

ORDINANCE NO. 788 N.S.

AN ORDINANCE AMENDING SECTIONS OF DIVISIONS 17.20 ZONE A: SINGLE FAMILY RESIDENTIAL, 17.28 ZONE E: ESTATE RESIDENTIAL, 17.30 PARKING, 17.32 FENCES; TRASH ENCLOSURES; CORNER OBSTRUCTIONS, 17.34 LANDSCAPING, 17.38 ACCESSORY DWELLING UNITS, 17.46 WIRELESS COMMUNICATION FACILITIES, 17.54 URBAN LOT SPLITS AND TWO-UNIT HOUSING DEVELOPMENTS (SB 9), AND 17.67 MINISTERIAL DESIGN REVIEW PERMIT; AND ADDING A SECTION TO DIVISION 17.30 PARKING OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO INCORPORATE OBJECTIVE DESIGN STANDARDS AND UPDATES CLARIFYING MAXIMUM RETAINING WALL HEIGHT FOR SB 9 PROJECTS AND LOCATIONS WHERE PARKING IS PROHIBITED ON SINGLE FAMILY RESIDENTIAL PROPERTIES IN ZONES A AND E

WHEREAS, the proposed amendments are consistent with the proposed Objective Design Standards, and other updates propose clarifying maximum retaining wall height for SB 9 projects and locations where parking is prohibited on single family residential properties in zones A and E; and

WHEREAS, On February 20, 2024, the City of Piedmont adopted a program-level Environmental Impact Report (EIR) for the Housing Element Implementation Project (SCH 2022020362) in accordance with the California Environmental Quality Act (CEQA). The proposed amendments to Piedmont City Code Chapter 17 are consistent with and fall within the scope of this adopted Housing Element Implementation EIR. The EIR comprehensively analyzed the potential environmental impacts of implementing Housing Element programs, including Program 4.M (Facilitating Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards) and Program 1.J (SB 9 Facilitation Amendments), both of which are directly addressed by these code amendments. Furthermore, the consideration of Objective Design Standards and related amendments to the City Code and Design Guidelines are exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), the common-sense exception that CEQA applies only to projects which have the potential for causing a significant effect on the environment and 15183, projects consistent with a community plan, general plan or zoning. Other amendments recommended by staff and unrelated to the ODS relating to clarifying the maximum retaining wall height for SB 9 projects and updating the locations where parking is prohibited on single family residential properties in Zone A and E are also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15601(b)(3), the common-sense exception, due to the fact that the proposed amendments are aesthetic in nature, do not increase development capacity, and do not authorize any specific development, as future projects will still be subject to site-specific environmental review; 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 adoption of the proposed amendments to the Zoning Ordinance; and

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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 [to be inserted], 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

Piedmont's 6th Cycle Housing Element requires the City to implement key programs that establish and update objective design standards (ODS) to ensure that the City is able to retain some local control over developments that the City is required to approve ministerially, and comply with state law. The City has previously adopted ODS for accessory dwelling units and multi-family/mixed-use projects, and this ordinance adopts ODS for one-to-four-unit residential developments in single-family zones (A and E) to streamline SB 9 projects (Housing Element Program 1.J) and updating existing standards for accessory dwelling units (ADUs) multi-family/mixed-use projects to expedite approvals under state laws such as SB 35 and SB 330 (Housing Element Program 4.M).

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. On February 20, 2024, the City of Piedmont adopted a program-level Environmental Impact Report (EIR) for the Housing Element Implementation Project (SCH 2022020362) in accordance with the California Environmental Quality Act (CEQA). The proposed amendments to Piedmont City Code Chapter 17 are consistent with and fall within the scope of this adopted Housing Element Implementation EIR. The EIR comprehensively analyzed the potential environmental impacts of implementing Housing Element programs, including Program 4.M (Facilitating Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards) and Program 1.J (SB 9 Facilitation Amendments), both of which are directly addressed by these code amendments. Furthermore, the consideration of Objective Design Standards and related amendments to the City Code and Design Guidelines are exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), the common-sense exception that CEQA applies only to projects which have the potential for causing a significant effect on the environment and 15183, projects consistent with a community plan, general plan or zoning. Other amendments clarifying the maximum retaining wall height for SB 9 projects and updating the locations where parking is prohibited on single family residential properties in Zone A and E are also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15601(b)(3), the common-sense exception that the proposed amendments are aesthetic in nature, do not increase development capacity, and do not authorize any specific development. Future projects will still be subject to site-specific environmental review.
- C. The proposed revisions implement amendments related to objective design standards in

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compliance with state law, and include revisions that clarify the maximum height of retaining walls allowed for SB 9 projects and locations where parking is prohibited on single-family residential parcels in Zones A and E. Pursuant to City Code Section 17.72.040(C), the amendments are consistent with Housing Element Programs 1.J and 4.M, the Piedmont General Plan, as recommended to be amended, the purposes of Chapter 17, and the provisions in City Charter Section 9.02.

D. The proposed amendments further public health, safety, and welfare of the community.

SECTION 3 – AMENDMENT OF SUBSECTION 17.20.040.A

Subsection 17.20.040.A of Section 17.20.040 [Regulations] of the City Code is amended in its entirety to read as follows:

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

	Zone A requirements
Lot area	Minimum 8,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38 or for a lot split under SB 9 set forth in division 17.54.
Frontage, on public or private street	Minimum 60 feet, subject to an exception for a lot split under SB 9 as set forth in division 17.54.
Lot coverage; Landscaping	Maximum 40% lot coverage for primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. (A site feature is not calculated in the lot coverage if (1) the feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 30% landscaping, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary or accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38. However, structure to support pedestrian and vehicular access, such as retaining walls and driveway bridges, not taller than 8 feet, shall be allowed in the street yard setback.

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	No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.
Side yard and rear yard setback	Minimum 5 feet for a primary or accessory structure, unless the yard is street facing, in which case the minimum is 20 feet, except that a setback of only 4 feet is required for a new structure to be used as an accessory dwelling unit, and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.** However, an accessory structure may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. A dwelling unit developed under SB 9 is subject to a 4 foot side and rear setback. A site feature proposed within these distances may require a design review permit under division 17.66.
Floor area ratio*	Subject to exception for accessory dwelling unit construction set forth in division 17.38 or for a dwelling unit developed under SB 9 set forth in division 17.54: Maximum 55% of the lot area if the parcel is 5,000 square feet or less. Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. Maximum 45% of the lot area if the parcel is more than 10,000 square feet.

* In order to encourage development within the existing building envelope instead of building outwards or upwards, the floor area ratio standard is not applied to finishing an area into habitable space if: (1) there is no expansion of the exterior building envelope; and (2) the owner has not obtained a final inspection within the prior three years on a building permit issued for an expansion of the building envelope. (Ordinance 772 N.S., 03/2024)

** Pursuant to Government Code section 65852.2(a)(1)(D)(vii). (Ord. 747 N.S., 02/2020, Ord. 768 N.S., 01/2023, Ord. 772 N.S., 03/2024)

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

SECTION 4 – AMENDMENT OF SUBSECTION 17.28.040.A

Subsection 17.28.040.A of Section 17.28.040 [Regulations] of the City Code is amended in its entirety to read in its entirety as follows:

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

	Zone E requirements
Lot area	Minimum 20,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38 or for a lot split under SB 9 set forth in division 17.54
Frontage, on public or private street	Minimum 120 feet, subject to an exception for a lot split under SB 9 as set forth in division 17.54
Lot coverage; landscaping	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 40% lot coverage for primary and accessory structures. (A site feature is not calculated in the lot coverage if (1) the feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 40% landscaping.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary and accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38. However, structure to support pedestrian and vehicular access, such as retaining walls and driveway bridges, no taller than 8 feet, shall be allowed in the street yard setback. No minimum setback for a site feature, but a site feature may require a design review permit, under division 17.66.
Side yard and rear yard setback	Minimum 20 feet for primary or accessory structure, unless the yard is street facing, in which case the minimum is 20 feet, except that a setback of only 4 feet is required for a new structure to be used as an accessory dwelling unit, and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.** However, an accessory structure not to be used as an accessory dwelling unit may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. These distance requirements for an accessory structure also apply to a garage or carport attached to a primary structure. No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.

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	A dwelling unit developed under SB 9 is subject to a 4 foot side and rear setback.
Floor area ratio*	Subject to exception for accessory dwelling unit construction set forth in division 17.38, or for a dwelling unit developed under SB 9 set forth in division 17.54: Maximum 55% of the lot area if the parcel is 5,000 square feet or less. Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. Maximum 45% of the lot area if the parcel is more than 10,000 square feet.

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

** Pursuant to Government Code section 65852.2(a)(1)(D)(vii). (Ord. 743 N.S., 05/2018, Ord. 747 N.S., 02/2020, Ord. 768 N.S., 01/2023, Ord. 772 N.S., 03/2024)

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

SECTION 5 – AMENDMENT OF SUBSECTION 17.30.010.B.1

Subsection 17.30.010.B.1 of Section 17.30.010 [Single family residential and similar use] of the City Code is amended to in its entirety to read as follows:

“1.General.

Dwelling Unit	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (division 17.38)	0*
New primary unit** 800 square feet or less	1
New primary unit** greater than 800 square feet	2
Primary unit that exceeds FAR, lot coverage or structure height of the underlying zone	1 additional parking space; for a maximum total of 3 parking spaces.
SB-9 development (division 17.54)	1 per primary unit. If the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code,

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	then parking is not required for the new primary unit. Additional parking spaces for a unit can be stacked or tandem.
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* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

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

SECTION 6 – ADDITION OF SUBSECTION 17.30.030.C

Subsection 17.30.030.C is added to Section 17.30.030 [Commercial use and mixed-use residential/commercial (Zone D)] of the City Code to read as follows:

“C. Shared Parking: At least 80% of the total residential parking spaces within a mixed-use development parking arrangement (parking garage or surface parking) shall be dedicated to residential uses. The remaining residential parking spaces can be shared between commercial and residential uses.”

SECTION 7 – AMENDMENT OF SECTION 17.30.040

Section 17.30.040 [Location of Parking Spaces] of the City Code is amended to read in its entirety as follows:

“17.30.040 Location of parking spaces.

A. Parking for a permitted use in any zone must be located: (1) on the same lot as the permitted use; and (2) not within the street setback in Zones A, B and E. Parking for a conditional use in any zone will be provided as required by the conditional use permit authorizing the use.

B. In Zones A and E, the parking of vehicles between the street-facing façade of a building and a lot line is prohibited, except for the parking of vehicles on driveways, parking pads and within parking structures.”

SECTION 8– AMENDMENT OF SECTION 17.32.010

Section 17.32.010 [Fence, wall, retaining wall, terracing] of the City Code is amended to read in its entirety as follows:

“17.32.010 Fence, wall, retaining wall, terracing.

A fence, wall, retaining wall, or terracing is subject to these height limit and design review permit requirements:

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	Height, measured from existing or proposed grade; Design review permit requirement
Retaining wall, with or without guardrail	Maximum 30 inches. (No design review permit required.) If more than 30 inches, requires a design review permit under division 17.66.
Fence, wall, or a combination of either with a retaining wall within 24 inches	
Within street setback	Requires a design review permit under division 17.66 for any height.
Other areas	If 6 feet or less: exempt from design review permit. If more than 6 feet high, requires a design review permit, under division 17.66. If more than 8 feet high, requires a design review permit, under division 17.66, with notification requirements of division 17.62. Up to 8 feet tall allowed in Zones C and D when property line is shared with single-family uses or lots in in all zones.
Retaining wall under SB 9 for Zones A and E	
Within street setback	Up to 8 feet tall to support pedestrian and vehicular egress and ingress needs such as driveways and entry pathways.
Other Areas	Maximum of 5 feet.
Trash enclosure	(See general requirements in subsection B.1, below.)
Within street setback	No building permit or design review permit required if the enclosure complies with section 17.32.020, subsections A and B below. Otherwise requires design review permit under division 17.66.
Other areas	No building permit or design review permit required if the enclosure complies with section 17.32.020 B below.
Terracing	Design review is not required if a series of one or more retaining walls and fences, at least 24 inches apart, on a single slope is designed so that no single wall or fence exceeds the height limits in this subsection.

SECTION 9– AMENDMENT OF SECTION 17.34.040

Section 17.34.040 [Requirements] of the City Code is amended to read in its entirety as follows:

“17.34.040 Requirements.

The minimum dimensions and areas for landscaping are set forth in the regulations for each zoning district.

A residential property owner must landscape all required street setback areas, except for areas paved for ingress and egress. This requirement does not apply to a mixed use or multifamily development.”

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SECTION 10– AMENDMENT OF SUBSECTION 17.38.060.B.5

Subsection 17.38.060.B.5 of Section 17.38.060 [Zoning regulations; Accessory dwelling unit development standards; Junior accessory dwelling unit development standards; Projects subject to state mandated approval] of the City Code is amended to read in its entirety as follows:

“5. Design Criteria. The design of the structure(s) housing the proposed accessory dwelling unit must meet applicable objective design criteria in the Piedmont Objective Design Standards and any additional design standards applicable to accessory dwelling units approved by the City Council.”

SECTION 11– AMENDMENT OF SUBSECTION 17.38.060.C.2.j

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

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

SECTION 12– AMENDMENT OF SUBSECTION 17.38.075.A

Subsection 17.38.075.A of Section 17.38.075 [Pre-Approved Plans Incentive] of the City Code is amended to read in its entirety as follows:

“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, Chapter 3.4 of the Piedmont Objective Standards, 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 Chapter 3.4 of the Piedmont Objective Design Standards 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.”

SECTION 13– AMENDMENT OF SUBSECTION 17.38.075.B

Subsection 17.38.075.B of Section 17.38.075 [Pre-Approved Plans Incentive] of the City Code is amended to read in its entirety as follows:

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“B. Additional requirements. If an accessory dwelling unit permit using City-owned plans in Chapter 3.4 of the Piedmont Objective Design Standards 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.”

SECTION 14– AMENDMENT OF SUBSECTION 17.46.050.B.1.d

Subsection 17.46.050.B.1.d of Section 17.46.050 [Permit; Application] of the City Code is amended to read in its entirety as follows:

“d. all applicable documents outlined in the submittal checklist in section 8.03.04 of the Piedmont Design Guidelines titled Submittal Checklist.”

SECTION 15– AMENDMENT OF SUBSECTION 17.46.050.B.2

Subsection 17.46.050.B.2 of Section 17.46.050 [Permit; Application] of the City Code is amended to read in its entirety as follows:

“2. Application for location on city property. An applicant for a wireless communication facility proposed to be located on city property or in a public right-of-

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way must submit a Letter of Authorization signed by the City of Piedmont City Council and all documents listed in Chapter 8 of the Piedmont Design Guidelines.”

SECTION 16– AMENDMENT OF SUBSECTION 17.46.070.C

Subsection 17.46.070.C of Section 17.46.070 Standards, of the City Code is amended to read in its entirety as follows:

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

SECTION 17– AMENDMENT OF SUBSECTION 17.46.080.A.1

Subsection 17.46.080.A.1 of Section 17.46.080 [Review Body; Findings] of the City Code is amended to read in its entirety as follows:

“1. Permit and Reviewing Body.

Location	Type of WCF	Design Standards Criteria	Type of Permit Required
WCF in the Right-of-Way	6409 Collocation	Meets the design criteria outlined in Design Guidelines Section 8.02.03	Building Permit
			Encroachment Permit
	Small Cell or DAS Application	Meets the Design Guidelines Section 8.02.03	Building Permit
		Does not meet the Design Guidelines	Encroachment Permit
			WCF Planning Permit, Review by Planning Commission
	Collocation (not under 6409) with existing structure		Building Permit
			Encroachment Permit
			WCF Planning Permit, Review by Director

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WCF On Public or Private Property	New structure		WCF Planning Permit, Review by Planning Commission Building Permit
	Collocation (not under 6409) with existing structure		WCF Planning Permit, Review by Director Building Permit
	6409 Collocation	Meets Design Guidelines in Section 8.02.04	Building Permit

SECTION 18– AMENDMENT OF SUBSECTION 17.46.080.B.1.c

Subsection 17.46.080.B.1.c of Section 17.46.080 [Review Body; Findings] of the City Code is amended to read in its entirety as follows:

“c. The proposed design is consistent with the Piedmont Design Guidelines.”

SECTION 19– AMENDMENT OF SUBSECTION 17.46.080.B.2.b

Subsection 17.46.080.B.2.b of Section 17.46.080 [Review Body; Findings] of the City Code is amended to read in its entirety as follows:

“b. Modification. The Director may consider and grant, modify and grant or deny a modification to an existing wireless communications facility if the modification meets the requirements of section 6409. In determining whether to approve the requested modification the Director shall approve if the project meets the criteria outlined in section 8.03.03 of the Piedmont Design Guidelines titled 6409 (a) Eligible Facilities Request Checklist.”

SECTION 20– AMENDMENT OF SUBSECTION 17.54.040.B

Subsection 17.54.040.B of Section 17.54.040 [Permit Application and Review Procedures] of the City Code is amended to read in its entirety as follows:

“B. Ministerial Review. The Director shall review each application ministerially to determine if the development standards in section 17.54.050 are met for an urban lot split or the development standards in section 17.54.060 are met for a two-unit housing development. The Director will review the application without notice or public hearing, and shall approve the application if the application meets the applicable requirements of the division and Piedmont Objective Design Standards Chapter 2: One to Four Residential Unit Developments.”

SECTION 21– AMENDMENT OF SECTION 17.54.050

Section 17.54.050 [Urban Lot Split Standards] of the City Code is amended to read in its entirety as follows:

“17.54.050 Urban Lot Split Standards

The Director may not approve an application for an urban lot split permit unless the project conforms to all of the standards listed below and in Chapter 2 of the Piedmont Objective Design Standards. A waiver may be granted for an exception to the standards as provided in section 17.54.080.

A. Size Requirements

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

B. Location Requirements

1. The parcel is not located in an area identified in subparagraphs (B) to (K) of paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code.
 - a. The parcel is not located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - b. The parcel is not located on a hazardous waste site, as defined by Government Code Section 65913.4(a)(6)(H).
 - c. The parcel is not located within a special flood hazard area subject to inundation by the one percent annual chance flood (one hundred (100)- year flood) as defined by Government Code Section 65913.4(a)(6)(G).
 - d. The property is not located within a regulatory floodway, as defined by Government Code Section 65913.4(a)(6)(H).
2. The proposed urban lot split would not require demolition or alteration of the housing types listed in Government Code section 66411.7(a)(3)(D)(i)-(iv) nor the following types of housing:
 - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

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- b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 of the California Government Code (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - d. Housing that has been occupied by a tenant in the last three years.
- 3. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
 - 4. The parcel has not been established through prior exercise of an urban lot split as provided for in this division.
 - 5. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this division.

C. Lot Configuration

- 1. Access to Public Right-of-Way. The new parcel shall have vehicular access to the public right-of-way, either through direct lot frontage or an easement through the existing parcel.
- 2. Existing Dwelling Unit. If an urban lot split is proposed for a property with an existing dwelling unit, the split must result in the existing dwelling unit being completely located on one parcel. There shall be no existing or proposed structure in the setback along the new lot line for the lot on which the existing house remains. The lot on which the existing primary residence remains shall comply with the underlying zoning regulations such that no nonconformity is introduced, and no existing nonconformity is increased by the subdivision.
- 3. Lot Frontage. The lot shall have a minimum frontage of 60 feet, unless the frontage requirement precludes the development of two lots containing an 800 square foot primary structure. A new lot may be accessed via an easement across a pre-existing lot that contains street frontage.
- 4. Flag Lots. Flag lots are not permitted under an urban lot split permit. If a new parcel is created without direct access to the public right-of-way, an easement shall be provided through the original lot. The easement shall meet the following requirements:
 - a. The easement shall have a minimum width of 12 feet.
 - b. The easement shall provide access for utilities to be connected to the public right-of-way.

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5. The side line of all lots shall be at right angles to the street which the lot faces, or approximately radial to the center of the curvature, if the street is curved. Side lines of lots shall be approximately radial to the center of the curvature of a cul-de-sac on which the lot faces.
6. For a newly created lot that is located in both Piedmont and Oakland, the applicant shall obtain all the required permits in both jurisdictions.
7. Lots of an unusual shape, as defined in section 17.54.030, are not permitted.
8. Access to the new lot shall meet the driveway width, slope standards, and other standards for vehicular access outlined in Chapter 2.5 of the Piedmont Objective Design Standards.

D. Utilities

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

SECTION 22– AMENDMENT OF SECTION 17.54.060

Section 17.54.060 [Two-Unit Housing Development Standards] of the City Code is amended to read in its entirety as follows:

“17.54.060 Two-Unit Housing Development Standards

The Director may not approve an application for a two-unit housing development permit unless the project conforms to all of the standards listed below and Chapter 2 of the Piedmont Objective Design Standards. A waiver may be granted for an exception to the standards as provided in section 17.54.080.

A. Size.

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

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

C. Setbacks.

- a. The side and rear setback is four feet for an SB 9 unit in any zone.
- b. The street-side setback, including for corner lots, is 20 feet.
- c. For the development of a new SB 9 unit within an existing structure that does not meet the four-foot setback requirement, the new unit is allowed to keep the nonconforming

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condition so long as the nonconformity is not increased within the setback area. The converted structure must be in the same footprint and dimensions as the existing non-conforming structure.

D. Parking. New SB 9 units are required to have at least one parking space that meets the parking regulations in Section 17.30.040 and Section 17.30.050 of the Piedmont City Code. If the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code, then parking is not required for the new SB 9 unit. Additional parking spaces for a unit can be stacked or tandem.

E. Lot Coverage.

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

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

SECTION 23– AMENDMENT OF SECTION 17.54.080

Section 17.54.080 [Waivers from Standards] of the City Code is amended to read in its entirety as follows:

“17.54.080 Waivers from Standards

A. An applicant may request a waiver from the development standards provided in this division and Chapter 2 of the Piedmont Objective Standards if the following criteria are met:

1. Application. The applicant requests an exception as a part of the application materials.
2. Approval Authority. The exception request shall be submitted to the Director for review. The Director shall determine if the exception meets the standards for approval.
3. Standards for Approval. An exception from a development standard shall be granted if the standard would have the effect of physically precluding: (1) an urban lot split of a vacant parcel where the resulting lot size is 1,200 square feet or more for both parcels; (2) an urban lot split of a parcel with existing development, where the resulting lot size is 1,200 square feet or more for both parcels, and the urban lot split does not increase any nonconformity with underlying zoning regulations for the parcel with existing development; or (3) the

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construction of up to two units that are 800 square feet in floor area or less, each.

Waivers from objective zoning standards shall not be granted if the floor area and/or structure coverage of each new housing development would exceed 800 square feet. The city shall determine the extent of relief necessary to allow two 800 square foot units. Waivers from zoning standards for accessory structures, such as decks and garages, shall be only for the minimum size structure required to serve each housing unit according to state law and Chapter 8 Building Code standards. A waiver cannot be approved for an application that proposes new construction within the four-foot side and rear setbacks.”

SECTION 24– AMENDMENT OF SUBSECTION 17.67.020.A

Subsection 17.67.020.A of Section 17.67.020 [Implementation] of the City Code is amended to read in its entirety as follows:

“A. Piedmont Objective Design Standards. The City Council has adopted the Piedmont Objective Design Standards that are available online and at City Hall. The Piedmont Objective Design Standards are for the review of projects that meet the requirements for ministerial review. The Piedmont Objective Design Standards are one of the criteria for the applicant and Director in determining whether a specific project conforms to section 17.67.060 Standards; Findings.”

SECTION 25– AMENDMENT OF SUBSECTION 17.67.030.A

Subsection 17.67.030.A of Section 17.67.030 [Permit Required] of the City Code is amended to read in its entirety as follows:

“A. Permit required. A ministerial design review permit is required for any development which meets the eligibility criteria for ministerial review under State law, subject to review under Chapter 17 division 17.38, (2) Two-unit housing developments and/or urban lot splits, which are subject to review under Chapter 17 division 17.54, and (3) other ministerial projects including certain multifamily and mixed-use developments as required by law;”

SECTION 26– AMENDMENT OF SECTION 17.67.060

Section 17.67.060 Standards; Findings, of the City Code is amended in its entirety to read as follows:

“17.67.060 Standards; Findings.

The Director may not approve a ~~ministerial design review permit~~permit application as provided under section 17.67.030.A unless the Director first finds that the design of the project conforms to all of the following standards:

A. The proposed development meets the criteria for ministerial approval under State law.

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- B. The proposed development meets applicable design standards as provided in the Piedmont Objective Design Standards, as they may be amended from time to time by the City Council.
- C. The proposed development complies with zoning ordinance regulations for the zone in which the project site is located.”

SECTION 27 – 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 28 – 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 29 – CODIFICATION

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

SECTION 30 – 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]