

City of Piedmont
CITY COUNCIL AGENDA REPORT

DATE: February 2, 2026

TO: City Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Public Hearing – Introduction and First Reading of Ordinance 789 N.S. Amending Divisions 17.38 Accessory Dwelling Units, 17.62 Notice Requirements, 17.78 Appeals; Calls for Review; and 17.90 Definitions; Measurements of Chapter 17 of the Piedmont City Code and Finding that the Ordinance is Exempt under the California Environmental Quality Act

RECOMMENDED ACTION

- 1) Conduct a First Reading of Ordinance 789 N.S., Attachment A, Amending Divisions 17.38 Accessory Dwelling Units, 17.62 Notice Requirements, 17.78 Appeals; Calls for Review; and 17.90 Definitions; Measurements of Chapter 17 of the Piedmont City Code and Finding that the Ordinance is Exempt under the California Environmental Quality Act

EXECUTIVE SUMMARY

This report presents recommended amendments to the Zoning Ordinance (Piedmont City Code Chapter 17) in order to bring it into conformance with recently enacted State law regarding accessory dwelling units and junior accessory dwelling units, and also addresses comments on the current Zoning Ordinance provided by the California Department of Housing and Community Development (HCD). Staff also recommends a minor update to bring Chapter 17's noticing requirements into conformance with State law regarding the noticing of zoning changes, which went into effect in September 2024.

BACKGROUND

Governor Newsom signed five new bills affecting accessory dwelling units (ADUs) into law in 2025: AB 130, AB 462, AB 1154, SB 9 and SB 543. AB 130 went into effect on June 30, 2025. AB 462 was enacted as an urgency measure and took immediate effect when signed on October 10, 2025, while AB 1154, SB 9, and SB 543 took effect on January 1, 2026. Additionally, Governor Newsom signed AB 2904, bill modifying the public hearing noticing requirement for a zoning ordinance or amendments that affect the permitted uses of real property or an amendment to a zoning ordinance changing any property from one zone to another. AB 2904 went into effect on

January 1, 2025. These changes are largely technical and intended to clarify regulations already in effect.

Staff presented a summary of adopted legislation AB 462, AB 1154, SB 9, SB 543 and AB 2904 and resulting impacts on the Piedmont City Code and City policies to the Planning Commission in a study session on December 8, 2025. Staff recommends code changes stemming from the legislation.

In addition, on January 5, 2026, as the development of the ordinance update was underway, staff received a letter from HCD reviewing Piedmont's Accessory Dwelling Unit Ordinance (effective on January 1, 2025) under State ADU law. In addition to noting that AB 130, AB 462, AB 1154, SB 9 and SB 543 were passed in 2025 and Piedmont's Zoning Ordinance should be updated as applicable, the letter suggested revisions to clarify that Piedmont's Zoning Ordinance is compliant with State ADU law. Staff also recommends some code changes in response to this letter.

Changes to Piedmont City Code

As mentioned above, there are new State laws that require amendments to Chapter 17:

- *AB 462* (effective Oct 2025) requires the issuance of certificates of occupancy for ADUs in disaster-declared counties regardless of the primary dwelling's status.

- = *AB 1154* (effective Jan 2026) necessitates the removal of owner-occupancy requirements for JADUs that possess independent sanitation facilities and the inclusion of a mandatory minimum 30-day rental term for all JADUs.

- *SB 543* implements several changes and clarifications to state ADU law, including: (1) a clarification of the allowable square footage of a ADU or JADU is defined as interior livable space; (2) development impact fees may not be imposed on JADUs with 500 or fewer square feet or ADUs with 750 or fewer square feet; (3) and imposes timelines on local agencies to determine application completeness, subsequent resubmittals, and provides for appeals of incompleteness determinations or denials.

- *AB 2904* (effective January 1, 2025) doubles the required public notice period for proposed zoning ordinances or amendments that affect the permitted uses of real property. Local agencies, including charter cities like Piedmont, must provide at least 20 days' notice - increased from the previous 10-day requirement - before a Planning Commission public hearing. The City has been complying with this requiring, and is now updating the code to reflect the law change. This change is intended to give property owners and residents more time to understand and participate in decisions that could impact their property rights.

Recommended City Code Revisions in Response to HCD Comments

State law requires HCD review ADU ordinances. The City submitted its ordinance review on June 3, 2025. On January 5, 2026, the City received a comment letter suggesting several changes and

clarifications to Piedmont's City Code to more clearly reflect State ADU law, including: (1) adding a provision of the current Government Code to Section 17.38.050.B clarifying how an ADU or JADU application denial can be remedied; (2) revising subsection 17.38.060.B.6.c to clarify that ADUs up to 800 square feet are allowed in the front yard setback, subject to applicable side and rear setback and height requirements; and (3) while existing subsection 17.38.060.D.2 currently uses the exact wording found in Government Code Section 66323(a) regarding a permissible mix of units in a residential or mixed-use zone, HCD has recommended more explicit language stating that a unit mix of a new construction detached ADU, a converted or interior ADU, and a JADU is subject to State mandated approval.

ZONING ORDINANCE (CITY CODE CHAPTER 17) AMENDMENTS

Provided below is an outline and description of the draft revisions to the Zoning Ordinance for consistency with state legislation. A redlined version of the edits is included as Attachment B to this report.

1) Assembly Bill 462- Certificate of Occupancy

Amended Section: 17.38.060.B.6.g.iv

AB 462 changes the rules governing when an ADU certificate of occupancy (ADU) is issued in a disaster-affected area. While historically State law prohibited an agency from issuing a certificate of occupancy for an ADU before a certificate of occupancy was issued for the primary dwelling, AB 462 creates a limited exception for detached ADUs when: 1) the Governor has declared a state of emergency for the county on or after February 1, 2025; 2) the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation; and 3) the ADU has been issued construction permits and passed all required inspections. If all three conditions are satisfied, a detached ADU can now receive a certificate of occupancy before the primary dwelling. Staff recommends changing City's current regulations that require that a certificate of occupancy for a primary dwelling be issued before a certificate of occupancy is issued for an ADU.

This would require a revision to City Code Section 17.38.060.B.6.g.iv clarifying that ADUs may be issued a certificate of occupancy before the primary dwelling if eligible pursuant to Government Code Section 66328(b).

2) Assembly Bill 1154- JADU Owner Occupancy

Amended Section: 17.38.060.C.3

State law previously required a property owner to reside in either the JADU or the remaining portion of the single-family residence. AB 1154 changes this requirement to only apply when the JADU shares a bathroom with the single-family dwelling; if the JADU has a separate bathroom then the owner is not required to reside on the property. Current City Code requires a deed

restriction requiring owner-occupancy of all JADUs. Staff recommends a revision to City Code Section 17.38.060.C.3 clarifying that JADUs that have shared sanitation facilities with the existing structure are subject to the owner-occupancy requirement.

3) Senate Bill 543 –ADU and JADU Size

Amended Section: 17.90.020

State law limits a JADU to a maximum of 500 square feet and prohibits local ADU ordinances from imposing development standards that would prevent the development of an ADU that is no more than 800 square feet. SB 543 amends State law to specify that statutory references to the allowable square footage of an ADU or JADU refer to square footage of “interior livable space.”

The City Code currently measures floor area to the exterior face of exterior walls or from the center line of party walls separating two buildings or two units. SB 543 requires a revision to the definition of *Floor area* provided in City Code Section 17.90.020, *Measurements*. Staff recommends a new definition of floor area for accessory dwelling units. This new definition would clarify that for ADUs and JADUs, only interior livable space would be counted towards floor area and would not include exterior walls or other non-livable space.

4) Senate Bill 543- Appeal Process

Amended and New Sections: 17.38.050, 17.78.010, 17.38.110

State law previously did not provide for appeals of decisions related to ADU applications. SB 543 requires local agencies to provide the applicant with a written appeal process for any application incompleteness determination or application denial to the Planning Commission, City Council, or both and provide a final written determination on any appeal within 60 business days of receipt.

Currently and in compliance with previous State law, the City Code treats ADUs and JADUs as ministerial permits with no appeal process or provisions. SB 543 does not prescribe an appeal period or appeal fees but states that a city or county shall provide that the right of the appeal is to the governing body or, at their option, the Planning Commission, or both. Staff recommends a new Code section governing ADU/JADU appeals that would:

- Clarify that an applicant may appeal any determination of incompleteness, or a denial of a permit;
- Allow the applicant 5 days to file an appeal;
- Designate the Planning Commission as the hearing body for appeals and providing a period of 60 business days in which a decision must be made.; and
- Clarify that the appeal would not be a de novo hearing and the burden of proof would be on the Applicant.

5) Assembly Bill 2904

Amended Section: 17.62.030.E

AB 2904, effective January 1, 2025, amended Government Code Section 65854 to increase public transparency in the land-use process. Previous State law and the Piedmont City Code require a minimum 10-day public notice prior to a Planning Commission hearing for zoning ordinance amendments. AB 2904 changes this requirement, mandating that notice of a hearing on any proposed ordinance or amendment affecting the permitted uses of real property be published, posted, or mailed at least 20 days before the hearing date. While the City has updated its administrative practices to comply with this 20-day mandate since the law took effect, City Code Section 17.62.030.E currently contains the outdated 10-day timeframe. Staff recommends amending this section to bring the City Code into alignment with State law.

6) HCD Recommended Revision – Denials

Amended Section: 17.38.050

Per HCD's letter dated January 5, 2026, the Piedmont City Code omits reference to the requirements stated in Government Code section 66317, subdivision (b): "If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant." Therefore, HCD has stated the City must add language to provide for the requirements triggered by a denial.

Staff recommends a revision to City Code Section 17.38.050 clarifying the denial process to state that a decision to deny an application for an ADU or JADU would include a written list of defective or deficient application items and a description of how those items can be remedied.

7) HCD Recommended Edit – Front Setbacks

Amended Section: 17.38.060.B.6.c

Per HCD's letter dated January 5, 2026, the Piedmont City Code states that an ADU may be created in the front setback "...only if it is determined by the Director that there is no other configuration on the property that would allow for the construction of an 800 square foot accessory dwelling unit..." However, Government Code section 66321, subdivision (b)(3), which prohibits the application of front setbacks from prohibiting an ADU up to 800 square feet, does not allow for conditions such as the absence of alternative siting. Therefore, HCD has stated the City must amend the City Code to remove the condition that "no other configuration on the property" exist in this section.

Staff recommends a revision to City Code Section 17.38.060.B.6.c that an ADU of 800 square feet

or less can be constructed in the street yard setback in compliance with all other standards in that section. Staff recommends an additional revision stating that ADUs of more than 800 square feet in the street yard setback are subject to the Director's determination that there is no other configuration on the property that would allow for the construction of the ADU.

8) HCD Recommended Edit—Unit Mixture

Amended Section: 17.38.060.D.2

Per HCD's letter dated January 5, 2026, the use of the exact wording found in Government Code Section 66323 is not clear enough.

Staff recommends a revision to City Code subsection 17.38.060.D.2 to specify that in residential and mixed-use zones a combination of a detached ADU, a converted or interior ADU, and a JADU is allowed.

Staff Recommended Changes Since Planning Commission

In reviewing Division 17.78 (Appeals), staff previously recommended a revision to add the word "not" in the phrase "not a de novo hearing" as related to calls for review in the belief that the word's omission was a typographical error. The planning commission recommended this change in reliance of staff's belief that the phrasing in 17.78 was a typographical error. However, upon further review, staff's research indicated that the phrasing was in fact intentional, and staff has updated the ordinance to remove the amendment to City Code Section 17.78.050.D so that the language remains unchanged.

Staff has also recommended a revision to Subsection 17.38.110.B to state that the decision of the Planning Commission is final and not subject to further appeals; this would ensure that appeals of ADU decisions are processed within 60 business days per State law.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ANALYSIS (CEQA REVIEW)

The adoption of the recommended revisions to City Code Chapter 17 to regulate Accessory Dwelling Units is a project within the meaning of the California Environmental Quality Act ("CEQA"), however, the proposed City Code amendments related to ADUs are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h) which exempts adoption of ordinances to implement Government Code section 65852.2 regarding accessory dwelling units.. Additionally, the adoption of the proposed revisions to City Code section 17.62.030.E to modify noticing requirements for zoning changes is not a project within the meaning of CEQA. The revision would bring noticing requirements for proposed zoning changes in City Code Chapter 17 into conformance with State law and is not an action which has the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Section 15378.)

CITY CHARTER

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

FISCAL IMPACT

If adopted by City Council, the recommended Code revisions are not anticipated to result in a fiscal impact. The recommended amendments to the City Code are related to the routine task 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, including a fee for appeals.

CITY ATTORNEY REVIEW

The recommended amendments to the Zoning Ordinance have been reviewed by the City Attorney.

PLANNING COMMISSION RECOMMENDATION

On January 12, 2026, the Planning Commission held a public hearing to consider the recommended amendments to the Zoning Ordinance described above. No oral or written comments were submitted. During the Commission's discussion, Commissioner Beuselinck recommended that staff give further study to the addition of the word "not" to Code section 17.78.050.D to determine consistency with the intent of that Code section governing calls for review. After careful consideration the Commission voted unanimously to recommend that the City Council adopt the updates.

PUBLIC PARTICIPATION

One Planning Commission study session was held on December 8, 2025 as a platform for the public and the Planning Commission to discuss the recently adopted legislation and the recommended code changes. A Public Hearing Notice for the proposed code changes was posted in *The Piedmonter* on January 16, 2026, notifying the public about tonight's City Council Public Hearing. No written or verbal public comments were received. The community continues to have the opportunity to directly address the City Council during meetings related to the adoption of the recommended code changes.

CONCLUSION AND NEXT STEPS

As noted above, the recommended revisions to Piedmont's Zoning Ordinance are a response to recently enacted State laws and enhance clarity, consistency, and overall effectiveness of the City's ADU and noticing regulations.

Staff and the Planning Commission recommend that the City Council adopt Ordinance 789 N.S. amending City Code divisions 17.38, 17.62, 17.78 and 17.90.

The City Council is the decision-making body for the adoption of proposed amendments to the City Code. Should the Council approve a first reading of the recommended ordinance on February 2, 2026, a second reading could occur as soon as February 20, 2026, and the Code amendments would go into effect thirty days after that time.

Report By: Kevin Jackson, Director of Planning & Building
Tiffany Edwards, Associate Planner

ATTACHMENTS AND RELEVANT DOCUMENTS

	<u>Pages</u>	
A	10-18	Ordinance 789 N.S.
B	19-21	HCD Letter dated January 5, 2026
C	22-58	Chapter 17 redline edits

LINKS TO RELEVANT DOCUMENTS

Link to Planning Commission Staff Reports:

https://piedmont.ca.gov/government/commissions___committees/planning_commission

Link to all meeting videos:

https://piedmont.ca.gov/news/kcom-tv/live_content_and_video_archive

Piedmont City Code Chapter 17, Planning and Land Use:

https://piedmont.ca.gov/government/charter_city_code

Assembly Bill 462:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB462

Assembly Bill 1154:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB1154

Senate Bill 9:

<https://legiscan.com/CA/text/SB9/id/3221566/California-2025-SB9-Amended.html>

Senate Bill 543:

<https://legiscan.com/CA/text/SB543/id/3272964/California-2025-SB543-Chaptered.html>

Assembly Bill 2904:

<https://legiscan.com/CA/text/AB2904/id/3023159/California-2023-AB2904-Chaptered.html>

ORDINANCE NO. 789 N.S.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF PIEDMONT AMENDING
DIVISION 17.38 ACCESSORY DWELLING UNITS, 17.62 NOTICE REQUIREMENTS,
DIVISION 17.78 APPEALS; CALLS FOR REVIEW AND 17.90 DEFINITIONS;
MEASUREMENTS OF CHAPTER 17 OF THE PIEDMONT CITY CODE; AND
FINDING THAT THE ORDINANCE IS EXEMPT UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, the California State Legislature adopted, and Governor Newsom signed, five laws related to accessory dwelling unit (ADU) in 2024 and 2025: Assembly Bill (AB) 130, AB 462, AB 1154, Senate Bill (SB) 543, and AB 2904; and

WHEREAS, AB 130 removed a provision in State ADU law that had previously authorized local agencies to impose objective standards on multifamily ADUs, but this change in state law does not necessitate a change to the Piedmont City Code because the City did not have objective design standards for multifamily ADUs; and

WHEREAS, AB 462 provides a pathway for ADUs in disaster-affected areas to be issued a certificate of occupancy before the primary dwelling, if eligible; and

WHEREAS, AB 1154 impacts junior accessory dwelling units (JADUs), and provides that owner-occupancy requirements are not allowed if the JADU has separate sanitation facilities; and

WHEREAS, SB 543 implements several changes and clarifications to state ADU law, including: (1) a clarification of the allowable square footage of a ADU or JADU is defined as interior livable space; (2) development impact fees may not be imposed on JADUs with 500 or fewer square feet or ADUs with 750 or fewer square feet; (3) and imposes timelines on local agencies to determine application completeness, subsequent resubmittals, and provides for appeals of incompleteness determinations or denials;

WHEREAS, AB 2904 requires notice of the Planning Commission's hearing on a proposed zoning ordinance or amendment affecting the permitted uses of real property to be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days before the hearing, whereas previously 10 days' notice was required; and

WHEREAS, the proposed amendments comply with state legislation, including AB 462, AB 1154, SB 453, and AB 2904 (noting that AB 130 does not require a code change); and

WHEREAS, on January 5, 2026, the City of Piedmont received comments from the California Department of Housing and Community Development ("HCD") based on adopted ordinances submitted to HCD on June 3, 2025, and the proposed ordinance includes amendments to comply with HCD's comments; 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 January 12, 2026, consistent with existing City Code section 17.72.040 and recommended that the City Council adopt an ordinance amending sections of Divisions 17.38 Accessory Dwelling Units, 17.62 Notice Requirements, Division 17.78 Appeals; Calls for Review and 17.90 Definitions; Measurements of Chapter 17 of the Piedmont City Code, to bring the City Code into compliance with statewide legislation Assembly Bill (AB) 462, Assembly Bill 1154, Senate Bill (SB) 453, and Assembly Bill (AB) 2904; 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 February 2, 2026, consistent with existing City Code section 17.72.050.

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

SECTION 1 – BACKGROUND AND INTENT

The City Council of the City of Piedmont's intent is to adopt amendments to bring the Piedmont City Code into compliance with recent state law changes related to Accessory Dwelling Units, Junior Accessory Dwelling Units, and noticing for zoning changes, as reflected in AB 462, AB 1154, SB 543, and AB 2904.

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. The proposed revisions implement amendments related to accessory dwelling units and public hearing notification requirements.
- C. 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.
- D. The proposed amendments comply with recent state law and comments received from HCD on January 5, 2026.
- E. The proposed amendments further public health, safety, and welfare of the community.

SECTION 3 – AMENDMENT TO SECTION 17.38.050

Section 17.38.050 Zoning regulations; Accessory dwelling unit development standards; Permit application and review procedures, of the Piedmont City Code is hereby amended to read in its entirety as follows:

“A. Application.

1. Application. An owner may apply for an accessory dwelling unit permit (or other city approval) by submitting a complete application to the Director on a form provided by the city.
2. Application fee. The owner shall pay an application fee in the amount established by City Council resolution.

B. Ministerial review. The Director shall review each application ministerially to determine if the development standards in section 17.38.060 are met, and shall within 60 days of a completed application approve or deny the application, except if the application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to create a new single-family or multi-family dwelling on the lot, the Director shall delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until permits for the new single-family or multi-family dwelling are approved. The Director will review the application without notice or public hearing. As part of a denial decision, the Director shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant, as specified in Government Code Section 66317(b), or any successor statute thereto. The time period for review may be tolled at the request of the applicant.

C. Decision and conditions. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final unless an appeal is filed in accordance with section 17.38.110. (Ord. 768 N.S., 01/2023)”

SECTION 4 – AMENDMENT TO SUBSECTION 17.38.060.B.6.c

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

“c. Street Yard Setback. Accessory dwelling units of 800 square feet or less can be constructed in the street yard setback in compliance with all other standards in this section, including height limits. Accessory dwelling units of more than 800 square feet can be constructed in the street yard setback only if it is determined by the Director that there is no alternative configuration on the property that would allow for the construction of the accessory dwelling unit outside the four feet side and rear setbacks in compliance with all other standards in this section, including height.”

SECTION 4 – AMENDMENT TO SUBSECTION 17.38.060.B.6.g.iv

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

- “iv. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling or multi-family dwelling, unless the accessory dwelling unit is eligible pursuant to a proclamation of a state of emergency as specified in Government Code Section 66328(b), or any successor statute thereto.”

SECTION 5 – AMENDMENT TO SUBSECTION 17.38.060.C.3

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

“Use Restrictions. The following restrictions shall apply to junior accessory dwelling units:

- a. The City shall record a deed restriction with the County Recorder Office. The deed restriction shall prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.
- b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit.
- c. If a junior accessory dwelling unit has shared sanitation facilities with the existing structure, the site's owner shall not allow occupancy of the junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy on the site as their primary residence. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit pursuant to Government Code Section 66333(g).
- d. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.
- e. A junior accessory dwelling unit may be rented but shall not be used for rentals of a term less than thirty (30) consecutive days.”

SECTION 6 – AMENDMENT TO SECTION 17.38.060.D

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

“D. Projects subject to state mandated approval. Notwithstanding anything in this code to the contrary, the Director and Building Official shall ministerially approve permits required to create any of the following within a residential or mixed-use zone:

1. One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - b. The accessory dwelling unit has exterior access that is separate from the exterior entrance proposed or existing single-family dwelling.
 - c. The side and rear setbacks are sufficient for fire and safety.
 - d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.

The converted or interior accessory dwelling unit and junior accessory dwelling unit in this subsection may be combined with a detached accessory dwelling unit as described in subparagraph 2 below, as specified in Government Code Section 66323(a) or any successor statute thereto.

2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, subject to the following requirements:
 - a. A total floor area limitation of not more than 800 square feet.
 - b. A height limitation of 18 feet, plus for single family residential zoned lots an additional two feet to accommodate a roof pitch that is aligned with the roof pitch of the existing or proposed main house.

The new construction detached accessory dwelling unit in this subsection may be combined with a junior accessory dwelling unit and a converted or interior accessory

dwelling unit as described in subparagraph 1 above, as specified in Government Code Section 66323(a) or any successor statute thereto.

3. Not more than eight (8) detached accessory dwelling units located on a lot that has an existing multi-family dwelling, with the maximum number of allowed accessory dwelling units equal to the number of existing primary multifamily units on the lot, subject to a height limit of 18 feet and four-foot yard setbacks. If the existing multi-family dwelling has a rear or side setback of less than four feet, modification of the existing multifamily dwelling is not required as a condition of constructing the accessory dwelling unit.
4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this subsection shall not exceed 25 percent of the existing dwelling units in the multi-family dwelling structure or one new accessory dwelling unit, whichever is greater. (Ord. 768 N.S., 01/2023; Ord. 769 N.S., 10/2023; Ord 782 N.S. 07/2025)”

SECTION 7 – ADDITION OF SECTION 17.38.110

Section 17.38.110 Appeals is added to Division 17.38 Accessory Dwelling Units to read as follows:

“17.38.110 Appeals.

The Applicant may only appeal a determination that: (1) an application of an accessory dwelling unit or junior accessory dwelling unit is incomplete, or (2) an application of an accessory dwelling unit or junior accessory dwelling unit is denied.

- A. Submission: The appeal shall be submitted in writing to the Director within 5 calendar days of the decision, stating the grounds for appeal. The request must be timely filed with the City Clerk, and accompanied by the appeal fee, which fee shall be established by Resolution of the City Council.
- B. Hearing Body: The appeal will be heard by the Planning Commission, and review shall be conducted in accordance with Section 17.78.040. The decision of the Planning Commission is final and not subject to further appeals.
- C. Timing: A final written decision on the appeal shall be issued within 60 days of the City’s receipt of the written appeal request and payment of the appeal fee.”

SECTION 8 – AMENDMENT TO SUBSECTION 17.62.030(E)

Subsection 17.62.030(E) of Section 17.62.030 Summary of notice requirements, of the Piedmont City Code is hereby amended to read in its entirety as follows:

“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 accommodation³			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.				
		Notice by City at least 20 days before the hearing. ²				
Zoning Regulation Amendment affecting the permitted use of real property		Publish notice in newspaper of general circulation within the City. ⁵				
Zoning Map Amendment affecting the permitted use of real property		Publish notice in newspaper of general circulation within the City. ⁵				

¹ See section 17.62.030B.

² See section 17.62.030C.

³ Subject to section 17.76.040.

⁴ For an application considered by Planning Commission

⁵ Subject to section 17.62.030, subsections A and C.”

SECTION 9 – AMENDMENT TO SUBSECTION 17.78.010

Subsection 17.78.010 of Section 17.78.010 General of the Piedmont City Code is hereby amended to read in its entirety as follows:

“17.78.010 General.

Except for a decision regarding an accessory dwelling unit under division 17.38 or wireless communication facilities under division 17.46, 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. Appeals of decisions regarding wireless communication facilities are governed under Section 17.46.100, and appeals regarding accessory dwelling units are governed under Section 17.38.110.

The city will not approve a building permit during the appeal period.”

SECTION 10 – AMENDMENT TO SECTION 17.90.020

The definition of Floor Area of an accessory dwelling unit is added to Section 17.90.020 of the Piedmont City Code to read as follows:

“Floor area of an accessory dwelling unit means the sum of the gross horizontal area of the interior livable space of the building, measured from the interior faces of interior walls or from the interior line of party walls separating two buildings. Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation. Living area means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure, as defined in California Government Code section 66313.”

SECTION 11– CALIFORNIA ENVIRONMENTAL QUALITY ACT

The adoption of the proposed revisions to Chapter 17 to regulate Accessory Dwelling Units is not a project within the meaning of the California Environmental Quality Act (“CEQA”). In the event it is a project under CEQA, the proposed City Code amendments related to ADUs are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h) which exempts adoption of ordinances to implement Government Code section 65852.2 regarding accessory dwelling units. The adoption of the proposed revisions to Chapter 17 to modify noticing requirements for zoning changes is not a project within the meaning of CEQA. The revision would bring noticing requirements for proposed zoning changes in Chapter 17 into conformance with legislation enacted by the State Legislature and is not an action which has the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Section 15378.)

SECTION 12– 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 13– 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 14 – CODIFICATION

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

SECTION 15 – 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]

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannan Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



January 5, 2026

Pierce MacDonald, Senior Planner
Planning & Building Department
City of Piedmont
120 Vista Ave
Piedmont, CA 94611

Dear Pierce MacDonald:

RE: Review of Piedmont's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310 - 66342)

Thank you for submitting the City of Piedmont (City) ADU Ordinance No. 777 (Ordinance), adopted January 21, 2025, to the California Department of Housing and Community Development (HCD). Given that the Ordinance included only the changes to the language of Section 17.40, HCD has reviewed both the Ordinance and Section 17.38 of the Municipal Code and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance and Municipal Code fail to comply with State ADU Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than February 4, 2026, with a plan to either amend the current ordinance or adopt a resolution with findings.¹ Responses should be submitted formally on agency letterhead.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law as follows:

1. Please note, there is recent legislation that amended State ADU Law. Language relevant to these changes should be incorporated into the Ordinance as it is updated. The bills referenced below are relevant to State ADU Law:
 - Assembly Bill (AB) 130 – Effective June 30, 2025
 - AB 462 – Effective October 10, 2025
 - AB 1154 – Effective January 1, 2026
 - Senate Bill (SB) 9 – Effective January 1, 2026
 - SB 543 – Effective January 1, 2026

¹ Gov. Code, § 66326, subd. (b)(2)(B).

2. Section 17.38.050 B. – *Denial* – The Municipal Code states that the director “...shall within 60 days of a completed application approve or deny the application” for an ADU application. However, the Municipal Code omits reference to the requirements stated in Government Code section 66317, subdivision (b): “If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.” The City must add language to provide for the requirements triggered by a denial.
3. Section 17.38.060 B.6.c. – *Front Setbacks* – The Municipal Code states that an ADU may be created in the front setback “...only if it is determined by the Director that there is no other configuration on the property that would allow for the construction of an 800 square foot accessory dwelling unit...” However, Government Code section 66321, subdivision (b)(3), which prohibits the application of front setbacks from prohibiting an ADU up to 800 square feet, does not allow for conditions such as the absence of alternative siting. Therefore, the City must amend the Municipal Code to remove the condition that “no other configuration on the property” exist in this section.
4. Section 17.38.060 D.2. – *Unit Mixture* – The previous findings letter to the City, sent on April 10, 2023, finding number 2 centered on the phrase “[the] new construction detached accessory dwelling unit in this subsection may be combined with a junior accessory dwelling unit as described above.” This phrase remains unchanged in the current municipal code, and so HCD remains concerned that the City may not permit the unit mixture that is required by Government Code section 66323, subdivision (a) – with a single-family primary dwelling, 1 new construction detached ADU up to 800 square feet, 1 converted or interior ADU and 1 JADU. In response to this letter, please confirm that the City will ministerially permit all state-mandated units.

The City has two options in response to this letter.² The City can either 1) amend the Ordinance to comply with State ADU Law³ or 2) adopt the Ordinance without changes and include findings in its resolution accompanying the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD’s findings.⁴ If the City fails to take either course of action, or if HCD finds that the newly adopted Ordinance remains out of compliance with State ADU Law despite the City’s findings and explanations, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.⁵

² Gov. Code, § 66326, subd. (c)(1).

³ Gov. Code, § 66326, subd. (b)(2)(A).

⁴ Gov. Code, § 66326, subd. (b)(2)(B).

⁵ Gov. Code, § 66326, subd. (c)(1).

Pierce MacDonald, Senior Planner
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HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike VanGorder at Mike.vangorder@hcd.ca.gov if you have any questions or wish to discuss any of HCD's findings.

Sincerely,

A handwritten signature in black ink that reads "Jamie Candelaria". The script is cursive and fluid.

Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

Chapter 17
PLANNING AND LAND USE

ARTICLE 1. GENERAL PROVISIONS

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- 17.74 Development agreements
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ARTICLE 5. DEFINITIONS; MEASUREMENTS
17.90 Definitions & Measurements

DIVISION 17.38

ACCESSORY DWELLING UNITS

Sections

17.38.010	Purpose and intent
17.38.020	Definitions
17.38.030	Legal accessory dwelling units; Non-conforming accessory dwelling units; Requirements for rented accessory dwelling units
17.38.040	Permit requirement
17.38.050	Permit application and review procedures
17.38.060	Zoning regulations; Accessory dwelling unit development standards; Junior accessory; dwelling unit development standards; Projects subject to state mandated approval
17.38.070	Accessory dwelling unit size exception
17.38.075	Pre-approved Plans Incentive
17.38.080	Unpermitted accessory and junior accessory dwelling unit
17.38.090	Removal of Owner Occupancy Restrictions
17.38.100	Separate conveyance
<u>17.38.110</u>	<u>Appeals</u>

17.38.010 Purpose and intent.

The State Legislature has declared that accessory dwelling units are a valuable form of housing in California. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices, and within existing neighborhoods. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security. (Gov't. Code § 65852.150.)

The city has a long history of various types of accessory dwelling units. By enacting this division 17.38, the City Council intends to:

- A. Establish the requirements for accessory dwelling units and junior accessory dwelling units in the city, consistent with California Government Code section 65852.2 and 65852.22;
- B. Encourage the use of existing accessory dwelling units and the construction of new accessory dwelling units, consistent with this Division;
- C. Help achieve the goals and policies of the General Plan Housing Element by encouraging a mix of housing types affordable to all economic segments of the community; and
- D. Clarify the requirements for the various kinds of accessory dwelling units in the city. (Ord. 768 N.S., 01/2023)

17.38.020 Definitions.

In this division 17.38, the following definitions apply, in addition to the definitions set forth in division 17.90:

Accessory dwelling unit means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit may also include (1) an efficiency unit, as defined in Health and Safety Code section 17958.1 and (2) a manufactured home as defined in Health and Safety Code section 18007. (Formerly called second dwelling unit. See section 17.38.030 for types of accessory dwelling units and permits.) (Ord. 769 N.S., 10/2023)

Affordable housing definitions:

Affordable Rent Level means that the accessory dwelling unit household's monthly cost of rent, plus the cost of electricity, gas, water and sewer service, and garbage collection ("utilities") is 30% or less than the upper limit of the annual gross household income, divided by 12, for a specified income category and household size as last published by the California Department of Housing and Community Development (HCD). The City shall determine maximum affordable rent levels for rent-restricted accessory dwelling units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted accessory dwelling units shall be: studio, 1 person; one-bedroom, 2 persons; two-bedroom, 3 persons; and, three-bedroom, 4 persons. The cost of utilities for the accessory dwelling unit shall be included in the affordable rent level. For rent-restricted accessory dwelling units where utilities are separately metered and billed, and where the accessory dwelling unit household is responsible for the costs of that household's use of utilities, the maximum rent shall be set at 90% of the affordable rent level. (California Health and Safety Code section 50053)

Affordable unit means a dwelling unit for sale or rent that meets the California State Department of Housing and Community Development standards of income eligibility and affordable rent levels for Alameda County. (Health and Safety Code sections 50052.5(h) and 50053.)

Gross Household Income means the total monies earned or received by all occupants of an accessory dwelling unit age 18 and over, including: wages and all types of compensation, before any payroll deductions; spousal and child support; social security, retirement, disability, insurance, and other types of periodic payments; unemployment compensation and other payments in-lieu of earnings; welfare and other public assistance; interest, dividends and other payments generated from any real or personal property; net business income; and, any other type of payment determined to qualify as income by the U.S. Department of Housing and Urban Development (HUD) and as published in HUD's Housing Choice Voucher Program Guidebook. The annual gross household income is calculated by multiplying the monthly amounts earned or received at the time of certification by 12 and adjusting for anticipated payments and changes in amounts over the next 12 months.

Household means those persons who collectively occupy a housing unit. A household shall include any child or dependent, as defined Internal Revenue Code section 152, who is under the age of 18 or who is under the age of 24 and is a full-time student.

Household Size means the number of persons in a household.

Household, Extremely Low Income means a household with an annual gross household income of 30% or less than the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Low Income means a household with an annual gross household income between 50% and 80% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Household, Moderate Income means a household with an annual gross household income between 80% and 120% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50093)

Household, Very Low Income means a household with an annual gross household income between 30% and 50% of the Alameda County median annual gross household income for that household size as last published by HCD. (Health and Safety Code section 50079.5.)

Junior accessory dwelling unit means a unit that is no more than 500 square feet in size and contained within a single-family residence, with a separate entrance. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, but shall include an efficiency kitchen that provides for a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

Primary unit means a principal, permitted single-family or multi-family dwelling. (Ord. 768 N.S., 01/2023; Ord. 769 N.S., 10/2023)

17.38.030 Legal accessory dwelling units; Non-conforming accessory dwelling units; Requirements for rented accessory dwelling units.

A. Legal accessory dwelling units.

The following are kinds of legal accessory dwelling units and permits. Each may be used and rented (subject to the business tax for rental property):

1. Accessory dwelling unit permit. An accessory dwelling unit or junior accessory dwelling unit permitted under an accessory dwelling unit permit is a legally existing accessory dwelling unit. (This includes an accessory dwelling unit approved subject to a variance and an accessory dwelling unit approved subject to exceptions and rent-restrictions, both under section 17.38.070.) If the unit is rent-restricted, then a tenant must be qualified by income level under the permit conditions of approval and the terms of the recorded declaration.
2. Second unit permit. A second unit permit issued before December 31, 2016 is a legal accessory dwelling unit.

3. Conditional use permit second unit. Between January 19, 1994 and July 1, 2003, second units were approved by conditional use permit. A second unit permitted under a conditional use permit during that period of time is a legal accessory dwelling unit.
4. Exempt accessory dwelling unit. If an accessory dwelling unit was established before 1930, and the City has confirmed the exempt status in writing, the accessory dwelling unit is a legally existing accessory dwelling unit.
5. Temporary use permit second unit. A temporary use permit second unit approved by the City between May 6, 1987 and July 1, 2003, under former Chapter 17D, is a legal accessory dwelling unit (and the temporary nature now recognized as permanent).

Any accessory dwelling unit or junior accessory dwelling unit that is not established pursuant to one of the above categories shall not be a legal accessory dwelling unit, except as may be specifically permitted under Government Code section 65852.23.

B. Non-conforming accessory dwelling units. A legal, non-conforming unit may not be modified or expanded except in compliance with division 17.50, Nonconforming buildings and uses.

C. Requirements for legal accessory dwelling units that are rented. If an accessory dwelling unit is rented to a tenant, these additional requirements apply:

1. Business tax. An accessory dwelling unit that is rented is subject to an annual business tax for rental property, under City Code chapter 10.
2. Rent restrictions. An accessory dwelling unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See section 17.38.070.) (Ord. 768 N.S., 01/2023)

17.38.040 Permit requirement.

A. Accessory dwelling unit permit. An accessory dwelling unit permit is required for construction of an accessory dwelling unit or junior accessory dwelling unit or the modification of exterior features, size, or height of an existing accessory dwelling unit or junior accessory dwelling unit.

B. Building permit. A building permit shall be required for construction or modification of an accessory dwelling unit or junior accessory dwelling unit as set forth in the California Residential Code and other building standards adopted by the City. (Ord. 768 N.S., 01/2023)

17.38.050 Permit application and review procedures.

A. Application.

1. Application. An owner may apply for an accessory dwelling unit permit (or other city approval) by submitting a complete application to the Director on a form provided by the city.

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

B. Ministerial review. The Director shall review each application ministerially to determine if the development standards in section 17.38.060 are met, and shall within 60 days of a completed application approve or deny the application, except if the application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to create a new single-family or multi-family dwelling on the lot, the Director shall delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until permits for the new single-family or multi-family dwelling are approved. The Director will review the application without notice or public hearing. As part of a denial decision, the Director shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant, as specified in Government Code Section 66317(b), or any successor statute thereto. The time period for review may be tolled at the request of the applicant.

C. Decision and conditions. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final unless an appeal is filed in accordance with section 17.38.110. (Ord. 768 N.S., 01/2023)

17.38.060 Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval.

A. Zoning regulations. A proposed accessory dwelling unit must comply with the zoning regulations for the district in which it is located, subject to the requirements or exclusions in this section. (See divisions 17.20 through 17.28.)

B. Accessory dwelling unit development standards. An accessory dwelling unit shall comply with all of the following development standards, except the Director may grant an exception to the unit maximum size restriction under section 17.38.070.

1. Size. An attached accessory dwelling unit may not exceed 50% of the existing living area up to a maximum of 850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom, except where a restriction to 50% of existing living area would result in a maximum size of less than 800 square feet, an attached accessory dwelling unit of no more than 800 square feet shall be permitted, subject to the zoning regulations and development standards in this section. A detached accessory dwelling unit may not exceed 850 square feet, or 1,000 square feet if the accessory dwelling unit will include more than one bedroom. The minimum floor area for an accessory dwelling unit shall be 150 square feet. The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
2. Access. The accessory dwelling unit must have independent, exterior access.

3. Subdivision. No subdivision of land is authorized that would result in an accessory dwelling unit being located on a separate parcel, unless each parcel meets all of the zoning requirements for the zoning district in which it is located.
4. Building Height. A detached accessory dwelling unit shall not exceed a building height of 18 feet. An additional height of two feet for a detached accessory dwelling unit shall be allowed to accommodate a roof pitch that is aligned with the roof pitch of the primary dwelling unit. An attached accessory dwelling unit shall not exceed a building height of 25 feet or the height limitations for a primary dwelling unit of the underlying zoning district, whichever is lower.
5. Design Criteria. The design of the structure(s) housing the proposed accessory dwelling unit must meet applicable objective design criteria in the Piedmont Design Standards and Guidelines and any additional design standards applicable to accessory dwelling units approved by City Council resolution.
6. Limitations on city's approval. Under Government Code section 66314, or any successor statute, the following limitations apply to any city approval:
 - a. Parking. When a garage, carport, uncovered parking space or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City shall not require the replacement of off-street parking spaces.
 - b. Side and Rear Setbacks. No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure. If an accessory dwelling unit is not converted from an existing structure, the minimum setback is four feet from the side and rear lot line.
 - c. Street Yard Setback. Accessory dwelling units of 800 square feet or less can be constructed in the street yard setback ~~only if it is determined by the Director that there is no other configuration on the property that would allow for the construction of an 800 square foot accessory dwelling unit outside the four foot side and rear setbacks~~ and in compliance with all other standards in this section, including height limits. Accessory dwelling units of more than 800 square feet can be constructed in the street yard setback only if it is determined by the Director that there is no alternative configuration on the property that would allow for the construction of the accessory dwelling unit outside the four foot side and rear setbacks in compliance with all other standards in this section, including height.
 - d. Fire sprinklers. Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in any other existing dwelling. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

- i. When fire sprinklers are currently installed in the primary dwelling unit; or
- ii. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit.
- e. Passageway. No passageway will be required.
- f. Minimum lot area or lot size. Notwithstanding anything in divisions 17.20 through 17.28, no minimum lot area or lot size shall be imposed with respect to the approval of permits for an accessory dwelling unit.
- g. Floor Area Ratio, Lot Coverage, and Landscaping.
 - i. Lot coverage. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
 - ii. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
 - iii. Floor Area Ratio. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum floor area ratio requirement. Maximum floor area ratio for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
 - hiv. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling or multi-family dwelling unless the accessory dwelling unit is eligible pursuant to a proclamation of a state of emergency as specified in Government Code Section 66328(b), or any successor statute thereto.
 - vi. Utility Connections. For an accessory dwelling unit described in section 17.38.060.D.1, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.

- 7. An ADU or JADU shall not be permitted on a lot created pursuant to Government Code Sections 65852.28 and 66499.41, as they may be amended from time to time.

C. Junior accessory dwelling unit development standards.

1. General provisions. The following provisions shall apply to junior accessory dwelling units:
 - a. A junior accessory dwelling shall not be constructed unless a single-family dwelling unit exists on a site and such single-family dwelling unit has been constructed lawfully, or the junior accessory dwelling unit is proposed as part of the construction of the single-family dwelling unit. A junior accessory dwelling unit shall be a permitted use in any lot zoned to allow a single-family residential use.
 - b. No lot shall contain more than one (1) junior accessory dwelling unit.
 - c. A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling, however, an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling shall be permitted for purposes of accommodating ingress and egress. For purposes of this provision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.
 - d. A junior accessory dwelling unit shall not be sold or otherwise conveyed separate from the single-family dwelling unit.
 - e. A junior accessory dwelling unit shall have an exterior point of access directly into the junior accessory dwelling unit that is separate and independent from the single-family dwelling unit.
 - f. A building permit shall be required to construct a junior accessory dwelling unit or to establish a junior accessory dwelling unit within the existing space of a single-family dwelling. Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.
 - g. A junior accessory dwelling unit that shares a bathroom with the existing or proposed single-family dwelling unit shall provide an interior entry to the existing or proposed single-family dwelling unit's "main living area".
2. Development standards. The following provisions shall apply to junior accessory dwelling units:
 - a. A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes. Installation of fire sprinklers in a junior accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the

- primary dwelling unit” under the circumstances as specified in section 17.38.060.B.6.d.
- b. The minimum floor area for a junior accessory dwelling unit shall be 150 square feet.
 - c. The maximum floor area for a junior accessory dwelling unit shall not exceed five-hundred square feet. If the sanitation facility is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.
 - d. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may be constructed only if the following setbacks are maintained:
 - i. a street yard setback accordance with the applicable zoning district.
 - ii. a minimum side yard setback of four feet.
 - iii. a minimum rear yard setback of four feet.
 - e. No parking shall be required for a junior accessory dwelling unit.
 - f. No lot coverage or landscaping requirement shall apply to a junior accessory dwelling unit.
 - g. No height restriction shall apply to a junior accessory dwelling unit.
 - h. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.
 - i. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, provided that it is constructed in compliance with all building standards and other standards of this division.
 - j. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in the Piedmont Design Standards and Guidelines. This 150-square-foot of expansion can include removal of an uncovered parking space.
 - k. An ADU or JADU shall not be permitted on a lot created pursuant to Government Code Sections 65852.28 and 66499.41, as they may be amended from time to time.

3. Use Restrictions. The following restrictions shall apply to junior accessory dwelling units:
 - a. The City shall record a deed restriction with the County Recorder Office. The deed restriction shall prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.
 - b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. ~~The site's owner shall be required to reside in the single family dwelling unit as their primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.~~
 - c. If a junior accessory dwelling unit has shared sanitation facilities with the existing structure, ~~A~~ the site's owner shall not allow occupancy of ~~a~~ the junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy ~~of the primary dwelling unit on the site~~ as their primary residence. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit pursuant to Government Code Section 66333(g).
 - d. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.
 - e. A junior accessory dwelling unit may be rented but shall not be used for rentals of a term less than thirty (30) consecutive days.
- D. Projects subject to state mandated approval. Notwithstanding anything in this code to the contrary, the Director and Building Official shall ministerially approve permits required to create any of the following within a residential or mixed-use zone:
 1. One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - b. The accessory dwelling unit has exterior access that is separate from the exterior entrance proposed or existing single-family dwelling.

- c. The side and rear setbacks are sufficient for fire and safety.
- d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.

The converted or interior accessory dwelling unit and junior accessory dwelling unit in this subsection may be combined with a detached accessory dwelling unit as described in subparagraph 2 below, as specified in Government Code Section 66323(a) or any successor statute thereto.

- 2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, subject to the following requirements:
 - a. A total floor area limitation of not more than 800 square feet.
 - b. A height limitation of 18 feet, plus for single family residential zoned lots an additional two feet to accommodate a roof pitch that is aligned with the roof pitch of the existing or proposed main house.

The new construction detached accessory dwelling unit in this subsection may be combined with a junior accessory dwelling unit and a converted or interior accessory dwelling unit as described in subparagraph 1 above, as specified in Government Code Section 66323(a) or any successor statute thereto.

- 3. Not more than eight (8) detached accessory dwelling units located on a lot that has an existing multi-family dwelling, with the maximum number of allowed accessory dwelling units equal to the number of existing primary multifamily units on the lot, subject to a height limit of 18 feet and four-foot yard setbacks. If the existing multi-family dwelling has a rear or side setback of less than four feet, modification of the existing multifamily dwelling is not required as a condition of constructing the accessory dwelling unit.
- 4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this subsection shall not exceed 25 percent of the existing dwelling units in the multi-family dwelling structure or one new accessory dwelling unit, whichever is greater. (Ord. 768 N.S., 01/2023; Ord. 769 N.S., 10/2023; Ord 782 N.S. 07/2025)

17.38.070 Unit size exception.

A. Exception to unit size. The Director shall approve an exception to the maximum unit size set forth in section 17.38.060 B.1 for an accessory dwelling unit upon request of an applicant in accordance with the requirements of this section. If an exception is granted, the accessory dwelling unit shall be subject to all the requirements set forth below.

If the unit includes:	expansion up to 1,000 square feet	expansion to 1,200 square feet
One bedroom or less	Imposition of covenants requiring an affordable rent level to households of low income	Imposition of covenants requiring an affordable rent level to households of very low income
More than one bedroom	N/A	Imposition of covenants requiring an affordable rent level to households of very low income

B. Additional requirements. If an accessory dwelling unit permit with a unit size exception is approved, it is subject to the following additional requirements.

1. Rent restriction.

- a. Declaration of rent restrictions. The accessory dwelling unit permit with a unit size exception shall have a condition describing the type of rent restriction applicable to the property. The rent-restriction shall be recorded in the county recorder's office, as a declaration of rent restrictions (in a form provided by the city), and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration.

If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the city will record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

- b. Affordable rent certification. An owner who has executed a declaration must submit to the city an accessory dwelling unit affordable rent certification: (i) on an annual basis, by each December 31 and as part of the annual city business license application and renewal; and (ii) upon any change in occupancy of the accessory dwelling unit. The accessory dwelling unit affordable rent certification must be on a form provided by the city and must specify whether or not the accessory dwelling unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the accessory dwelling unit; the names and ages of the accessory dwelling unit occupants; the gross household income of the accessory dwelling unit household; and other information as determined appropriate by the city. (Ord. 768 N.S., 01/2023)

17.38.075 Pre-approved Plans Incentive.

A. The Director may authorize an applicant's use of floor plans and elevations, owned by the City of Piedmont, and approved by the City Council, Appendix A of the Piedmont Design Standards and Guidelines, to obtain Planning Division approval of an Accessory Dwelling Unit Permit if all of the following findings are made:

1. The design unit meets the requirements of section 17.38.060.
2. The roofing material and exterior siding material of the proposed unit are the same as that of the primary residence.
3. The plans are the same as those in Appendix A of the Piedmont Design Standards and Guidelines with only a 3 percent variation or less in any one dimension.

If the approval is granted, the applicant must agree to the imposition of a rent restrictions on the unit requiring that any rent for the unit be affordable to households of very low income, and the accessory dwelling unit shall be subject to all the requirements set forth below.

B. Additional requirements. If an accessory dwelling unit permit using City-owned plans in Appendix A of the Piedmont Design Standards and Guidelines is approved, it is subject to the following additional requirements.

1. Rent restriction.

- a. Declaration of rent restrictions. The accessory dwelling unit permit constructed using City-owned plans shall be subject to declaration of rent restrictions (in a form provided by the city), which shall be recorded in the county recorder's office, as a declaration of rent restrictions, and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the recorded declaration.

If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the city will record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

- b. Affordable rent certification. An owner who has executed a declaration must submit to the city an accessory dwelling unit affordable rent certification: (i) on an annual basis, by each December 31 and as part of the annual city business license application and renewal; and (ii) upon any change in occupancy of the accessory dwelling unit. The accessory dwelling unit affordable rent certification must be on a form provided by the city and must specify whether or not the accessory dwelling unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the accessory dwelling unit; the names and ages of the accessory dwelling unit occupants; the gross household income of the accessory dwelling unit household; and other information as determined appropriate by the city. (Ord. 769 N.S., 10/2023)

17.38.080 Unpermitted accessory and junior accessory dwelling unit.

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

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

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

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

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

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

E. Upon receiving an application pursuant to section 17.38.080.A, an inspector from the City shall inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the City shall not penalize an applicant for having the unpermitted accessory dwelling unit or junior accessory dwelling unit, shall provide in writing how the building can be brought into compliance, and shall approve necessary permits to correct noncompliance with health and safety standards.
(Ord. 777 N.S., 01/2025)

17.38.090 Removal of Owner Occupancy Restrictions.

A. The Director shall be authorized to remove any previously imposed owner-occupancy requirements imposed via deed restriction on any accessory dwelling unit previously permitted, by recording any appropriate documents rescinding the restriction, if the following criteria are met:

- i. the applicant shall provide a copy of the original recorded deed restriction.
- ii. the applicant agrees to an imposition of covenants either on the accessory dwelling unit or on the primary dwelling unit requiring an affordable rent level to households of very low-income for a period of 15 years, which shall be recorded in the county recorder's office, as a declaration of rent restrictions (in a form provided by the city), and will remain in effect for fifteen years. The fifteen-year period of rent restriction shall begin on the date set forth in the recorded declaration.

If, after fifteen years, the termination of the recorded declaration is not automatic (by its terms), the city will record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

B. A property owner that receives removal of owner occupancy restrictions shall comply with certification requirements related to affordable rent set forth in section 17.38.070 B.1.b.

This section does not apply to owner-occupancy deed restrictions imposed on Junior Accessory Dwelling Units. (Ord. 768 N.S., 01/2023)

17.38.100 Separate Conveyance.

The City shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the criteria listed under Government Code Section 65852.26 are met. (Ord. 747 N.S., 02/2020; Ord. 768 N.S., 01/2023)

17.38.110 Appeals.

The Applicant may appeal a determination that an application of an accessory dwelling unit or junior accessory dwelling unit is incomplete, a denial of an accessory dwelling unit or junior accessory dwelling unit permit, or a similar determination of noncompliance.

- A. Submission: The appeal shall be submitted in writing to the Director within 5 calendar days of the decision, stating the grounds for appeal. The request must be timely filed with the City Clerk, and accompanied by the appeal fee, which fee shall be established by Resolution of the City Council.
- B. Hearing Body: The appeal will be heard by the Planning Commission, and review shall be conducted in accordance with Section 17.78.040. The decision of the Planning Commission is final and not subject to further appeals.
- C. Timing: A final written decision on the appeal shall be issued within 60 days of the City's receipt of the written appeal request and payment of the appeal fee.

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.

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-eighth page in a newspaper having general circulation within the city. (Ord. 774 N.S., 09/2024)

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

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

E.

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

		Notice by City at least 14 days before the hearing, measured from the project boundary. ²				
	Notice by applicant 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 accommodation³			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.				
		<u>Notice by City at least 20 days before the hearing. ²</u>				
<u>Zoning Regulation Amendment affecting the permitted use of real property</u>		<u>Publish notice in newspaper of general circulation within the City.⁵</u>				
<u>Zoning Map Amendment affecting the permitted use of real property</u>		<u>Publish notice in newspaper of general circulation within the City.⁵</u>				

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)

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 or wireless communication facilities under division 17.46, 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. Appeals of decisions regarding wireless communication facilities are governed under Section 17.46.100 and regarding accessory dwelling units are governed under Section 17.38.110.

The city will not approve a building permit during the appeal period.

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. (Ord. 774 N.S., 09/2024)

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 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. (Ord. 774 N.S., 09/2024)

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)

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.

Art and Craft Store means a retail store that sells art, glass, ceramics, paintings, sculpture, or other handcrafted items. This establishment may also feature on-site studio or workshop spaces designed for the creation of items like knitted goods, pottery, and paintings.

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

Bakery means any room, building or place used or operated for making, preparing or baking bread, cakes, pies, pastry, doughnuts, rolls, biscuits, crackers or other edible products of flour or meal to be sold to the public.

Basement means that portion of a building that is partly or completely below grade.

Bedroom includes any room with features generally characteristic of bedrooms, regardless of its designation on a building plan. A bedroom has adequate privacy and meets the minimum size and habitation requirements of the Building Code. It includes and is not limited to a room with: (a) access to a full bathroom on the same floor or within half a floor, if the house has a split level; (b) access to a full bathroom through a common hallway or other common space such as a kitchen, living room and/or dining room. A *bedroom* need not have a closet.

Building means a structure for the support, shelter, or enclosure of persons, animals, or possessions. See also *Structure*.

Nonconforming building means a building or structure which was legally established, but which does not conform to the regulations of the zone in which it is presently located. See division 17.50.

Building Code means the California Building Codes adopted by the city at chapter 5.

Business (license) tax. See chapter 10.

City Code means the Piedmont City Code.

Clothing store means a retail establishment whose principal purpose is to sell ready-made and made-to-order clothing and/or accessories such as bags, headwear, footwear, and jewelry.

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.

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.

Florist Shop means a retail establishment that sells cut flowers and ornamental plants. Florist shops may also offer services such as flower care, arranging, design, merchandising, and delivery.

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 and/or roof overhang that projects up to three feet from the exterior wall surface or supporting column or post;
4. Trellis, awning, electrical meter, solar system equipment, residential battery energy storage system equipment, or similar feature that projects horizontally up to three feet from the exterior wall surface or supporting column or post, so long as construction satisfies Building Code requirements.”

Frontage. See Measurements.

Grade. See Measurements.

Ground floor is the floor level in a commercial or mixed-use building nearest the lowest adjacent grade.

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

Hearing body or appeal body means the Planning Director, Planning Commission, or City Council authorized under this chapter to hear a matter.

Home occupation. See division 17.44.

Improvement(s) means any building, structure, landscaping, or other alteration of the natural or existing state of land.

Includes means includes but not limited to.

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

Kitchen:

Kitchen, accessory means permanent facilities for the purpose of food storage, preparation and/or cooking, located on a single-family residential property, which are accessory and incidental to a primary kitchen. An accessory kitchen includes, but is not limited to: kitchen facilities or a wet-bar in a pool house, guest cottage, domestic quarters, or recreation room; or a wet-bar or outdoor kitchen.

Kitchen, primary means the main kitchen facilities within a single-family residence or accessory dwelling unit having permanent facilities for the purpose of food storage, preparation and cooking.

Landscape; hardscape; open space:

Landscaping means the planting, irrigation, and maintenance of land with living plant and other organic materials.

Hardscape surface means any non-landscaped surface where vegetation would not easily grow. See Measurements at section 17.90.020.

Open space means an expanse of land that is essentially unimproved except for vegetation and walkways.

Living space means space within a dwelling unit or accessory structure used for living, sleeping, eating, cooking, bathing, washing, and sanitation purposes.

Lots; lot lines:

Lot means a parcel of land under one ownership.

Corner lot means a lot located at the intersection of two or more streets and with frontage on at least two of those streets.

Interior lot means a lot not defined as a corner lot or a through lot.

Lot line means one of the boundary lines of a lot.

Rear lot line is the lot line most directly opposite the street lot line.

Side lot line means a lot line that is not defined as a street lot line or rear lot line.

Street lot line means a lot line along a street.

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

Low Barrier Navigation Centers means a low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case

managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing, as more particularly defined in California Government Code section 65600, or a successor statute, as may be amended from time to time.

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

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

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

Mobile home means a transportable, manufactured home, designed to be used as a year-round residential dwelling unit, connected to required utilities, and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. A mobile home does not include a recreational vehicle, motor coach, trailer coach or travel trailer.

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

Peak staffing means the 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.

Rented room. See section 17.40.020.

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.

Restaurant means an establishment that prepares food or sells packaged food for on-site consumption, take-out, or delivery. Service models typically range from self-serve to full-service. This classification includes cafeterias, delicatessens, sandwich shops, pizza parlors, and take-out restaurants that have a storefront restaurant component.

Setback. See Measurements, section 17.90.020.

Short-term rental. See section 17.40.030.

Sign. See section 17.36.010.

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

Street means a public vehicular roadway. It does not include a public alley, or a private roadway. (A list of streets is set forth in the Piedmont Design Guidelines.)

Structure; Site feature:

Accessory structure means a detached structure, the use of which is appropriate, incidental to, and customarily or necessarily related to the zone and to the principal use of the lot or to that of the primary structure.

Deck. See Measurements, section 17.90.020.

Primary structure means the structure on a lot in which the principal use is conducted. It does not include an accessory structure, site feature, underground facility, built feature listed in Building Code section 5.2.2, on-grade improvement, or temporary handicap structure.

Site feature means a subordinate structure that is intended to functionally or decoratively enhance a property and that is primarily used for recreation, decoration or as a utility feature. A list of site features is set forth in the Piedmont Design Guidelines. *Site feature* does not include an accessory structure, primary structure, or built feature listed in Building Code section 5.2.2.

Structure means a built feature that is located or attached to the ground, and that is 12 inches or higher above existing or proposed grade. *Structure* does not include fencing or retaining walls. See also *Building*.

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

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

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

Uses.

Use means the purpose for which a parcel or improvement is designed, arranged, or intended.

Accessory use means a use that is appropriate, subordinate, incidental, and customarily or necessarily related to a lawfully existing principal use on the same lot.

Conditional use means a principal use for which a conditional use permit is required. (See division 17.68. See also wireless communication facility permit at division 17.46.)

Mixed use commercial/residential means a development that combines commercial and residential uses and has both (a) ground floor retail, office or service commercial; and (b) a multi-family residential dwelling. See Measurement.

Nonconforming use means a use that was legally established consistent with the zoning in effect at the time of its establishment, but which does not conform to the regulations of the zone in which it is presently located. See division 17.50.

Permitted use means a principal use that is allowed as a matter of right in a particular zone.

Principal use means the primary use permitted or conditionally permitted on a lot.

Variance. See division 17.70.

View means an existing significant view involving more than the immediately surrounding properties or a view of sky, including, but not limited to, any of the following: city skyline, historic landmark, bridge, distant cities, geologic feature, significant hillside terrain, wooded canyon or ridge.

Wine shop means a retail establishment that specializes in serving wine and the selling of wine for off-premises consumption.

Wireless communication facility and related definitions. See section 17.46.020.

Yards.

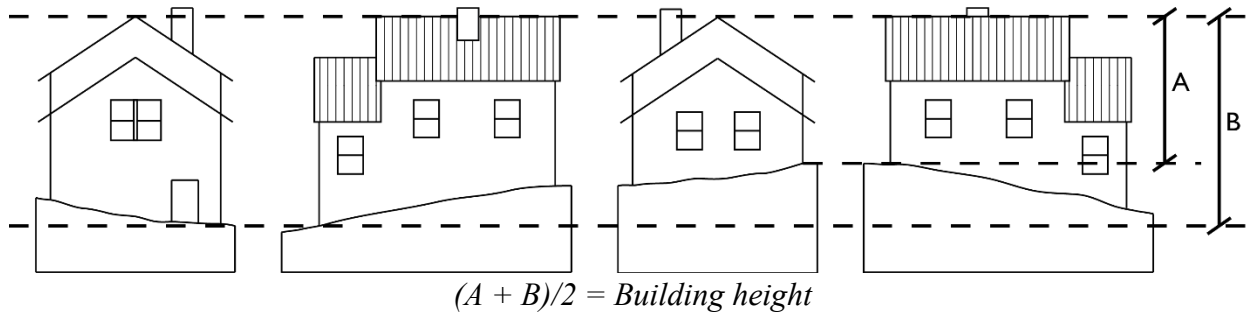
Rear yard means a yard abutting the rear lot line, measured between the rear lot line and the nearest point of the primary structure.

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, Ord. 782 N.S., 08/2025)

17.90.020 Measurements

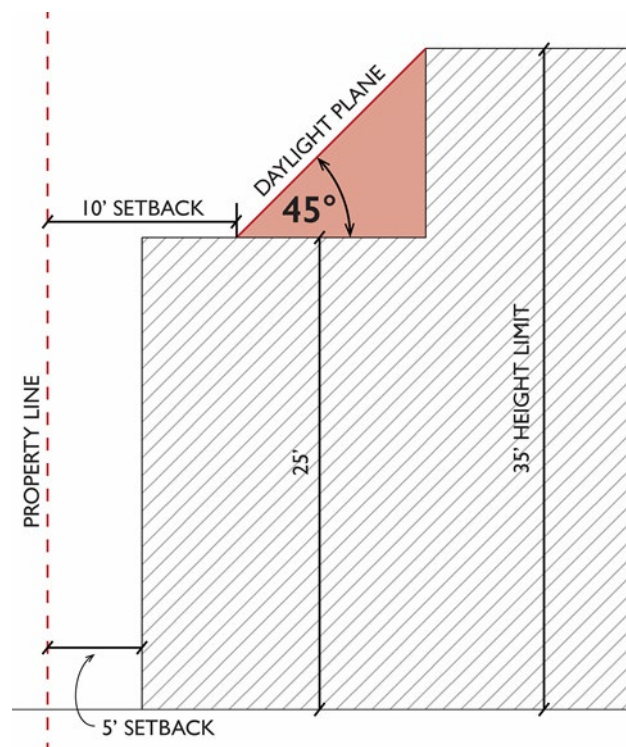
Building height is measured from the average level of the highest and lowest point of that portion of the ground covered by the footprint of the building to the highest point of the roof ridge, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of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



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

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.

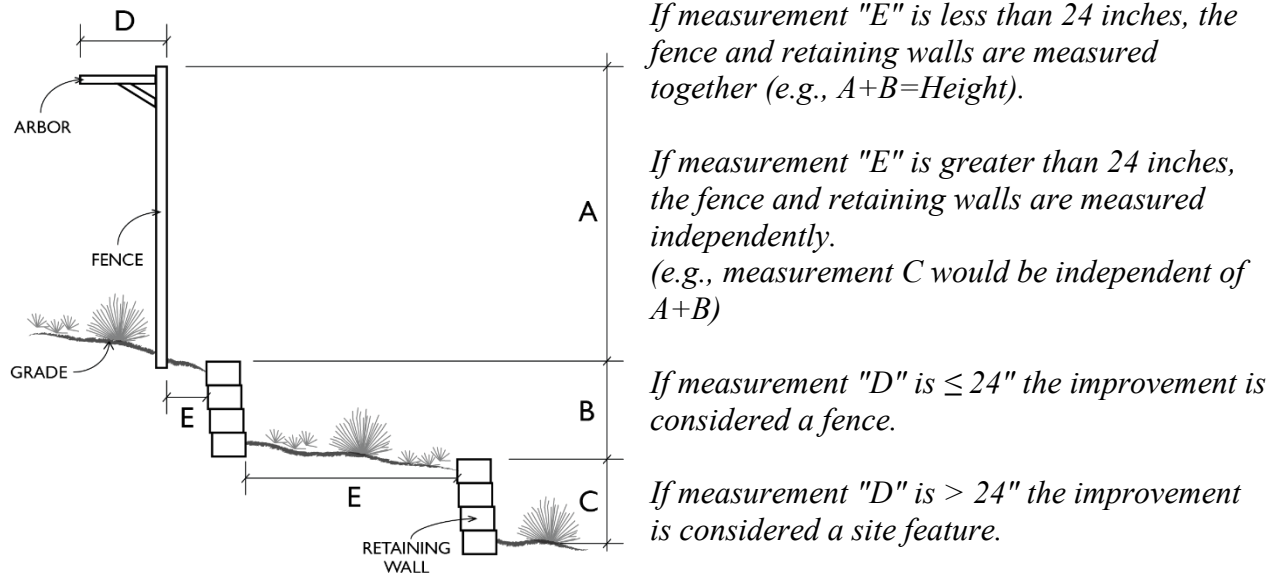


Deck means an expanse of wood or other material where any part of the horizontal surface is greater than 12 inches above the ground directly below the point of measurement.

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.

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.



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;

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. (Ord. 774 N.S., 09/2024)

Floor area of an accessory dwelling unit means the sum of the gross horizontal area of the interior livable space of the building, measured from the interior faces of interior walls or from the interior line of party walls separating two buildings. Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation. Living area means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure, as defined in California Government Code section 66313.

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 and/or roof overhang that projects up to three feet from the exterior wall surface or supporting column or post;
4. Trellis, awning, electrical meter, solar system equipment, residential battery energy storage system equipment, or similar feature that projects horizontally up to three feet from the exterior wall surface or supporting column or post, so long as construction satisfies Building Code requirements.

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.

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. 2025-10-06 (Ordinance 783 N.S., 10/2025)

Public Hearing for First Reading of Amendments to
Zoning Ordinance (Piedmont City Code Chapter 17)
to Conform to Recent ADU Legislation and Staff
Recommend Code Maintenance

City Council Public Hearing
February 2, 2026



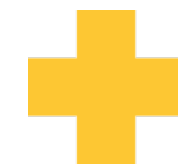
Summary and Background



Amend Ch. 17
to conform to
2025 statewide
ADU legislation



Amend Ch. 17
noticing
requirements to
conform to
2024 statewide
legislation



Amend Ch. 17
to address
HCD
comments

Reason for Ordinance



All changes are prompted by state -
mandated laws and /or direction
from the California Department of
Housing and Community
Development

Proposed City Code Changes



City Code Sections	Existing Code Language	Proposed Code Language	Reason for change
17.38.060.B.6.g.iv	ADU certificate of occupancy (CoO) must be issued after primary residence CoO.	ADU CoO may be issued before primary residence's certificate if in a disaster area where the primary dwelling was damaged or destroyed.	Assembly Bill 462
17.38.060.C.3	JADU property owner must live onsite.	JADU property owner must live onsite if JADU shares a bathroom with main residence.	Assembly Bill 1154
17.90.020	ADU and JADU square footage is measured to exterior wall face.	ADU and JADU square footage is measured using interior livable space.	Senate Bill 543
17.38.050, 17.78.010, 17.38.110	Director's incompleteness or denial decision for an ADU or JADU is final.	Applicant may appeal an incomplete or denial decision to the Planning Commission. New subsection 17.38.110 specifying appeals process. A denial decision will describe deficient application items and how they can be remedied.	Senate Bill 543, HCD comment letter
17.62.030.E	Minimum 10-day public notice before a Planning Commission hearing for a zoning action (change in zoning, change in permitted uses)	Minimum 20-day public notice before a Planning Commission hearing for a zoning action.	Assembly Bill 2904
17.38.060.B.6.c	ADUs proposed in the 20-foot street yard setback are subject to Director's determination that there is no other possible location.	ADUs up to 800 square feet can be located in the street yard setback subject to compliance with all other standards. ADUs more than 800 square feet in setback are subject to Director's determination that there is no other possible location.	HCD comment letter
17.38.060.D.2	Section uses wording of Government Code Section 66323.	A detached ADU, converted/interior ADU, and JADU are allowed in residential and mixed-use zones.	HCD comment letter