).

B. Exemptions. The following facilities are exempt from this division:

1. Wireless communication facility for which a federal or state statute or regulation exempts the facility from the imposition of the permit requirements of this division but only to the extent of such exemption.

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2. Satellite dish antenna, less than one meter in diameter for receiving radio or television stations by the property owners, occupants or guests.
3. City-owned or operated communication facilities.
4. Communication equipment located completely inside a structure, not visible from the outside, whose purpose is solely to provide wireless communications within the same structure, including Wi-Fi hotspots and access points, with no alteration to the exterior of the structure.

17.46.040 Location; City site agreement.**A. Priority for location.**

1. Preference for Zone B, publicly-owned property, and public right of way sites. In order of preference, wireless communication facilities should be located (i) on publicly-owned property outside of the public right of way, in Zone B within the city (ii) on publicly-owned facilities in any other zone outside of the public right of way, or (iii) public rights-of-way.
2. Alternative locations. Any location for a wireless site outside of Zone B, not on publicly-owned property, or not with a public right of way will be considered according to the following priority:
 - a. The applicant must first attempt to locate a site in Zone D, the commercial zone, that is not used for residential purposes.
 - b. If it is infeasible to locate in Zone D, the applicant must attempt to locate at a non-residential property in Zone A, C or E.
3. General. In all cases, the preference, in order, is to locate on or in an existing structure which the wireless communication facility can be concealed; or to collocate on an existing wireless communication facility; or to locate on a new structure that can be incorporated in an inconspicuous or compatible manner with the surrounding area.

B. City site agreement.

1. Consideration by staff. If the applicant wishes to locate on city-owned property or facilities, the applicant must discuss its desired location(s) with staff (Public Works Director and Planning Director, as appropriate) before the submittal of an application. If the location appears to be generally feasible, city staff will negotiate the principal terms for a proposed site agreement with the applicant, spelling out in detail the specific facilities to be located on city property or facilities, the term of the agreement, the compensation to be provided the city, and other terms.
2. Consideration by City Council. When the principal terms for a proposed agreement have been prepared and approved by city staff, staff will schedule the matter

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for hearing before the City Council. The City Council will consider the proposed agreement as part of an ordinance, to the extent required by City Charter Section 2.11(6). The City Council may defer its final decision regarding the agreement until after the wireless communication facility permit is approved.

3. Limited nature of consent. The city's consent as property owner to process a wireless communication facility permit is not be deemed city consent to lease or license the property.

C. No wireless communication facilities on residential property. Wireless communication facilities shall not be installed on property which is used for residential purposes, irrespective of the zoning district in which such residential property is located.

17.46.050 Permit; Application.

A. Permit. A wireless communication facility permit is a type of conditional use permit specifically for wireless communication facilities and is required for each facility. If the wireless communication facility permit is approved, the owner or operator must also obtain a building permit before beginning construction.

B. Application.

1. All applications. An application for a wireless communication facility permit must include:

- a. a complete application on a form provided by the city, setting forth information for the applicant to submit;
- b. evidence of a significant gap in coverage or capacity which the application seeks to address; and
- c. applicable fees and/or deposits, including a deposit for independent technical review under section 17.46.060 below. If the application is to collocate a wireless communication facility at an existing wireless communication facility location, or to modify an existing wireless communication facility, the application shall address the applicability, if any, of federal or state laws governing such applications.

2. Application for location on city property. An applicant for a wireless communication facility proposed to be located on city property or in a public right-of-way must submit additional items, as set forth on the supplemental application form provided by the city, setting forth supplemental information for the applicant to submit.

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17.46.060 Independent Technical Review.

The Director is authorized in his or her discretion to retain an independent technical consultant to review materials submitted by the applicant and to provide an analysis of issues including but not limited to: whether the wireless communication facility meets the applicable radio frequency emission regulations; whether a significant gap in coverage or capacity exists and whether the proposed facilities are the least intrusive means of doing so; whether there are alternative sites and the feasibility of those sites; whether there are ways to mitigate aesthetic impacts; and any other specific technical issues designated by the Director. The applicant must pay the consultant's costs, and must increase the deposit to cover the anticipated amount as the Director may deem necessary from time-to-time.

17.46.070 Standards.

A. Development Standards. The following development standards apply.

1. Collocation. New wireless communication facilities must be collocated with existing facilities and with other planned new facilities whenever feasible. A new wireless tower must be designed and constructed to accommodate future collocation(s) unless the city determines that collocation would be infeasible because of physical or design issues specific to the site.
2. Height limits; Screening. No wireless communication facility may exceed 35 feet in height, measured from the ground to the highest point of the wireless communication facility, unless the zoning district in which the wireless communication facility is located expressly provides a higher height limit. Ground mounted wireless communication equipment, base station, antenna, pole, or tower must be the minimum functional height, unless a variance is granted. Roof mounted equipment and antennas must be located to minimize visibility.
3. Visual impact. Wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views.

The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city.
4. Public health, peace and safety. A wireless communication facility may not adversely affect the public health, peace and safety.
5. Public right-of-way. A wireless communication facility located in the public right-of-way may not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. Equipment, walls, and landscaping located above grade must be at least 18 inches from the front of the curb and not interfere with the public's use of the right-of-way.

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6. Compliance with laws. Each wireless communication facility must comply with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC sections 253, 332(c)(7), 47 USC section 1455 (also known as section 6409 of the 2012 Middle Class Tax Relief and Jobs Act), California Government Code sections 50030, 65850.6 and 65964, and California Public Utilities Code sections 7901 and 7901.1. Each reference to a federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect.

B. Operation and Maintenance Standards

1. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.

2. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size.

3. FCC compliance. Each wireless communication facility must comply with FCC regulations, and avoid interfering with any city communication facilities, operations, utilities, equipment, or public safety communications. If the facility negatively impacts city facilities or equipment, the operator must comply with all FCC regulations and orders to resolve the interference. At the city's discretion, and at the operator's expense, the city may retain an outside technical consultant to evaluate and verify compliance with FCC regulations and to determine the cause of interference for an existing facility.

4. Facility maintenance. Each wireless communication facility must be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than 90 days from the time of notification.

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Landscaping elements at a wireless communication facility site must be maintained in good condition, and in compliance with the approved landscape plan. The owner or operator is responsible for replacing any damaged, dead, or decayed landscape materials and making necessary irrigation and equipment repairs as soon as reasonably possible.

5. Noise. A wireless communication facility must be operated to minimize noise that is audible as provided in Chapter 8 of the City Code

6. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site restored to its original, preconstruction condition. In addition, the service provider must provide the city with a notice of intent to vacate a site a minimum of 30 days before the vacation. For a wireless communication facility to be located on public property, this removal requirement will be included within the lease. For a facility to be located on private property, the property owner is encouraged to also include this in the lease, because the property owner will otherwise be responsible for removal.

C. Term of permit. A wireless communication facility permit is valid for an initial period of ten years unless: (i) a longer period is required by state or federal law; or (ii) a shorter time is required as a condition of approval for particular circumstances set forth in the decision, particularly with respect to public safety or substantial land use reasons under California Government Code section 65964(b). The Director may administratively extend a permit upon verification of continued compliance with this division 17.46 and any conditions of approval.

However, a permit granted for a collocation or modification under section 17.46.080 D.2.b will be effective for the shorter of: (i) the term of the original permit; or (ii) a longer period if required by state or federal law.

17.46.080 Hearings; Findings.

A. Reviewing body. The Planning Commission is the reviewing body, except that:

1. the City Council is the reviewing body for a facility in Zone B or on city-owned property or facilities (including collocations), following a recommendation from the Planning Commission; and
2. the Director is the reviewing body for an application for a collocation that meets the criteria set forth in section 17.46.080.D.2.b or for which the wireless communication facility will be fully concealed or camouflaged. The Director will take action on the application without public notice or public hearing, unless the Director refers the application to the Planning Commission.

B. Planning Commission. After receiving a completed application, the city staff will schedule a noticed public hearing before the Planning Commission consistent with divisions 17.62 and 17.64. If the application involves city-owned property, the Planning Commission makes a recommendation to the City Council.

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C. City Council. The City Council will hear each application: (i) involving a facility in Zone B or on city-owned property or facilities; or (ii) appealed from the Planning Commission.

D. Required findings; Exceptions.

1. Findings. Before approving a wireless communication facility permit, the reviewing body must make the following findings:

- a. The facility is necessary to close a significant gap in the operator's service coverage or capacity.
- b. The applicant has evaluated and met the priority for location standards of section 17.46.040 A above.
- c. The proposal satisfies each of the applicable development standards in section 17.46.070 above.
- d. The proposed design is consistent with the Piedmont Design Standards and Guidelines.
- e. The proposed facility has been located and designed for collocation to the greatest extent reasonably feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility.

2. Exceptions.

- a. General. The decision-making body may grant an exception to any requirement of this division 17.46, including without limitation the priority for location under section 17.46.040 A, if the applicant establishes that strict compliance would violate federal or state law.
- b. Modification. The Director may consider and grant, modify and grant or deny a modification to an existing wireless communications facility if the modification meets the requirements of section 6409. In determining whether to approve the requested modification the Director shall consider the following:
 - i. Alterations to the width, bulk, or arrangement of a wireless communication facility that may result in a potentially significant or material impact to public access or use of any public or private right-of-way, or any potentially significant or material impact to public health, safety, or welfare;
 - ii. Alterations to required access, parking, or landscaping from that shown on the approved site plans;

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- iii. Alterations that include excavation outside the wireless telecommunications facility site, defined as the boundaries of the controlled, leased or owned property surrounding the tower and base station and any access or utility easements related to the site as shown on the approved plans;
- iv. An increase in the height of a freestanding tower that is less than the applicable height limit;
- v. Replacement of the wireless tower or foundation;
- vi. Alteration or expansion of the exterior of a facility that was originally approved as concealed or camouflaged in such a manner so that it may no longer be concealed or camouflaged; or
- vii. An increase by more than ten percent of the physical dimensions or exposed surface area of any component of the tower or base station (including, but not limited to, the height, circumference, or width of the wireless tower or base station), or an increase by more than ten percent from the dimensions of any structures required to support the wireless tower or base station, such as guy wires, as approved and constructed through the discretionary permit process; provided that in no event may the height exceed the maximum height permitted under this section 17.46, the zoning district or the wireless tower or base station's initial approval.

Any proposed modification that is not a collocation, or for which the wireless communication facility will be fully concealed or camouflaged, or that does not fall within the requirements of section 6409 shall be reviewed and considered under the same provisions and requirements as those required for the original consideration of the permit proposed for modification.

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DIVISION 17.50**NONCONFORMING USES AND STRUCTURES**

Sections:

17.50.010 Nonconforming use

17.50.020 Nonconforming structure

17.50.010 Nonconforming use.

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

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

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

17.50.020 Nonconforming structure.

A. General. A structure that was lawfully erected but which does not conform to the currently applicable zoning requirements prescribed in the zone district is a nonconforming structure. It may be used and maintained except as otherwise provided in this section. A nonconforming structure is also subject to the California Building Code adopted by the city under chapter 8.

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

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

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

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

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

- a. such modifications comply with objective standards in the Piedmont Design Standards and Guidelines; and
- b. there is no increase in the size or change to the location of the accessory dwelling unit, no increase in structure coverage or decrease in landscape coverage related to the accessory dwelling unit.

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

This subsection 4 does not apply to:

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

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

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

If the nonconforming structure is not rebuilt within the time period allowed under this subsection 4, the nonconforming rights terminate. (Ord. 747 N.S., 02/2020; Ord. 768 N.S. 01/2023)

DIVISION 17.56 EMERGENCY SHELTERS

Sections:

- 17.56.010 Purpose and intent
- 17.56.020 Applicability
- 17.56.030 Emergency Shelter Permit; Application and Issuance
- 17.56.040 Standards for Emergency Shelters
- 17.56.050 Appeal Process

17.56.010 Purpose and intent

The purpose and intent of this division is to establish standards for emergency shelters that ensure compatibility of shelter activities with surrounding uses and provide a safe place for individuals and families to obtain temporary shelters, in compliance with state housing law, including Government Code section 65583.

17.56.020 Applicability

This division applies to all emergency shelters established as permitted uses in Zones A and B.

17.56.030 Emergency Shelter Permit; Application and Issuance.

A. An application for an emergency shelter permit shall be filed with the Planning and Building Department on a form approved by the City together with a fee fixed by resolution of the City Council. The Director shall approve an application that meets the objective development standards set forth in section 17.56.040 without discretionary review or a public hearing. In the event of disapproval, the Director shall set forth in writing the standards to which the application did not comply. A decision by the Director shall be made as soon as practicable, and in no event more than 30 days after the application has been deemed complete.

B. Pursuant to section 17.64.020 of the Piedmont Municipal Code, any approval granted pursuant to section 17.56.030 shall expire one year from the approval date unless a building permit has been issued for the project. The Director may also grant an extension pursuant to section 17.64.020.B.

17.56.040 Standards for Emergency Shelters

A. The following standards and regulations apply to emergency shelters.

1. Each operator of an emergency shelter shall have a written management plan that uses best practices to address the housing needs of those using the shelter. The written management plan shall address the standards in this section. The operator shall also establish a liaison to coordinate with City staff, school district officials, local businesses, and residents on issues related to the operation of the facility.
2. Emergency shelters shall provide on-site personnel during hours of operation when individuals who are utilizing the emergency shelter are present. The management plan shall include procedures for screening residents to ensure compatibility with services provided at the facility.
3. The maximum number of beds or persons permitted to be served nightly is 15.

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4. No emergency shelter facility shall be located within 300 feet of another emergency shelter, measured from the property line.
5. When abutting a residence, all waiting and intake areas shall be located indoors. A minimum of 100 square feet of waiting area must be provided to ensure that the public sidewalks or private walkways are not used as queuing or waiting areas. The onsite client intake area must be equal to one-quarter of the area provided for client beds. This may be a multi-use area.
6. Any outdoor storage, including, but not limited to, items brought on site by clients for overnight stays, shall be screened from public view by a minimum six-foot-tall decorative wall or fence on a non-street facing yard.
7. Facility improvements shall comply with the development standards specified in sections 17.20.040 and 17.22.040 of the Piedmont Municipal Code, applicable building and safety codes, and State and Federal laws.
8. The facility shall comply with the parking standards outlined in section 17.30.010.B. of the Piedmont Municipal Code.
9. The facility shall include other amenities as may be required by State of California's provisions for emergency shelters.
10. Lighting shall be provided in all exterior areas, including pathways, parking areas, courtyards, rear yard areas, and spaces between structures. Lighting shall be directed in a manner that does not cast light onto neighboring properties.
11. Service providers will ensure that the maximum stay at the facility shall not exceed 120 days in a 365-day period.
12. The facility shall comply with all other laws, rules, and regulations that apply including, but not limited to, building and fire codes. The facility shall be subject to City inspections prior to the commencement of operation. In addition, the City may inspect the facility at any time for compliance with applicable laws and standards.
13. Emergency shelter operator shall obtain a City of Piedmont business license.

17.56.050 Appeal Process

Any interested parties may appeal any decision to approve or deny an emergency shelter permit application pursuant to division 17.78 of the Piedmont Municipal Code.

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ARTICLE 4. ADMINISTRATION

Divisions:

- 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

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DIVISION 17.62**NOTICE REQUIREMENTS**

Sections:

- 17.62.010 General.
- 17.62.020 Contents of notice.
- 17.62.030 Summary of notice requirements.

17.62.010 General.

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

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

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

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

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

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

17.62.020 Contents of notice.

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

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

17.62.030 Summary of notice requirements.

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

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

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

B. Notice by applicant.

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

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

C. Method of city notice.

1. Publication or posting/mailing. The city will give notice either by (i) publication in a newspaper of general circulation circulated in the city; or (ii) posting on the official city hall bulletin board and mailing a copy to each property owner of record shown on the latest equalized assessment rolls according to the schedule in subsection E. In addition to these requirements, the city may post notification at the project site.

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

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

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

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E.

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

		Notice by City at least 14 days before the hearing, measured from the project boundary. ²				
	Notice by applicant 30 days before hearing ¹	to adjacent property owners	to property owners within 100 feet	to property owners within 200 feet	to property owners within 300 feet	to property owners within 500 feet
Design review permit		Variable depending on application. See division 17.66.				
Ministerial design review		No public notice. See division 17.67.				
Variance						
Single (other than for height or floor area ratio)	X		X			
More than one, or for height or floor area ratio	X			X		
Signs	X ⁴		X			
Landscape plan	X ⁴		X ⁴			
Lot line adjustment						
Between two lots			X			
More than two lots					X	
Wireless communication facility permit	X ⁴		X			
Accessory Dwelling Unit Permit		No notice for an ADU permit application is permitted. See division 17.38.				
Negative declaration or Environmental Impact Report required	X ⁴				X	
Tract map or parcel map	X				X	
Conditional use permit , or modification						X
Reasonable accommodation ³			X			
Zoning Regulation Amendment		Publish notice in newspaper of general circulation within the City. ⁵				
Zoning Map Amendment		Publish notice in newspaper of general circulation within the City. ⁵				
Other applications		X				
Appeal, Call for Review		Subject to Section 17.78.030.A.				

¹ See section 17.62.030B.

² See section 17.62.030C.

³ Subject to section 17.76.040.

⁴ For an application considered by Planning Commission

⁵ Subject to section 17.62.030, subsections A and C.

(Ord. 743 N.S., 05/2018; Ord. 747 N.S., 02/2020; Ord. 769 N.S., 10/2023)

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DIVISION 17.64**HEARINGS; TERM OF APPROVAL; CONDITIONS**

Sections:

17.64.010 Hearings

17.64.020 Term of approval

17.64.030 Conditions of approval

17.64.010 Hearings.

A. Planning Commission. If an application will be considered by the Planning Commission, city staff will schedule the matter at the next meeting that has an open agenda, once the application is complete, and at least 14 days later to allow time for noticing.

B. City Council. If this chapter requires a City Council hearing, the hearing will be scheduled for the next available regular City Council meeting unless the hearing is for an appeal, in which case the hearing will be scheduled at least 45 calendar days after the filing of an appeal.

C. Continued hearing. When necessary for proper evaluation of an application, the Planning Commission or City Council may continue a hearing to a later meeting date.

D. Voting. A City Council or Planning Commission decision must be made by a majority of the body. (See City Charter Section 2.07C and City Code Section 25.14.) (Ord. 743 N.S., 05/2018)

17.64.020 Term of approval.

A. General. An approved conditional use permit, design review permit, accessory dwelling unit permit, **SB 9 ministerial housing development** or variance lapses one year after its date of final approval, or at an alternative time specified as a condition of approval, unless one of the following has occurred:

1. A building permit has been issued, substantial money expended, and construction diligently pursued; or
2. A final inspection has been issued; or
3. The conditional use is established in reliance on the approval.

An applicant is not allowed to proceed with construction if the approval has expired.

B. Administrative extension. **Except for permits where an extended alternative term of approval was provided through a condition of approval as provided in 17.64.020.A, The** Director will grant one six-month extension for any permit or variance approval by the Planning Commission, City Council, or staff, upon written application by the property owner on a form provided by the Director, along with submission of the extension fee, prior to expiration of the original approval. The extension fee is the amount established by City Council resolution.

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C. Re-application. An application for re-approval of an expired, previous approval is subject to all the requirements of this code in effect on the date of the final decision on the re-application. (Ord. 743 N.S., 05/2018; Ord. 769 N.S., 10/2023)

17.64.030 Conditions of approval.

A. General. In its review of an application, the reviewing body may impose reasonable conditions necessary to:

1. Achieve the general purposes of this chapter or the specific purposes of the zoning district in which the site is located, or to make it consistent with the general plan and Piedmont Design Standards and Guidelines;
2. Protect the public health, safety, and general welfare; or
3. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

B. Guarantee. The Director, Planning Commission, or City Council may impose a condition of approval requiring a guarantee that specified conditions of approval will be met. The guarantee may be in the form of a bond, cash deposit, letter of credit or other guarantee. The city may also require that the applicant agree in writing to the city's right to complete or repair incomplete or incorrect work on the applicant's property, to recover the costs incurred from the applicant, and if unpaid, to impose a lien against the property for the costs. The costs may include staff time, contractor and consultant services, and legal services. If the conditions are not met, the City may use the guarantee to meet the conditions. The guarantee will be released upon a showing that all the specified conditions of approval have been met.

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DIVISION 17.66**DESIGN REVIEW PERMIT**

Sections:

- 17.66.010 Intent
- 17.66.020 Implementation
- 17.66.030 Permit required; Exceptions
- 17.66.040 Approval authority
- 17.66.050 Procedures: Application; Notice and hearing; Decision; Effective date; Appeal
- 17.66.060 Standards

17.66.010 Intent.

Design review is intended to: promote orderly, attractive, safe and harmonious development; uphold the aesthetic values of the community; and ensure excellence of architectural design; all as set forth in the Piedmont Design Standards and Guidelines. (Ord. 769 N.S., 10/2023)

17.66.020 Implementation.

A. Piedmont Design Standards and Guidelines. The City Council has adopted the Piedmont Design Standards and Guidelines that are available online and at city hall. The Standards and Guidelines are the criteria for the applicant and hearing body in determining whether a specific project conforms to section 17.66.060, Standards.

B. Director. The Director will prepare:

1. the permit application forms; and
 2. public lists for guidance to applicants on which applications are subject to each type of design review.
- (Ord. 769 N.S., 10/2023)

17.66.030 Permit required; Exceptions.

A. Permit required. A design review permit is required for any of the following, unless an exception applies under subsection B.

1. improvement requiring a variance, ~~conditional use permit~~, or building permit;
2. fence, wall, retaining wall, or trash enclosure as provided in division 17.32.

No improvement subject to design review under this division may be constructed, repaired or maintained except in accordance with a design review permit. The term *improvement* in this division means (1) the construction, alteration and repair of a building, structure, or facility permanently affixed to real property, or (2) a site feature.

The city will not issue a building permit under chapter 8 until the applicant has obtained the required design review permit. The city will not allow demolition unless the applicant has

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approval of plans for a replacement structure or other site improvements under this chapter 17, and has obtained a building permit under chapter 8.

B. Exceptions. No design review permit is required for a small improvement or for an interior improvement not requiring a variance. The Director determines what is a *small improvement*, and will maintain a list, available to the public. (See section 17.66.020 B.)

17.66.040 Approval authority.

A. Planning Commission.

1. Applicability. The Planning Commission has the responsibility to review a design review permit if the project is:

- a. part of an application for a variance or conditional use permit;
- b. is valued at \$125,000 or more (adjusted for inflation¹);
- c. a site feature greater than 7 feet high and located in a side or rear yard setback, or a site feature of any height located within a 20-foot street setback;
- d. a retaining wall greater than 30 inches in height located within a street yard setback or a fence of any height located within a street yard setback; or
- e. referred to the Planning Commission by the Director.

However, if any component of a project application requires final approval by the City Council, including a City project, the Planning Commission makes a recommendation and the Council is the final decision-making body. The Planning Commission shall not review any development application that is eligible for ministerial review under State law unless the applicant voluntarily requests discretionary review (See division 17.67).

2. Notice. If a project is subject to Planning Commission approval, the city will give notice:

- a. in the same manner required for the underlying application of which design review is a part; or
- b. to property owners within 100 feet of the property for a stand-alone design review permit application, including those for nonresidential signs under section 17.36.040.C.2 and landscape plans under section 17.34.020.A.2, except that design review permit applications for a new house shall require notice to property owners within 300 feet of the property. (See division 17.62. In some cases, the applicant provides the notice to other property owners.)

¹ The amount of \$125,000 is automatically adjusted for inflation annually on January-July 1 of each year beginning in 2018 based upon the California Construction Cost Index published by the California Department of General Services from data produced by the Engineering News Record.

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3. Standards. In reviewing an application for a design review permit, the Planning Commission will apply the standards set forth in section 17.66.060, Standards.

B. Director.

1. Applicability. The Director has the authority to approve a design review permit application if the project is not covered by the Planning Commission applicability threshold under subsection A.1 above. The Director may refer an application to the Planning Commission.

2. Notice. The city will give notice of a design review permit application to the adjacent property owners if the proposal represents a significant change. The Director determines what is a significant change. (See section 17.66.020 B.)

3. Expedited review. An application for a minor modification is entitled to expedited review. The Director determines what is a minor modification, and will maintain a list, available to the public. (See section 17.66.020 B.)

4. Ministerial design review permit application. Application for a ministerial design review permit, as provided in division 17.67, shall be reviewed and approved by the Director.

5. Standards. In reviewing an application for a design review permit, the Director will apply the standards set forth in section 17.66.060, Standards.

6. Changes.

a. Conditions of approval. Only the approving hearing body may approve a change to a condition of approval, unless the condition provides otherwise.

b. Plans. A change in the plans will be reviewed by the approving hearing body, except that the Director may approve a change to plans approved by the Planning Commission or City Council if the change does not meet the threshold applicability provisions for review by the Planning Commission (see section 17.66.040 A 1), or is a minor modification. (See section 17.66.020 B.)

(Ord. 769 N.S., 10/2023)

17.66.050 Procedures: Application; Notice and hearing; Decision; Effective date; Appeal.

A. Application. An applicant for a design review permit must submit a complete application, accompanied by plans and materials in the form approved by the Director, and the application fee. The Director may waive submission of items deemed unnecessary to determine compliance with this chapter. An application is considered complete if it is in accordance with section 17.66.020.

B. Notice and hearing. The hearing body will hold a hearing on the application, unless the application qualifies for expedited review under section 17.66.040B.3, or no neighbor requests a

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hearing under section 17.66.040 B.2. Notice requirements are set forth in sections 17.66.040 A.2 and B.2, and in division 17.62.

C. Decision. The hearing body will approve, conditionally approve, or deny the application. The Director will notify the applicant of the decision in writing.

D. Effective date. A decision under this division takes effect at the end of the time allowed for an appeal, which is 10 calendar days after the date of the decision. If the decision is appealed, the decision is not final until the appeal process has been exhausted. (See division 17.78.)

E. Appeal. A decision of the Director may be appealed to the Planning Commission, and a decision of the Planning Commission may be appealed to the City Council, all in accordance with the appeal procedures of division 17.78.

17.66.060 Standards.

The hearing body may not approve a design review permit unless the design of the project conforms to all of the following standards:

A. The proposed design is consistent with the City's General Plan and Piedmont Design Standards and Guidelines.

B. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.

C. The proposed design does not adversely affect pedestrian or vehicular safety.
(Ord. 769 N.S., 10/2023)

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DIVISION 17.68**CONDITIONAL USE PERMIT**

Sections:

- 17.68.010 General; Applicability.
- 17.68.020 Application.
- 17.68.030 Hearing body
- 17.68.040 Findings
- 17.68.050 Review
- 17.68.060 Modification

17.68.010 General: Applicability.

A. General. No person shall begin a conditional use without first obtaining a conditional use permit. After recommendation from the Planning Commission, the City Council may grant a conditional use permit, subject to conditions.

B. Applicability. A conditional use permit is required for:

1. a use listed as a conditional use in any zone, or a change in an existing conditional use. A conditional use permit is not required for a single-family residence.
2. new construction, or a structural change to: commercial or mixed use in Zone D.

C. Wireless communication facilities permit. A wireless communication facility is a conditional use in Zones A through E. However, a wireless communication facilities permit under division 17.46 is required instead of a conditional use permit.

17.68.020 Application.

The applicant must submit a written application for a conditional use permit on a form provided by the Director. The application shall be accompanied by plans as set forth in the required materials for a use permit, and the application fee. Where necessary, the Director or hearing body may waive a requirement or require additional information.

17.68.030 Hearing body.

The Planning Commission will hold a hearing on the application and make a recommendation to the City Council. The decision of the City Council is final.

17.68.040 Findings.

The Planning Commission may recommend and the City Council may approve a conditional use permit only after making the following findings:

1. The proposed use is compatible with the general plan and conforms to the zoning code.
2. The use is primarily intended to serve Piedmont residents (rather than the larger region); and

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3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include: no substantial increase in traffic, parking, or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values.

17.68.050 Review.

A. Review. Each conditional use permit is subject to review two years after the permit is approved, or a longer period if provided in the approved permit~~approved with the permit~~, and each five years after that, or longer as determined by the City Council. The Director will initiate the review and provide a report to the Planning Commission. If the Director or Planning Commission determines that there may be grounds for revocation of the permit, the Director will schedule the matter for a revocation hearing under section 17.80.050.

B. Applicability to prior conditional use permits. If a use permit issued before December 2013 has a condition with an automatic review or termination date, that condition is superseded by this section.

17.68.060 Modification.

A person wishing to make a minor modification to a conditional use permit may submit an application for modification to the Director, together with the application fee. Consideration of a request for a minor modification requires the same procedures and findings as for the original use permit.

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DIVISION 17.78**APPEALS; CALL FOR REVIEW**

Sections:

- 17.78.010 General
- 17.78.020 Application
- 17.78.030 Notice; Hearing; Decision; Remand
- 17.78.040 Standard of review
- 17.78.050 Call for review

17.78.010 General.

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

The city will not approve a building permit during the appeal period. (Ord. 747 N.S., 02/2020)

17.78.020 Application.

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

17.78.030 Notice; Hearing; Decision; Remand.

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

B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible or as set forth in section 17.64.010.B, taking into account the notice requirements. The appeal body may continue the hearing, but not more than once without the consent of the appellant. At the hearing, the appeal body will consider the written and oral evidence presented.

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

D. Remand. Notwithstanding subsection C above, the City Council acting as the appeal body may remand the matter to the Planning Commission for further consideration. The remand will include either specific issues to be considered, or direction that the Planning Commission open the entire application for de novo review. Unless the City Council determines otherwise: (1) the remand hearing before the Planning Commission will be scheduled at a Planning Commission

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

17.78.040 Standard of review.

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

1. Deference. Due deference shall be given to the actions of the Planning Commission and staff in light of the substantial number of planning applications heard by them and the major accumulated group experience that those actions represent.
2. Grounds for overruling decision. The appeal body may overrule the action of the decision maker only if one of the following occurs:
 - a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;
 - b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;
 - c. there is a significant error in the application of the Piedmont Design Standards and Guidelines; or
 - d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.
3. Burden of proof. During an appeal, the burden of proof is on the appellant.

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

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

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

Weight of the evidence means more than 50% of the evidence.
(Ord. 769 N.S., 10/2023)

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17.78.050 Call for review.

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

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

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

D. De novo hearing. The hearing will be a de novo hearing. The burden of proof is on the applicant. (Ord. 747 N.S., 02/2020)

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 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.

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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.

Daylight plane. See Section 17.90.020, Measurements.

Demolition as used in Chapter 17 means the decimating, razing, ruining, tearing down or wrecking of any structure or building, including any change to a building which removes a dwelling unit. As used herein, the word "demolition" shall include any partial demolition and any interior demolition affecting more than 70 percent of the original structure, including exterior facades, vertical elements (such as interior walls, interior stairs, chimneys) and horizontal elements (such as roof areas, floor plates), as determined by the Building Official.

Density (residential) means the amount of development per acre on a parcel under the applicable zoning, commonly measured as dwelling units per acre (du/ac). Residential density is a computation expressing number of dwelling units per acre.

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.

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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.

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: (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.

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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.

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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 where 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.

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Peak staffing means the time at which the maximum number of employees are on site.

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.

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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.

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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.

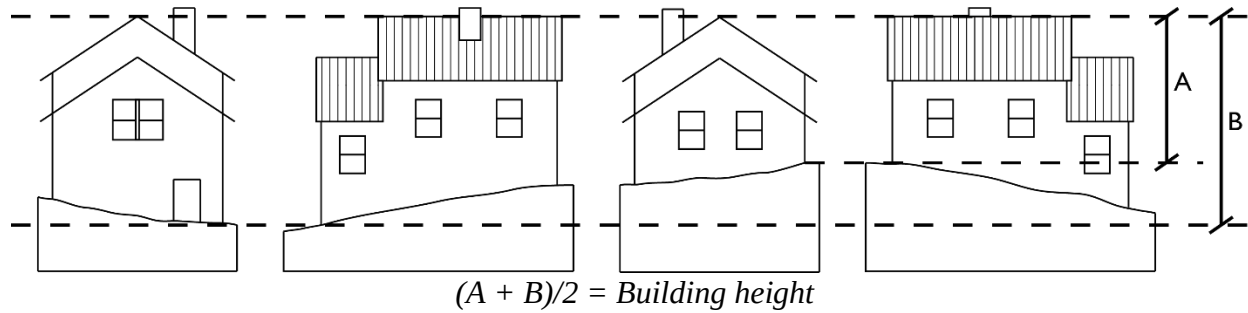
Side yard means a yard measured between the side lot line and the nearest point of the primary structure.

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 **edgeridge**, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of a chimney or communications antenna.

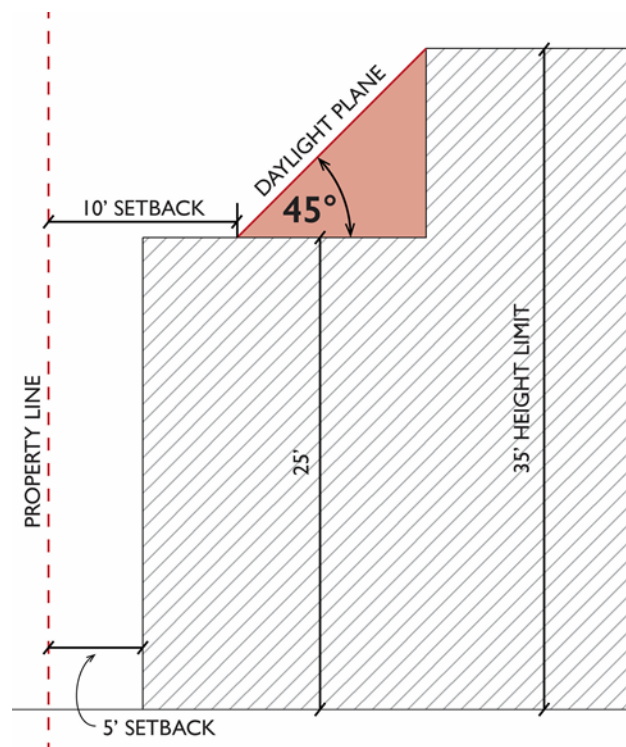
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Building height of an accessory dwelling unit is measured from the average level of the highest and lowest point of that portion of the ground covered by the footprint of the *accessory dwelling unit* to the highest point of the roof **edgeridge**, 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.)

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



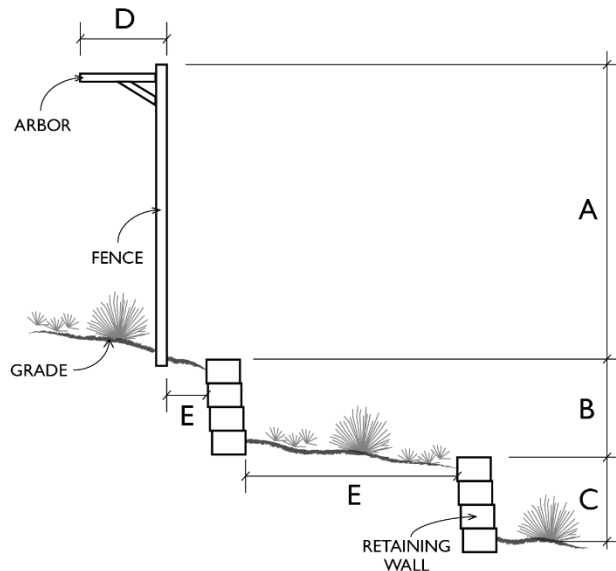
Deck means an expanse of wood or other material where any part of the horizontal surface is greater than 12 inches above the ground directly below the point of measurement.

Dwelling units per acre (du/ac) means how many individual dwellings can be located on any one lot. For example, a single-family residence on a 1-acre lot would have a density of 1 du/ac.

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Likewise, if a 50-unit apartment building is on a 0.5-acre lot, the density would be 100 du/ac. The physical size of the lot determines how many dwellings can fit on a site; a 0.5-acre lot with a density maximum of 20 du/acre would only be permitted for up to 10 dwelling units. Du/ac does not dictate unit size or unit type.

Fence means a vertical barrier that is attached to the ground or atop a retaining wall. Fencing may include a railing, free-standing wall, or a decorative element such as lattice, trellis, and covered gate, or any combination of these features. Neither the trellis or any part of the fence may be wider than 24 inches in the smallest plan dimension. A fence may be free-standing or self-supporting.



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

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

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

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

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

Floor area of a building means the sum of the gross horizontal area of the floors of the building, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, and includes, but is not limited to:

1. living space on all levels, including within a basement or attic;
2. elevator shafts and stairwells at each floor;
3. bay window or window seat that projects beyond the exterior wall in which a person can reasonably stand or sit, even if the window or seat does not have a minimum ceiling height of seven feet, six inches;
4. seventy square feet or more of contiguous non-habitable attic area that has permanent access, a minimum ceiling height of five feet, and an average ceiling height of at least seven feet six inches. *Permanent access* includes built-in stairs (even if they do not meet all of the building code requirements), but does not include built-in or pull-down ladders;
5. seventy square feet or more of contiguous non-habitable basement area that has a minimum ceiling height of seven feet and at least 42 inches of the basement level, measured from the basement ceiling, is above grade at the exterior wall;
6. enclosed porch or lanai, heated or not;

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7. high-volume space that exceeds an average height of 15 feet, measured from finished floor to the outer roof, is counted as two stories; and
8. area within a building used for commercial purposes.

Unless listed above, living space not considered habitable under the Building Code because of window size, ventilation, access, ceiling height, heating, or electrical service (e.g. unconditioned storage area) is not counted in the floor area, but if the space is actually used for living, sleeping, eating, bathing, washing, or cooking, the space will be included, subject to the interpretation of the Director. Mechanical rooms containing gas-burning furnaces or gas-burning hot water heaters are not considered a living space.

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

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

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

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

Grade.

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

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

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

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Net lot area means the area of a lot, excluding publicly dedicated land and private streets that meet local standards, and other public use areas.

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

Story means a portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above. See also *Floor height*. (Ord. 743 N.S., 05/2018, Ord. 768 N.S. 01/2023; Ord. 769 N.S., 10/2023, Ord. 772 N.S. 03/2024)

Rev. 2024-03-04 (Ordinance 772 N.S., 03/2024)

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4.H Reform the Municipal Code to Clarify the Charter

The City will reform the Municipal Code to clarify the interpretation of the Charter with respect to zoning, the interpretation of which is described in greater detail above in Program 4.G.

- Objective: Reform the Municipal Code to clarify that the City Charter does not preclude zoning amendments and does not impede the production of housing.
- Timeframe: Concurrent with other Zoning Amendments, but no later than end of 2024.
- Responsible Agency: Planning & Building Department and City Attorney with direction of the City Council and Planning Commission.
- Geographic Targeting: All zoning districts, citywide.

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4.T Establish Standards for Emergency Shelters

Consistent with SB 2 and Government Code Section 65583(a)(4), the City will amend the Zoning Ordinance to establish objective standards for emergency shelters including the maximum number of beds, parking requirements for shelter staff, provision of onsite management, length of stay, and security as allowed by SB 2. In addition, as part of its efforts to establish objective design standards for emergency shelters and to reduce constraints as identified in Appendix C, the City will eliminate the need for design review for emergency shelters that conform to the standards.

- Objective: Develop objective standards for Emergency shelters.
- Timeframe: Amend the Zoning Ordinance by March 2024.
- Responsible Agency: Planning and Building Department with direction of the City Council and Planning Commission
- Geographic Targeting: All zoning districts, citywide.

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5.B Shared Housing Matching Services

Some of Piedmont's "empty nesters" or other residents who have surplus space in their homes may wish to rent that space in return for income or care, but they may be reluctant to rent to strangers. The non-profit Eden Council for Hope and Opportunity (ECHO Housing), which serves residents throughout Alameda County, operates a shared housing program, which could potentially benefit these residents. Organizations, such as Roomily and Covia Home Match, provide similar programs. These programs match persons needing housing with homeowners who have available space. Shared housing programs can also provide a resource for low-income households, including families and seniors. The ECHO program includes counseling on shared living, supportive services, referrals, and educational workshops on home sharing. To help increase awareness of home sharing options, the City of Piedmont will issue a request for proposals (RFP) to partner with an organization to provide shared housing matching services (such as counseling, referrals, educational workshops, and supportive services) in Piedmont. Any shared housing program in

Piedmont should be designed to include extremely low-income families, as well as empty nesters and other seniors. In addition, the City will amend its zoning ordinance to relax the limits on the number of home sharing leases allowed per single-family residence to further promote affordable housing.

- Objective: Issue an RFP to partner with an organization to provide shared housing matching services, particularly to low-income households, including families and seniors.
- Timeframe: September 2023. Amend Ordinance by August 2024.
- Responsible Agency: Planning & Building Department, City Administrator with direction of City Council.
- Geographic Targeting: Citywide.

From: [garrett keating](#)
To: [City Clerk](#)
Cc: [Kevin Jackson](#)
Subject: public comment for Planning Commission
Date: Sunday, June 09, 2024 7:50:42 PM

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Hello Ms. Brown,

I am submitting the following comment for Agenda item 4 of Monday's Planning Commission meeting. Please distribute to the Planning Commissioners.

Garrett Keating

Hello Planning Commissioners:

I hope in your discussions of agenda item 4, "Public Hearing: Consideration of Recommendation to the City Council to Adopt Zoning Ordinance Amendments", you address the change being proposed by staff o section 9:02:

"In Section 9.02 of the City Charter, the prohibition not to reduce, enlarge, or reclassify a zone without a vote is understood to mean the city may not change the zone boundaries, or change (reclassify) a property from one zone to another. However, the City may make amendments to the zoning ordinance within the established zoning districts."

There is considerable background on this issue that is not included in the staff report which you can access here:

<https://piedmontexedra.com/2024/05/letter-to-the-editor-city-council-should-hear-from-citizens-before-making-zoning-changes>

<https://www.piedmontcivic.org/2022/11/06/legal-opinion-does-not-reflect-history-of-citizen-votes-on-zoning-reclassification/>

Specifically, can you speak to the City Attorney's interpretation of the Charter that only zoning map changes are subject to a vote and not use changes (amendments)? The grammar of the Charter seems quite clear that there are two actions that require a vote – a change of zone area and change of zone use (reclassification). That said, some design amendments are allowed to the planning code. My question to you is – when does an amendment rise to the level of a use change? Based on land classification guidance from the American Planning Association (<https://planning-org-uploaded-media.s3.amazonaws.com/document/Zoning-Practice-2005-09.pdf>) , form-based zoning (FBZ) does allow for discretion to make changes to

a zone but only to form, not use. That is consistent with what Council did with the adoption of the multi-use zone in Zone D as rental housing was considered a form of commerce and code changes were needed to accommodate new structures for this use. As are the new building heights and other design features to accommodate multi-family housing on Grand Avenue. Council's proposal to add multi-family housing to Blair Park seems to go way beyond the idea of "form" change and is really a change of zone use. Ignoring the City Charter aside, is it wise planning to call such broad use changes "amendments"? I note that the APA warns of the secondary impacts of FPZ on quality of life and property values.

It's really the City Attorney's role to interpret the Charter and Council history and not the Planning Commission. Nonetheless, as qualified planners and architects, and residents, I welcome your thoughts on amendments that are in truth whole-scale changes in zone use and whether that constitutes good planning. The Housing Element initially called for community outreach and discussion on this topic but that program was removed from the Housing Element at the last minute unfortunately. These hearing at the Planning Commission constitute the only public discussion of this matter.

Garrett Keating