

City of Piedmont
PLANNING COMMISSION AGENDA REPORT

DATE: August 11, 2025

TO: Planning Commission

FROM: Gopika Nair, Senior Planner

SUBJECT: Public Hearing – Consideration of Recommendation to the City Council to Adopt Amendments to the Zoning Ordinance related to Permitted Commercial Uses in Zone D and Conditional Use Permits and Other Conforming Revisions. (CEQA Review: Consistent with Environmental Impact Report (EIR) for the Housing Element Implementation Project (SCH 2022020362) and Exempt under CEQA Guidelines Section 15061(b)(3))

AGENDA ITEM NUMBER 8

RECOMMENDED ACTION

Adopt the attached Resolution, Attachment A, recommending that the City Council adopt an ordinance amending divisions 17.26 (Zone D: Commercial and Mixed Use), 17.30 (Parking), 17.60 (General Provisions), 17.68 (Conditional Use Permit), 17.70 (Variance) and 17.90 (Definitions; Measurements). The amendments include the addition of new permitted uses in Zone D: Commercial and Mixed-Use and other amendments to bring the City Code into compliance with State regulations, implement the 6th Cycle Housing Element, and improve current procedures and practices surrounding permitted commercial uses and conditional use permits.

PLANNING COMMISSION AUTHORITY

Piedmont City Code Chapter 25, Commissions, establishes the Planning Commission’s authority to make recommendations to the City Council on planning and zoning matters. City Code Section 25.3, Powers and Duties of the Planning Commission, reads as follows: “It shall be the duty of the planning commission to investigate and make recommendations to the City Council concerning real property, subdivisions, lot building restrictions, planning and zoning matters as may be in the best interest of the City, and to grant or disapprove design review and variance applications...”

In addition, this agenda item provides a Planning Commission public hearing in compliance with the following State and local regulations:

- State of California Government Code Title 7, Chapter 2.7 Section 65090, Publication of

notice of public hearing required by title; and Chapter 3, Section 65353, Public hearing by Planning Commission; notice, Section 65354, Recommendation by the Planning Commission, and Section 65355, Public hearing by legislative body; notice.

EXECUTIVE SUMMARY

City staff has drafted modifications to the list of permitted uses within Zone D and streamlined permitting procedures for commercial development in this zone. These revisions are intended to better serve the Piedmont community and project applicants. While not intended to significantly alter Piedmont's small commercial sector, the proposed changes will eliminate unnecessary procedures and incentivize neighborhood-serving commercial activity. Furthermore, these revisions will ensure compliance with State housing mandates (SB 35 and SB 330) and implement programs outlined in the City's 6th Cycle Housing Element.

The draft Code revisions were informed by a series of study sessions regarding permitted commercial uses and conditional use permits previously held by the Planning Commission (July 8, August 12, October 14, 2024, and July 14, 2025) and the City Council (August 19, 2024). These study sessions addressed potential improvements to the Conditional Use Permit (CUP) process, permitted uses in Zone D, and the broader commercial landscape of the City, and reviewed the results of two community-wide surveys. Both the Council and Commission directed staff to proceed with the revisions to CUP procedures as discussed and to develop a curated list of permitted commercial uses and associated performance standards, integrating community feedback and industry best practices. Links to the study session staff reports and meeting videos are included at the end of this report.

It is important to note that the proposed commercial uses permitted by right are those that would not be subject to a public hearing but would still need to comply with the Zoning Ordinance, including performance standards for permitted uses. Should construction be proposed along with the new commercial use, it would need a design review permit and building permit to ensure compliance with the Zoning Ordinance, the Building Codes and the Piedmont Design Standards and Guidelines. Commercial uses that are not permitted by right and that are not prohibited can still apply for a conditional use permit. The recommended Code revisions would remove some constraints on the City's commercial sector as a benefit to the community and its commerce. The approach is incremental. Should further revisions be warranted or desired once the recommended ordinance is put into practice, they can be accomplished through subsequent public engagement and ordinances.

BACKGROUND

Piedmont's zoning code classifies land uses as either permitted, conditional or prohibited. Permitted land uses, also known as "as-of-right" or "use by right" uses, are land uses that are allowed in a specific zoning district without requiring special approval or permits, although design review approval may be required for the construction of- or modification to buildings. Conditional uses, conversely, require a CUP because they may be desirable but also have the potential to impact

nearby properties.

To address evolving community needs and adhere to state mandates, this report proposes updates to both permitted commercial uses and the CUP process, specifically within Zone D, as detailed below:

1. Housing Element Program 4.M and State Law: To align with State housing mandates (SB 330 and SB 35) and fulfill the City's Housing Element Program 4.M, the City has adopted and continues to undertake zoning code amendments to increase housing density and expedite development approvals, particularly for mixed-use projects. Housing Element Program 4.M Facilitate Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards states in part: "Consistent with State law, including SB 35 and SB 330, the City will adopt objective design standards for multi-family and residential mixed-use projects. The purpose of these standards is to expedite the approval and development process for such projects and support the City in meeting its housing goals." Building on April 2024 Zoning Code updates to permitted residential components in mixed-use developments, the implementation of Program 4.M requires the City to also allow commercial uses that are part of a ministerial mixed-use project to be permitted by right.

To identify appropriate commercial uses for "permitted" status within Zone D, the City conducted two community-wide surveys on commercial use preferences and their accompanying performance standards. The initial survey (#1) sought community input on permitting options (permitted without hearing, with limitations, or not permitted) for 16 commercial uses. The second survey, which concluded on January 25, 2025, gathered community input on the list of commercial uses resulting from the initial survey and their specific and general performance standards. By analyzing these survey results, Piedmont's current commercial sector, industry best practices, existing City standards, and input from Planning Commission and City Council study sessions, staff has drafted a proposed list of permitted commercial uses for Zone D (see Draft Revised Piedmont City Code Division 17.26, Attachment A).

2. Housing Element Program 4.U: Conditional Use Permits (CUPs) require proposed uses to meet standards for approval. The decision-making body must make findings that the proposed use meets the standards. These findings standardize criteria for decision-making and ensure transparency. To comply with Housing Element Program 4.U, the City must develop CUP findings that differentiate between residential and commercial uses and that eliminate subjective criteria for residential uses. Housing Element Program 4.U Amend Conditional Use Permit Findings states: "To eliminate a potential governmental constraint, the City of Piedmont proposes new program 4.U, Amend Conditional Use Permit findings. In implementing program 4.U, the City will develop a conditional use permit process that complies with State law and distinguishes between required findings for commercial uses and required findings for residential uses. The new conditional use permit findings for

residential uses will no longer require a finding that “The use is primarily intended to serve Piedmont residents (rather than the larger region).”

To implement Housing Element Program 4.U and comply with State law, staff recommends updates to the existing findings criteria in section 17.68.040 of Division 17.68 Conditional Use Permits, as detailed in Attachment A.

3. **Improve Current Procedures and Practices:** Through the review and processing of CUP applications over the past several years, staff has identified areas for improvement. Consequently, updates to the current procedures and practices are recommended, as reflected throughout the proposed revisions to Division 17.68 in Attachment A. The objective is to streamline the CUP review process, enhance code clarity, modify permit applicability, and add language clarifying permit validity.

ZONING ORDINANCE AMENDMENTS

Provided below is an outline and description of the draft revisions to the Zoning Ordinance. A redlined version of the edits to the current Zoning Ordinance is included as Attachment B, at the end of this report.

- 1) **Permitted Uses in Zone D: Commercial and Mixed Use.**
Updated and new sections: 17.26.020, 17.26.050, 17.26.060

As informed by the public engagement and study sessions noted above, and in conformance with State law, staff recommends 17 commercial uses be permitted by-right within Zone D. Staff recommends that certain performance standards, including hours of operation, also be adopted to provide regulations on such uses. These updates implement Housing Element Program 4.M, which streamlines permit processing and incentivizes commercial uses beneficial to Piedmont. The performance standards include regulations governing limits on the types of sales and service, restrictions on hours of operation, loading hours limitations, restrictions on activities in setbacks, and screening of outdoor storage, among others.

- 2) **Conditional and Prohibited Uses in Zone D: Commercial and Mixed Use.**
Updated sections: 17.26.030, 17.26.040

Staff recommends clarifying the City Code by adding minor auto servicing, such as fueling stations and auto repairs (e.g., tire repair, oil changes), as a conditional use in Zone D. This change ensures the existing fueling and minor services within the City operating as a conditional use remain in conformance with City Code. Any future fueling station and minor auto repair uses will continue to require a conditional use permit.

3) Parking Provisions
Updated section: 17.30.030

Staff recommends adding clarifying language that parking provisions for commercial uses continue to apply to all permitted commercial uses, except for florist shops and bakeries.

4) Conditional Use Permit
Updated division: 17.68

A CUP is required for land uses that are not permitted by right within a zoning district but that the City may allow if found to meet specified criteria. The CUP process involves a public hearing and discretionary review. Current City CUP regulations include:

- Consideration of the CUP application by both the Planning Commission and the City Council, wherein the Commission makes a recommendation to the City Council, which serves as the decision-making body. This process does not allow for an appeal.
- All commercial uses within Zone D (Commercial and Mixed Use) require a CUP, including minor modifications to an existing business and changes to the structure in which the business is located.
- The standards for approval are not objective and imply decisions are based on providing service only to Piedmont residents, as pointed out in Housing Element program 4.U.
- The standards for approval cannot be applied effectively to both commercial uses and residential uses.
- The Code includes mention of minor modifications to existing CUP but no clear definition of what constitutes a minor modification.

Staff recommends the proposed revisions to CUP regulations:

- Transfer CUP approval authority to Planning Commission: Based on industry best practices, staff recommends the Planning Commission as the decision-making body for CUPs. This will streamline the review process and eliminate unnecessary costs. Historically, the City Council's decisions on CUPs are largely consistent with the Planning Commission's recommendations. Such a change in decision-making authority allows for an appeal to the City Council.
- Provisions for allowing minor modifications to existing CUP: The recommended definition of "minor modifications" describes changes that are generally less impactful but that require some level of discretion and oversight. Establishing this pathway will provide greater efficiency in processing applications for lower-impact changes to existing CUPs. Even minor use changes, however, can generate impacts related to noise, traffic, hours of operation, and design, which necessitate assessment and potential mitigation. Therefore, the proposed allowance for minor CUP modifications enables planning staff to review these specific impacts and impose conditions to ensure the use integrates harmoniously

within its context.

- Eliminate CUP requirements for any structural modifications to existing buildings: The draft revisions remove the requirement for a CUP for a proposed building structural modification, if they meet the criteria above for minor modifications. Other structural modifications continue to require CUP. Proposed structural modifications will continue to require a building permit, and if there are exterior changes, a design review permit.
- Separate CUP findings criteria for residential and commercial uses: The recommended revisions establish distinct standards for approval for residential and commercial CUP applications to align with State housing laws and ensure appropriate consideration of the two conditional use types.
- Clarify CUP validity as property-based, not owner-based: The recommended revisions specify that CUPs are tied to the property rather than the property owner to maintain permit validity in case of ownership changes.

5) General and Variance Provisions
Updated sections: 17.60.060 and 17.70.030

Proposed revisions to these sections conform with the administrative changes proposed to the CUP process, as discussed above.

6) Definitions
Updated section: 17.90.010

Staff recommends adding explicit definitions for certain permitted commercial uses, specifically bakery, wine shop, restaurant, clothing store, art and craft store, and flower shop. These definitions aim to clearly delineate the permitted scope and intensity of each use when allowed "by right" within Zone D, ensuring a common understanding and consistent application of the City Code.

Overall, the proposed changes seek to achieve a more efficient CUP decision-making pathway while safeguarding public engagement for these important land use decisions. The inclusion of an appeal process ensures a balanced approach that respects both the authority of the Planning Commission as the decision-making body and the right to appeal the Planning Commission's decisions to the City Council.

CALIFORNIA ENVIRONMENTAL QUALITY ANALYSIS (CEQA REVIEW)

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 4.U (Amend Conditional Use Permit Findings), both of which are directly addressed by these code amendments.

Furthermore, there is no possibility that this project would have a significant impact on the physical environment. This determination is based on the following factors:

- Any projects developed within Zone D would be required to comply with all local, state and federal regulations, including but not limited to: (1) compliance with historic and tribal resource regulations; (2) compliance with building code requirements; (3) compliance with Bay Area Air Quality Management District (BAAQMD) regulations; (4) compliance with stormwater and other utility regulations; (5) compliance with hazardous materials requirements; and (6) compliance with all City standards and regulations.
- The Zone D parcels are situated within an established urbanized area of Piedmont that is already developed.
- There are no known special-status species or critical habitats identified within Zone D.
- According to the Natural Resources element of the City's General Plan, Zone D contains no wetlands or significant water bodies.
- No Habitat Conservation Plans or Natural Community Conservation Plans apply to Zone D.
- The majority of proposed commercial uses would be required to comply with the City Code's parking provisions. The two uses with reduced parking requirements (bakery and florist shop) are specifically identified as encouraging walk-ins and shorter dwell times, thereby minimizing parking demand.

It is important to note that uses with a higher potential for environmental impact, such as fueling stations and minor auto servicing, are not proposed for exemption from CEQA and would continue to require a CUP and associated environmental review. Other proposed related amendments to the Zoning Ordinance are also exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of these provisions would have a significant adverse effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Additionally, certain amendments may not constitute a "project" under CEQA as they primarily modify organizational or administrative activities that will not result in direct or indirect physical changes to the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)).

CITY CHARTER

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

CITY ATTORNEY REVIEW

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

PUBLIC PARTICIPATION

Study sessions held by both the Planning Commission and City Council provided valuable opportunities for public comments, with verbal feedback received during these sessions. Furthermore, public involvement through the community-wide surveys significantly informed the draft presented for the Commission's consideration tonight. The public also has the opportunity to address the Commission and Council directly during their meetings related to the adoption of the Code changes recommended in this report. Written comments may also be submitted to the Commission and Council in advance of these meetings. A public hearing notice for this agenda item was posted on July 18, 2025, and individual letters were mailed to 355 properties located within 300 feet of Zone D. This report, information on the proposed changes to the Zoning Ordinance, and methods to submit comments on the proposed ordinance can be found on the City's website at: [Planning Commission - City of Piedmont](#).

CONCLUSION AND NEXT STEPS

Overall, the proposed revisions aim to preserve the unique character of Piedmont by continuing to permit the types of businesses currently in Piedmont's commercial districts while providing some incentive to attract certain types of businesses seen to be of benefit to the community. The streamlined CUP process and careful selection of permitted uses are expected to facilitate a more responsive and efficient approach to commercial development that meets the City's needs.

Staff recommends that the Planning Commission adopt the resolution recommending the City Council adopt amendments to City Code Chapter 17, Planning and Land Use. Once the Planning Commission has made a recommendation to the City Council, the amendments will be considered for adoption by the City Council. The tentative date for the public hearing and first reading by the City Council is Monday, September 15, 2025. The City Council is the decision-making body for the adoption of code revisions.

ATTACHMENTS AND RELEVANT DOCUMENTS

	<u>Pages</u>	
A	10-23	Draft Resolution Recommending Adoption of Amendments to Piedmont City Code Chapter 17 Planning and Land Use (Exhibit A- Zoning Ordinance)
B	24-58	Proposed Redline Edits of the Zoning Ordinance

LINKS TO RELEVANT DOCUMENTS:

Link to City Council Staff Reports:

https://piedmont.ca.gov/government/city_council/staff_reports

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

6th Cycle Housing Element Environmental Impact Report:

<https://piedmont.ca.gov/cms/One.aspx?portalId=13659823&pageId=14125320>

ATTACHMENT A

RESOLUTION No. _____

**A RESOLUTION OF
THE PLANNING COMMISSION OF THE CITY OF PIEDMONT
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE
AMENDING DIVISIONS 17.26 ZONE D: COMMERCIAL AND MIXED-USE
COMMERCIAL/RESIDENTIAL, 17.30 PARKING, 17.60 GENERAL PROVISIONS,
17.68 CONDITIONAL USE PERMIT, 17.70 VARIANCE AND 17.90 DEFINITIONS &
MEASUREMENT OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO
IMPLEMENT THE 6TH CYCLE HOUSING ELEMENT AND MAKE STAFF
RECOMMENDED CHANGES**

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

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

WHEREAS, the City adopted the first tranche of 18 programs from the Piedmont's 2023-2031 Housing Element on April 3, 2024, and has prepared further amendments to Chapter 17 of the Piedmont City Code to implement additional Housing Element programs and implement best practices to ensure consistency throughout the Zoning Ordinance. The proposed revisions encompass updated standards, procedures, development standards, and performance criteria to guide residential and commercial development projects throughout the City; and

WHEREAS, these amendments implement the Housing Element programs 4.M: Facilitate Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards, and 4.U: Amend Conditional Use Permit Findings; and

WHEREAS, these amendments also implement staff identified areas of improvements to current procedures and practices surrounding conditional use permits; and

WHEREAS, the proposed amendments to the Zoning Ordinance were presented and discussed as study sessions at the regular meetings of the Planning Commission held on July 8, 2024, August 12, 2024, October 14, 2024, and July 14, 2025, and City Council held on August 19, 2024, during which members of the public had the opportunity to comment on the proposed amendments; and

WHEREAS, the Piedmont City Code Section 25.3 authorizes the Planning Commission to make recommendations to the City Council on planning and zoning matters; and.

WHEREAS, the Planning Commission has held a duly noticed public hearing and took public testimony on the proposed amendments to City Code Chapter 17 on August 11, 2025, consistent with existing City Code section 17.72.040 and pursuant to: Government Code sections Title 7, Chapter 2.7 Section 65090, Publication of notice of public hearing required by title;

ATTACHMENT A

Chapter 3, Section 65353, Public hearing by Planning Commission; notice, Section 65354, Recommendation by the Planning Commission; and Chapter 3, Section 65355, Public hearing by legislative body; notice; 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 4.U (Amend Conditional Use Permit Findings), both of which are directly addressed by these code amendments.

Furthermore, there is no possibility that this project would have a significant impact on the physical environment. This determination is based on the following factors:

- Any projects developed within Zone D would be required to comply with all local, state and federal regulations, including but not limited to: (1) compliance with historic and tribal resource regulations; (2) compliance with building code requirements; (3) compliance with Bay Area Air Quality Management District (BAAQMD) regulations; (4) compliance with stormwater and other utility regulations; (5) compliance with hazardous materials requirements; and (6) compliance with all City standards and regulations.
- The Zone D parcels are situated within an established urbanized area of Piedmont that is already developed.
- There are no known special-status species or critical habitats identified within Zone D.
- According to the Natural Resources element of the City's General Plan, Zone D contains no wetlands or significant water bodies.
- No Habitat Conservation Plans or Natural Community Conservation Plans apply to Zone D.
- The majority of proposed commercial uses would be required to comply with the City Code's parking provisions. The two uses with reduced parking requirements (bakery and florist shop) are specifically identified as encouraging walk-ins and shorter dwell times, thereby minimizing parking demand; and

WHEREAS, the amendments to the Zoning Ordinance are also exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of these provisions would have a significant adverse effect on the environment (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Additionally, certain amendments may not constitute a "project" under CEQA as they primarily modify organizational or administrative activities that will not result in direct or indirect physical changes to the environment (Public Resources Code section 21065; CEQA Guidelines); and

WHEREAS, the amendments to the Piedmont City Code are in conformance with the City Charter, including sections 9.01 and 9.02 because no zones have been reduced or enlarged, and no zones have been reclassified, pursuant to City Code division 17.02.C.

ATTACHMENT A

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Piedmont does hereby resolve, declare, determine, and order, 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. Findings. The Planning Commission hereby makes the following findings:

- A. The above recitations are true and correct and incorporated herein by reference.
- B. This resolution is consistent with the Environmental Impact Report for the Housing Element Implementation Project EIR as to the code revisions to implement the Housing Element and no further CEQA review is required. The Code updates are also categorically exempt from CEQA under Public CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3) or not a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378.
- C. In addition to the staff recommended updates, the proposed amendments implement the 2023-2031 Housing Element goals, policies and programs, and are consistent with the 2023-2031 Housing Element.
- D. Pursuant to City Code Section 17.72.040(C), the amendments are consistent with the Piedmont General Plan, as recommended to be amended, the purposes of Chapter 17, and the provisions in City Charter Section 9.02.
- E. The proposed amendments further public health, safety, and welfare of the community.

SECTION 2. Recommendation – amendments to Chapter 17. The Planning Commission recommends that the City Council adopt Ordinance 783 N.S amending Chapter 17, Planning and Land Use, as set forth in Exhibit A, attached.

SECTION 3. The Planning Director is the custodian of documents and other materials that were considered by the Planning Commission and constitute the record of proceedings on which this recommendation was based. The records are located at the Planning and Building Department, 120 Vista Avenue, Piedmont, CA, 94611.

[END OF RESOLUTION]

Exhibit A

ORDINANCE NO. 783 N.S.

**AN ORDINANCE
AMENDING DIVISIONS 17.26 ZONE D: COMMERCIAL AND MIXED-USE
COMMERCIAL/RESIDENTIAL, 17.30 PARKING, 17.60 GENERAL PROVISIONS, 17.68
CONDITIONAL USE PERMIT, 17.70 VARIANCE AND 17.90 DEFINITIONS &
MEASUREMENT OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO
IMPLEMENT THE 6TH CYCLE HOUSING ELEMENT AND MAKE STAFF
RECOMMENDED CHANGES**

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

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

WHEREAS, the City adopted the first tranche of 18 programs from the Piedmont's 2023-2031 Housing Element on April 3, 2024, and has prepared further amendments to Chapter 17 of the Piedmont City Code to implement additional Housing Element programs and implement best practices to ensure consistency throughout the Zoning Ordinance. The proposed revisions encompass updated standards, procedures, development standards, and performance criteria to guide residential and commercial development projects throughout the City; and

WHEREAS, these amendments implement the Housing Element programs 4.M: Facilitate Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards, and 4.U: Amend Conditional Use Permit Findings; and

WHEREAS, these amendments also implement staff identified areas of improvements to current procedures and practices surrounding conditional use permits; and

WHEREAS, the proposed amendments to the Zoning Ordinance were presented and discussed as study sessions at the regular meetings of the Planning Commission held on July 8, 2024, August 12, 2024, October 14, 2024, and July 14, 2025, and City Council held on August 19, 2024, during which members of the public had the opportunity to comment on the proposed amendments; 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 4.U (Amend Conditional Use Permit Findings), both of which are directly addressed by these code amendments.

Exhibit A

Furthermore, there is no possibility that this project would have a significant impact on the physical environment. This determination is based on the following factors:

- Any projects developed within Zone D would be required to comply with all local, state and federal regulations, including but not limited to: (1) compliance with historic and tribal resource regulations; (2) compliance with building code requirements; (3) compliance with Bay Area Air Quality Management District (BAAQMD) regulations; (4) compliance with stormwater and other utility regulations; (5) compliance with hazardous materials requirements; and (6) compliance with all City standards and regulations.
- The Zone D parcels are situated within an established urbanized area of Piedmont that is already developed.
- There are no known special-status species or critical habitats identified within Zone D.
- According to the Natural Resources element of the City's General Plan, Zone D contains no wetlands or significant water bodies.
- No Habitat Conservation Plans or Natural Community Conservation Plans apply to Zone D.
- The majority of proposed commercial uses would be required to comply with the City Code's parking provisions. The two uses with reduced parking requirements (bakery and florist shop) are specifically identified as encouraging walk-ins and shorter dwell times, thereby minimizing parking demand; and

WHEREAS, the amendments to the Zoning Ordinance are also exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of these provisions would have a significant adverse effect on the environment (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Additionally, certain amendments may not constitute a "project" under CEQA as they primarily modify organizational or administrative activities that will not result in direct or indirect physical changes to the environment (Public Resources Code section 21065); and

WHEREAS, the amendments to the Piedmont City Code are in conformance with the City Charter, including sections 9.01 and 9.02 because no zones have been reduced or enlarged, and no zones have been reclassified, pursuant to City Code division 17.02.C.

WHEREAS, the Planning Commission has held a duly noticed public hearing and took public testimony on the proposed amendments to City Code Chapter 17 on August 11, 2025, consistent with existing City Code section 17.72.040 and pursuant to: Government Code sections Title 7, Chapter 2.7 Section 65090, Publication of notice of public hearing required by title; Chapter 3, Section 65353, Public hearing by Planning Commission; notice, Section 65354, Recommendation by the Planning Commission; and Chapter 3, Section 65355, Public hearing by legislative body; notice; and recommended [to be inserted]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 [to be inserted], consistent with existing City Code section 17.72.050.

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

Exhibit A

SECTION 1 – INTENT

It is the intent of the City Council of the City of Piedmont to adopt new and updated provisions in City Code Chapter 17 as set forth below that implement the adopted Housing Element and State laws and make staff recommended maintenance updates:

- The inclusion of permitted commercial uses and accompanying performance standards in Zone D: Commercial and Mixed-Use;
- The revisions that update the review body for conditional use permits;
- The revisions that differentiate conditional use process findings between residential and commercial uses and that eliminate subjective criteria for residential uses;
- The revisions that allow for minor amendments to existing conditional use permits to be reviewed by staff;
- The revision that clarifies existing regulations surrounding conditional use permits; and
- The inclusion of new definitions.

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

- A. The above recitations are true and correct and incorporated herein by reference.
- B. This ordinance is consistent with the Environmental Impact Report for the Housing Element Implementation Project EIR as to the code revisions to implement the Housing Element and no further CEQA review is required. The Code updates are also categorically exempt from CEQA under Public CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3) or not a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378.
- C. In addition to the staff recommended updates, the proposed amendments implement the 2023-2031 Housing Element goals, policies and programs, and are consistent with the 2023-2031 Housing Element.
- D. Pursuant to City Code Section 17.72.050(B), the amendments are consistent with the Piedmont General Plan, as amended, the purposes of Chapter 17, and the provisions in City Charter Section 9.02.
- E. The proposed amendments further public health, safety, and welfare of the community.

SECTION 3 – ADDITION OF SUBSECTION 17.26.020.L.

Subsection 17.26.020.L. is added to Section 17.26.020, Permitted Uses, of the City Code to read as follows:

- “L. The following commercial uses, subject to the performance standards in section 17.26.060: Wine shop, restaurants and café, bakery, florist shop, clothing store, art and craft store, book store, bike shop, hardware store, office, hair salon and barber services, yoga studio, dance studio, martial arts studio, photography studio, tutoring center, and fitness center.”

Exhibit A

SECTION 4 – AMENDMENT OF SUBSECTION 17.26.030.D.

Subsection 17.26.030.D of Section 17.26.030, Conditional Uses, of the City Code is amended in its entirety to read as follows:

“D. Minor auto servicing such as fueling station and auto repairs (e.g. tire repair, oil change).”

SECTION 5 – AMENDMENT OF SUBSECTION 17.26.030.E

Subsection 17.26.030.E. of Section 17.26.030, Conditional Uses, of the City Code is amended to read in its entirety as follows:

“E. Commercial uses not listed in 17.26.020.L. and 17.26.040.”

SECTION 6 – AMENDMENT OF SECTION 17.26.040

Section 17.26.040, Prohibited Uses, of the City Code is amended to read in its entirety as follows:

“The following uses are prohibited uses in Zone D: manufacturing, wholesaling, distributing, or industrial use; motor vehicle sales or service (except as provided in section 17.26.030.D); hotel or motel; fast food restaurants; and drive-through establishments.”

SECTION 7 – AMENDMENT OF TITLE OF SECTION 17.26.050

The title of section 17.26.050, Regulations, of the City Code is amended to read in its entirety as follows:

“17.26.050 Development Standards”

SECTION 8 – ADDITION OF SECTION 17.26.060

Section 17.26.060, performance Standards is added to read as follows:

“17.26.060 Performance Standards

The following standards apply in Zone D, for permitted commercial uses:

- A. Uses are subject to the following hours of operation and standards as noted. If a use requires a waiver from specified hours of operation and /or performance standards, then a conditional use permit subject to provisions of division 17.68 is required.

Use	Hours of Operation**	Performance Standards
Wine Shop*	9am- 8pm	
Restaurants and Cafes*	8am- 9pm	If serving alcohol, the establishment shall not be located within 100 feet of a school.

Exhibit A

Bakery*	7am- 6pm	<ul style="list-style-type: none"> Prohibit manufacturing of products to be sold elsewhere Exempt from parking provisions in division 17.30 Ground floor only
Florist Shop*	6am- 8pm	Exempt from parking provisions in division 17.30
Clothing Store*	8am- 8pm	
Art and Craft Store*	8am- 8pm	
Book Store	8am- 8pm	
Bike Shop	8am- 8pm	
Hardware Store	8am- 8pm	
Office	8am- 8pm	Not permitted on ground floor
Hair Salon and Barber Services	8am- 8pm	No massage services
Yoga Studio	8am- 8pm	
Dance Studio	8am- 8pm	
Martial Arts Studio	8am- 8pm	
Photography Studio	8am- 8pm	
Tutoring Center	8am- 8pm	Not permitted on ground floor
Fitness Center	6am- 8pm	On-site child care is not permitted.
* Use is defined in Division 17.90		
** Hours of operation are the duration the business can be open to the public		

1. Uses are subject to the following hours of operation and standards as noted. If a use requires a waiver from specified hours of operation and /or performance standards, then a conditional use permit subject to provisions of division 17.68 is required.
2. Any physical modifications to structures or buildings or new structures or buildings shall be subject to the development standards of the underlying zone. No physical modifications or new construction can take place until all required planning and building permits have been obtained.
3. Uses may not include outdoor services. The uses must be conducted primarily within an enclosed structure. Outdoor storage is permitted when screened from street view.
4. Uses must be primarily neighborhood serving. Commercial uses that are primarily neighborhood serving are those that neighbors would be expected to use on a regular basis, and not uses that would be expected to draw the major portion of their clientele from outside the neighborhood.
5. Storage, repair, and production may not take place in required setbacks. Every part of each required minimum setback shall be open and unobstructed from finished grade to the sky except for landscaped areas.
6. There shall be no loading between 8-9 a.m. on school days

Exhibit A

7. The site must be kept free of trash and debris. All receptacles for collection and recycling shall be completely screened from view at street level.
8. Unless specified, the uses shall comply with the parking provisions in Division 17.30.
9. No sooner than 30 days prior to the opening of a new business, an unlighted temporary sign announcing the name of the new business may be displayed in one storefront window per façade. The sign shall not exceed eight (8) square feet in the sign area and may identify the name of the business in a graphic or text format.
10. Signage shall be subject to the provisions of Division 17.36.”

SECTION 9 – AMENDMENT OF SUBSECTION 17.30.030.A

Subsection 17.30.030.A of Section 17.30.030, Commercial use and mixed-use residential/commercial (Zone D), of the City Code is amended to read in its entirety as follows:

“A. Residential uses in mixed use commercial/residential: same as provided in section 17.30.020, except as otherwise provided for commercial uses in section 17.26.060.”

SECTION 10 – AMENDMENT OF SUBSECTION 17.60.060.C

Subsection 17.60.060.C of Section 17.60.060, Approval authority, of the City Code is amended to read in its entirety as follows:

“C. Planning Commission. The Planning Commission has the primary authority to approve applications for variances, some design review permits, conditional use permits, some wireless communication facilities permits, and to make recommendations to the City Council regarding zoning amendments, some subdivisions, and development agreements. The Planning Commission also hears appeals from decisions of the Planning Director, and matters referred from the Planning Director. Combined applications involving multiple permits or approvals will be heard together.”

SECTION 11 – AMENDMENT OF SUBSECTION 17.60.060.D

Subsection 17.60.060.D of Section 17.60.060, Approval authority, of the City Code is amended to read in its entirety as follows:

“D. City Council. The City Council has the authority to approve development agreements, zoning ordinance amendments, some subdivisions, and to hear appeals from the Planning Commission. Combined applications involving multiple permits or approvals will be heard together.”

SECTION 12 – AMENDMENT OF DIVISION 17.68 CONDITIONAL USE PERMITS

Division 17.68 of the City Code is deleted and replaced in its entirety with the following:

Exhibit A

“DIVISION 17.68**CONDITIONAL USE PERMIT**

Sections:

- 17.68.010 General: Intent; Applicability.
- 17.68.020 Application.
- 17.68.030 Decision Making body
- 17.68.040 Findings for Conditional Use Permit
- 17.68.050 Review
- 17.68.060 Modification
- 17.68.070 Permit to run with land

17.68.010 General: Intent; Applicability.

A. General; Intent. No person shall begin a conditional use without first obtaining a conditional use permit. The purpose of conditional use permits is to provide a process for reviewing land uses which may be compatible with the zoning district, but whose effect on the site and surroundings cannot be determined before being proposed for a specific location. The Planning Commission may approve a conditional use permit, upon making findings of approval and imposing any necessary conditions of approval.

B. Applicability. A conditional use permit is required for a use listed as a conditional use in any zone, or a change in an existing conditional use, unless the new proposed use is permitted by right or is a minor modification under 17.68.060.

C. Wireless communication facilities permit. A wireless communication facility is a conditional use in all zones if not otherwise permitted by and approved under division 17.46.

17.68.020 Application.

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

17.68.030 Decision Making body.

A. Conditional Use Permit. The Planning Commission will hold a hearing on a conditional use application and make a final decision. The decision of the Planning Commission may be appealed to the City Council subject to Division 17.78.

B. Minor modification. The Director will make a determination on a minor modification. The decision of the Director can be appealed to the Planning Commission subject to 17.78.

17.68.040 Findings for Conditional Use Permit.

A. The Planning Commission may approve a conditional use permit for residential use requiring a conditional use permit (e.g. large family day care home, residential group home, residential component of mixed-use development) only after making the following findings:

Exhibit A

1. The proposed use is consistent with the general plan and any applicable specific plan, and the use conforms to the zoning code.
2. The proposed use will not cause an increase in peak hour traffic exceeding 50 trips as determined by a traffic study.
3. The proposed use will not generate a parking demand greater than the number of on-site spaces provided in accordance with the city parking standards.
4. The proposed use will not produce mechanically-generated noise levels that exceed 50 dBA measured at the nearest residential property line.

B. The Planning Commission may approve a conditional use permit for a commercial or commercial component of mixed-use development only after making the following findings:

1. Necessity, Desirability, Compatibility. That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the general neighborhood; and
2. Adverse Impacts. That such use as proposed will not be detrimental to the public health, safety, or general welfare, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
 - a) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
 - b) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - c) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, trash and recycling management, lighting and signs; and
3. Consistency with Zoning Ordinance, General Plan and Specific Plan. That such use or feature as proposed will comply with the applicable provisions of this chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.

17.68.050 Review.

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

Exhibit A

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

17.68.060 Modification.

A. Application. A person may apply for a minor modification to a conditional use permit if the modification meets any of the following criteria:

1. The cumulative physical expansion of any structure or space approved in the original Conditional Use Permit by no more than 10 percent.
2. Relocation of a use within the same property or structure.
3. A maximum 25% increase or decrease in the number of employees or hours of operation.

B. Minor Modification Findings: The Director may approve a minor modification to a conditional use permit only after making the following findings:

1. The modification qualifies as a minor modification described in 17.68.060.A.
2. The modification does not have any new significant impact and is Categorically Exempt from the California Environmental Quality Act,
3. The modification is consistent and in substantial conformance with the conditions of approval of the existing conditional use permit.

C. Other Modifications. An applicant wishing to make modifications to an existing conditional use permit that does not meet the criteria in section 17.68.060.A, shall submit an application for an amendment to their existing conditional use permit. Consideration of this application requires the same procedures and findings as for the original use permit.

D. It is not the intent of this Section that a series of minor modifications be used to circumvent the need for a new Conditional Use Permit.

17.68.070 Permit to run with land.

A conditional use permit granted pursuant to the provisions of this division shall run with the land and shall continue to be valid upon a change of ownership of the business or property which is the subject of the conditional use permit.”

SECTION 13 – AMENDMENT OF SECTION 17.70.030

Section 17.70.030., Hearing Body, of the City Code is amended to read in its entirety as follows:

“The Planning Commission will hold a hearing and decide on a variance request.

However, when another related application is normally decided by the City Council, the City Council will also be the decision-making body on the variance, and the Planning Commission will make a recommendation to the City Council. For example, this applies to an application for a subdivision (under chapter 19).”

Exhibit A

SECTION 14 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “ART AND CRAFT STORE”.

The definition of “*Art and Craft Store*” is added to Section 17.90.010., Definitions, of the City Code as follows:

“*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.”

SECTION 15 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “BAKERY”.

The definition of “*Bakery*” is added to Section 17.90.010., Definitions, of the City Code as follows:

“*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.”

SECTION 16 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “CLOTHING STORE”.

The definition of “*Clothing Store*” is added to Section 17.90.010., Definitions, of the City Code as follows:

“*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.”

SECTION 17 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “FLORIST SHOP”.

The definition of “*Florist Shop*” is added to Section 17.90.010., Definitions, of the City Code as follows:

“*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.”

SECTION 18 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “RESTAURANT”.

The definition of “*Restaurant*” is added to Section 17.90.010., Definitions, of the City Code as follows:

Exhibit A

“*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.”

SECTION 19 – AMENDMENT OF SUBSECTION 17.90.010 TO ADD DEFINITION OF “WINE SHOP”.

The definition of “*Wine Shop*” is added to Section 17.90.010., Definitions, of the City Code as follows:

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

SECTION 20 – 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 21 – 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 22 – CODIFICATION

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

SECTION 23 – 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]

Chapter 17
PLANNING AND LAND USE**ARTICLE 1. GENERAL PROVISIONS**

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

ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS

- 17.20 Zone A: Single family residential
- 17.22 Zone B: Public facilities
- 17.24 Zone C: Multi-family residential
- 17.26 Zone D: Commercial and mixed-use
- 17.28 Zone E: Estate residential

ARTICLE 3. SPECIAL REGULATIONS

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

ARTICLE 4. ADMINISTRATION

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

ARTICLE 5. DEFINITIONS; MEASUREMENTS
17.90 Definitions & Measurements

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

Sections:

- 17.26.010 Intent
- 17.26.020 Permitted uses
- 17.26.030 Conditional uses
- 17.26.040 Prohibited uses
- 17.26.050 ~~Regulations~~ Development Standards
- 17.26.060 Performance Standards

17.26.010 Intent.

Zone D is established to regulate and control commercial and mixed-use commercial/residential development, where pedestrian-oriented commercial development will serve the neighborhood, consistent and in harmony with the character of the neighborhood and adjacent residential areas.

17.26.020 Permitted uses.

The following are permitted uses in Zone D:

- A. A single-family residence
- B. An accessory dwelling unit, subject to division 17.38.
(Ord. 747 N.S., 02/2020, Ord. 772 N.S., 03/2024)
- C. Low barrier navigation centers.
- D. Residential care facilities or group homes that provide licensable services for up to six residents.
- E. Residential care facilities or group homes that do not provide licensable services.
- F. Supportive housing and transitional housing developments.
- G. Accessory structures with accessory uses located on the same lot as the primary structures under this section.
- H. Small family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.
- I. Multi-family development including single-room occupancy, co-housing, senior housing, and disabled housing, that is part of a mixed-use development.
- J. Employee housing for 6 or fewer persons.
- K. Manufactured and mobile homes on a permanent foundation. (Ord. 772 N.S., 03/2024)

- L. The following commercial uses, subject to the performance standards in section 17.26.060: Wine shop, restaurants and café, bakery, florist shop, clothing store, art and craft store, book store, bike shop, hardware store, office, hair salon and barber services, yoga studio, dance studio, martial arts studio, photography studio, tutoring center, and fitness center.

17.26.030 Conditional uses.

The following are allowed as conditional uses in Zone D:

- A. Religious assembly.
- B. Private school, or day care facility associated with a religious assembly use. A pre-existing school not having a use permit may continue as a non-conforming use as long as the use is not expanded.
- C. Large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.
- D. Minor auto servicing such as fueling station and auto repairs (e.g. tire repair, oil change). Retail, office, and service commercial uses of a type that will be primarily neighborhood serving. Commercial uses that are primarily neighborhood serving are those uses neighbors would be expected to use on a regular basis, and not uses that would be expected to draw the major portion of their clientele from outside the neighborhood.

A structural change (including reduction or addition in structure) or change in actual existing use in a commercial building requires a new conditional use permit. Change in actual existing use means the addition, withdrawal, or other modification of:
 - 1. the type or quality of service or product being marketed;
 - 2. the time or place of delivery of the service or product;
 - 3. the manner or method of delivery of the service or product; or
 - 4. the number of personnel on the site, where the addition, withdrawal, or other modification changes the facts upon which a conditional use permit was based.
- E. Commercial uses not listed in 17.26.020.L. and 17.26.040. Commercial portion of a mixed-use commercial/residential development, including ground floor retail, office, or service commercial uses to primarily serve the neighborhood.
- F. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.
- G. Residential care facilities or group home that provide licensable services for seven or more residents. (Ord. 772 N.S., 03/2024)

17.26.040 Prohibited uses.

The following uses are prohibited uses in Zone D: manufacturing, wholesaling, distributing, or

industrial use; motor vehicle sales or service (except as provided in section 17.26.030.D), ~~except minor servicing~~; hotel or motel; fast food restaurants; and drive-through establishments. ~~(Ord. 772 N.S., 03/2024)~~

17.26.050 Development StandardsRegulations.

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

	Zone D requirements	
	Civic Center Subarea ¹	Grand Avenue Subarea ²
Lot area	No <i>minimum lot</i> area, but an existing lot may not be subdivided into smaller lots.	No minimum lot area, but an existing lot may not be subdivided into smaller lots.
Frontage, on public or private street	No minimum requirement.	No minimum requirement.
Lot coverage; Landscaping	No maximum. No minimum.	No Maximum. Minimum 10% landscaping, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	45 feet	Maximum 45 feet. For a building site adjacent to a single-family residence: A. within 10 feet of the abutting lot line: maximum 35 feet measured from adjacent grade; and B. daylight plane starting at 35 feet above grade and a distance of 10 feet from the abutting property line.
	Zone D requirements (continued)	
	Civic Center Subarea ¹	Grand Avenue Subarea ²
Street yard setback	No minimum setback.	Along Wildwood, Sunnyside and Linda Avenues: 5 feet minimum from lot line. Along Grand Avenue: 5 feet minimum from curb or 3 feet from lot line, whichever is greater.
Side yard and rear yard setback	No minimum setbacks, but if side or rear yard abuts a single-family residence, the minimum side and rear yard setback is 4 feet from that abutting lot line.	Side Yard: no minimum setbacks, except minimum 4 feet from lot line abutting a single-family residence. Rear Yard: 4 feet minimum.
Floor to ceiling height	15 feet minimum	12 feet minimum

for ground floor commercial use		
Ground floor	<p>Zone D developments must have:</p> <ol style="list-style-type: none"> ground floor retail, office, or service commercial uses to primarily serve the neighborhood. Ground floor residential use is not permitted, except for an entry and lobby to the upper floor(s), except that: the requirement for ground floor retail, office, or service commercial uses shall be waived for development in which 100% of the units are affordable to households earning 80% or less of the area median income (AMI) established by California Health and Safety Code 5105 that are deed-restricted for a period of 55 years or more. 	

¹ The Civic Center Subarea consists of the Zone D parcels bounded by: Highland Way on the north, Highland Avenue on the south; and Highland Avenue on the east, Vista Avenue on the south, and Piedmont Unified School District properties on the north and west.

² The Grand Avenue Subarea consists of the Zone D parcels bounded by: Wildwood Avenue to the southeast, Grand Avenue on the west, Zone A parcels on the north and east; and City boundary on the south, Grand Avenue on the east, Linda Avenue on the north, and Zone A properties to the west.

³ Setback requirements applicable to accessory dwelling unit construction are set forth in division 17.38, rather than this table.

B. In Zone D, for single-family residential use, small family day care home, manufactured and mobile homes, low barrier navigation center, licensed residential care facility or group home for up to 6 residents and unlicensed residential care facility or group home, employee housing for 6 or fewer persons, and supportive and transitional housing, the development standards are as follows:

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

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

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

D. Density and Floor Area Ratio.

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

1. The developer/property owner may choose to develop property in this zone at a minimum of 20 dwelling units/acre and maximum of 81 dwelling units/acre.
2. The maximum non-residential FAR in a mixed-use development is 75%.
3. The maximum non-residential floor area is 50% of residential floor area.

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

- a. when a new single-family residence is proposed on a vacant lot.
- b. when an existing single-family residence is demolished for a remodel or reconstruction, except when a single-family residence is being reconstructed to the same or similar square footage due to damage or destruction by accident, fire, flood, earthquake, or other act of nature. (Ord. 772 N.S., 03/2024)

17.26.060 Performance Standards

The following standards apply in Zone D, for permitted commercial uses:

A. Uses are subject to the following hours of operation and standards as noted. If a use requires a waiver from specified hours of operation and /or performance standards, then a conditional use permit subject to provisions of division 17.68 is required.

<u>Use</u>	<u>Hours of Operation**</u>	<u>Performance Standards</u>
<u>Wine Shop*</u>	<u>9am- 8pm</u>	
<u>Restaurants and Cafe*</u>	<u>8am- 9pm</u>	<u>If serving alcohol, the establishment shall not be located within 100 feet of a school.</u>
<u>Bakery*</u>	<u>7am- 6pm</u>	<ul style="list-style-type: none"> • <u>Prohibit manufacturing of products to be sold elsewhere</u> • <u>Exempt from parking provisions in division 17.30</u> • <u>Ground floor only</u>
<u>Florist Shop*</u>	<u>6am- 8pm</u>	<u>Exempt from parking provisions in division 17.30</u>
<u>Clothing Store*</u>	<u>8am- 8pm</u>	
<u>Art and Craft Store*</u>	<u>8am- 8pm</u>	
<u>Book Store</u>	<u>8am- 8pm</u>	
<u>Bike Shop</u>	<u>8am- 8pm</u>	
<u>Hardware Store</u>	<u>8am- 8pm</u>	
<u>Office</u>	<u>8am- 8pm</u>	<u>Not permitted on ground floor</u>
<u>Hair Salon and Barber Services</u>	<u>8am- 8pm</u>	<u>No massage services</u>
<u>Yoga Studio</u>	<u>8am- 8pm</u>	
<u>Dance Studio</u>	<u>8am- 8pm</u>	

<u>Martial Arts Studio</u>	<u>8am- 8pm</u>	
<u>Photography Studio</u>	<u>8am- 8pm</u>	
<u>Tutoring Center</u>	<u>8am- 8pm</u>	<u>Not permitted on ground floor</u>
<u>Fitness Center</u>	<u>6am- 8pm</u>	<u>On-site child care is not permitted.</u>
<u>* Use is defined in Division 17.90</u>		
<u>** Hours of operation are the duration the business can be open to the public</u>		

1. Uses are subject to the following hours of operation and standards as noted. If a use requires a waiver from specified hours of operation and /or performance standards, then a conditional use permit subject to provisions of division 17.68 is required.
2. Any physical modifications to structures or buildings or new structures or buildings shall be subject to the development standards of the underlying zone. No physical modifications or new construction can take place until all required planning and building permits have been obtained.
3. Uses may not include outdoor services. The uses must be conducted primarily within an enclosed structure. Outdoor storage is permitted when screened from street view.
4. Uses must be primarily neighborhood serving. Commercial uses that are primarily neighborhood serving are those that neighbors would be expected to use on a regular basis, and not uses that would be expected to draw the major portion of their clientele from outside the neighborhood.
5. Storage, repair, and production may not take place in required setbacks. Every part of each required minimum setback shall be open and unobstructed from finished grade to the sky except for landscaped areas.
6. There shall be no loading between 8-9 a.m. on school days
7. The site must be kept free of trash and debris. All receptacles for collection and recycling shall be completely screened from view at street level.
8. Unless specified, the uses shall comply with the parking provisions in Division 17.30.
9. No sooner than 30 days prior to the opening of a new business, an unlighted temporary sign announcing the name of the new business may be displayed in one storefront window per façade. The sign shall not exceed eight (8) square feet in the sign area and may identify the name of the business in a graphic or text format.
10. Signage shall be subject to the provisions of Division 17.36.

ARTICLE 3. SPECIAL REGULATIONS

Divisions:

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

DIVISION 17.30**PARKING**

Sections:

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

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

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

1. new development; and
2. existing development (which may be nonconforming under division 17.50), when an applicant seeks a building permit or land use approval for an improvement or change that may affect the need for parking. Exceeding certain underlying zoning regulations as indicated in the table in section 17.30.010.B.1 or an increase in the intensity of use will

affect the need for parking. Existing street width and existing demand for on-street parking are factors in considering the intensity of use.

B. Regulations.

1. General.

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, then parking is not required for the new primary unit.

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

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

2. Parking spaces may not be located within a 20-foot street setback.

3. When considering an application, the city may strictly apply the parking regulations under subsection B.1 above if the proposed construction will have an undue adverse impact on neighborhood vehicular congestion. A determination of undue adverse impact must be based on evidence considering one or more of the following factors: existing street width; existing on-street parking conditions; lack of sidewalks; and street slope and curvature. (Ord. 747 N.S., 02/2020, Ord. 772 N.S., 03/2024)

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

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

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

* Under Government Code section 65852.2, the city may not require parking for an accessory dwelling unit located within 1/2 mile of public transit, and all Piedmont properties are within 1/2 mile.

(Ord. 747 N.S., 02/2020, Ord. 772 N.S., 03/2024)

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

Guest or management Parking	1 space plus an additional parking space for every 10 dwelling units. Exception: Planning Commission shall reduce to 50% of required spaces when: <ul style="list-style-type: none"> a. Development is within ½ mile of regularly scheduled public transit stop; and b. At least 50% of units are deed-restricted for a period of 55 years to low-income households.
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(Ord. 772 N.S., 03/2024)

17.30.030 Commercial use and mixed-use residential/commercial. (Zone D).

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

17.30.020, except as otherwise provided for commercial uses in section 17.26.060.

B. Commercial uses:

Use Type	Minimum number of off-street, covered, non-tandem parking spaces per floor area	
	First 1,500 square feet	In excess of 1,500 square feet
Eating places and similar, high-intensity on premise customer uses	Each 500 square feet: 1 ¹	Each 250 square feet: 1 ¹
Retail stores, offices, and other low-intensity uses	Each 750 square feet: 1 ¹	Each 350 square feet: 1 ¹

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

17.30.040 Location of parking spaces.

Parking for a permitted use in any zone must be located: (1) on the same lot as the permitted use; (2) not within the street setback; and (3) not between the street-facing facade of a building and the lot line in Zone D. Parking for a conditional use in any zone will be provided as required by the conditional use permit authorizing the use.

17.30.050 Size and specifications.

Except as otherwise provided, a parking space required by this section must have unrestricted access to a public street with a grade not more than 20%. In Zone A, one of every three required parking spaces may be for a compact car, and in Zones C and D, one of every four required parking spaces may be for a compact car.

The minimum parking space dimensions are:

8-1/2 feet x 18 feet, or

7-1/2 feet x 15 feet for compact car.

A minimum 1-foot clearance must be provided between the length side of a parking space and the nearest wall or similar obstruction. (Ord. 743 N.S., 05/2018)

17.30.060 No reduction of existing parking.

Except for (1) the demolition of a garage, carport, uncovered parking space, or covered parking structure in conjunction with the construction of an accessory dwelling unit, or (2) conversion of a garage, carport, uncovered parking space, or covered parking structure for use as an accessory dwelling unit, no person may alter, eliminate, or restrict access to an existing parking space unless the Planning Director first determines that the space is (1) unusable, (2) is to be restored or replaced with a parking space which meets the requirements of this division 17.30, or (3) is permitted with a variance approved by the Planning Commission or City Council. For purposes of making this determination, the term unusable means that the parking space is not large enough to contain a compact-sized automobile or that the driveway to the parking space is so steep, narrow or otherwise configured that it precludes safe passage of the vehicle, and that enlargement to permit safe passage would result in severe economic hardship.

No garage or other off-street parking may be altered for a use other than parking, unless otherwise allowed under this chapter. (Ord. 777 N.S., 01/2025)

17.30.070 Compliance with American with Disabilities Act (ADA).

The Chief Building Official may adjust the parking requirements in zones B, C or D without a conditional use permit or design review permit, to meet the requirements of the Americans with Disabilities Act.

ARTICLE 4. ADMINISTRATION

Divisions:

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

DIVISION 17.60**GENERAL PROVISIONS**

Sections:

17.60.010	General
17.60.020	Completeness of application
17.60.030	Environmental review
17.60.040	Fees and deposits
17.60.050	City indemnification
17.60.060	Approval authority
17.60.070	Decision; New application
17.60.080	Withdrawal of application

17.60.010 General.

A. General. This article 4, Administration, sets forth the general administrative authority and procedures for decision making under this zoning ordinance. It includes general administrative provisions and notice and hearing requirements; requirements for various discretionary approvals: design review permit, conditional use permit, variance, zoning amendment, development agreement, and reasonable accommodation; and provisions for appeals and enforcement.

B. Applicant. The applicant is the person or entity, or representative, who submits an application under this chapter. An applicant must either be the legal owner or submit the owner's written consent with the application.

17.60.020 Completeness of application.

A. Initial application. Within 30 calendar days after the city has received an application for a development project, the city will determine in writing whether the application is complete, and shall promptly transmit the determination to the applicant. If the application is determined not to be complete, the city's determination will specify those parts of the application which are incomplete, and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed.

If the determination is not made within 30 calendar days, and the application includes a statement that it is an application for a development permit (as that term is used in Government Code sections 65927 and 65943), the application will be deemed complete.

B. Resubmittal. Upon any resubmittal of an application determined not to be complete, a new 30-day period begins for determining whether the application is complete. The city will determine in writing whether the resubmitted materials are complete and will notify the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials will be deemed complete.

If the city determines, after receiving the resubmitted materials, that the application is still incomplete, the city and the applicant will follow the procedures set forth in Government Code section 65943 (as it may be amended from time to time).

C. Time period extensions. An applicant and the city may mutually agree to extend a time period provided by this subsection.

D. Applications deemed withdrawn. To promote efficient review and timely decisions, an application will automatically be deemed withdrawn when an applicant fails to submit a substantive response within 90 days after the City deems an application incomplete in a written notice to the applicant. The Director may grant a written extension for up to an additional 30 days upon a written request for an extension received before the 90th day. The Director may grant further written extensions only for good cause, based on circumstances outside the applicant's reasonable control.

17.60.030 Environmental review.

Each land use application for a discretionary approval by the city is subject to the requirements of the California Environmental Quality Act (CEQA), and the state CEQA Guidelines.

17.60.040 Fees and deposits.

A. General. Each person submitting an application for a permit, or filing an appeal, under this chapter must pay the required fees and deposits as established by city council resolution. The fee may be either a flat fee or the actual cost incurred by the city in processing an application.

B. Fee calculation. When a flat fee, or sliding scale, is established for a particular type of application, the fee is based on the estimated number of hours of work by city staff at the staff member's hourly rate. If the estimated number of hours is exceeded, the city may charge for

additional hours worked. The hourly cost for city employees is the full, hourly cost of that employee, including overhead.

C. Deposits.

1. Actual cost. If an application does not have an established flat fee, or if an extraordinary cost is involved under subsection D, the fee is based on actual cost. The Director will require that a deposit equal to the estimated cost of processing be submitted concurrently with an application. The actual cost of city staff work is the person's hourly rate, including overhead. For a consultant or contractor, the actual cost is the billed amount plus 10% for the city's administrative cost.

2. Refund; Increase in deposit. If the actual cost is less than the deposit, or if the applicant withdraws an application under section 17.60.080, the city will refund the unused balance to the applicant within 15 working days after final action on the application, or after the withdrawal.

If it appears that the actual cost will be greater than the deposit, the Director may require an additional deposit, and may direct the city staff to cease work on the application until the city has received the additional deposit. The city may not issue a permit based on the application until the balance is paid.

D. Extraordinary costs. Extraordinary costs incurred by the city in processing an application include the cost of consultants and experts determined by city staff, the Planning Commission or the City Council to be necessary for a full and adequate hearing. The applicant is responsible for these costs, which will be included in a deposit amount under subsection C.

E. Reduction for affordable dwelling units. A multi-family residential project that incorporates affordable units is eligible for a 20% reduction in the application fees.

17.60.050 City indemnification.

Each applicant shall defend (with counsel acceptable to the city), indemnify and hold harmless the city (including its agents, officers, and employees) from any claim, action, or proceeding to challenge an approval of the Planning Commission, City Council, or any officer or department concerning a permit granted under this chapter 17.

17.60.060 Approval authority.

A. Planning Director; City Clerk. The Planning Director has the primary authority to approve: some design review permit (including signs), some wireless communication facilities permits, and accessory dwelling unit permits. Except for accessory dwelling unit permits, the Planning Director may, in the director's discretion, refer any of these applications directly to the Planning Commission.

The City Clerk has the primary authority to approve home occupation permits.

B. Public Works Director. The Public Works Director has the primary authority to approve: encroachments permits, and sign permits on public property.

C. Planning Commission. The Planning Commission has the primary authority to approve applications for variances, some design review permits, conditional use permits, some wireless communication facilities permits, and to make recommendations to the City Council regarding ~~conditional use permits~~, zoning amendments, some subdivisions, and development agreements. The Planning Commission also hears appeals from decisions of the Planning Director, and matters referred from the Planning Director. Combined applications involving multiple permits or approvals will be heard together.

D. City Council. The City Council has the authority to approve ~~conditional use permits~~, development agreements, zoning ordinance amendments, some subdivisions, ~~some wireless communication facilities permits~~, and to hear appeals from the Planning Commission. Combined applications involving multiple permits or approvals will be heard together.

All actions taken under this section 17.60.020, except for subsection D (City Council), are subject to division 17.78, Appeals and Calls for Review. (Ord. 747 N.S., 02/2020)

17.60.070 Decision; New application.

A. Decision. When considering an application, the hearing body may approve, approve with conditions, or deny the application. The decision is based on the regulations in effect at the time the application is approved or denied. The hearing body will inform the applicant of its reasons, and state the basis for findings, if findings are required. The decision is final and takes effect at the end of the appeal period, or, if appealed, after the appeal has been decided. (See division 17.78, Appeals; Calls for review.) If no appeal is filed, any required time period is measured from the date of the original decision

B. New application. If the hearing body denies an application, it is presumed to be without prejudice, meaning the applicant may re-submit a modified application at any time. However, the hearing body may deny an application with prejudice, meaning that the applicant may not resubmit a new application for substantially the same project for one year.

17.60.080 Withdrawal of application.

An applicant may withdraw an application at any time during the review process before the final decision, by filling out the request for withdrawal form. Upon withdrawal, the applicant may request a partial refund of fees, in proportion to the staff time and costs already expended, in the Director's discretion.

DIVISION 17.68**CONDITIONAL USE PERMIT**

Sections:

- 17.68.010 General: Intent; Applicability.
- 17.68.020 Application.
- 17.68.030 Hearing Decision Making body
- 17.68.040 Findings for Conditional Use Permit
- 17.68.050 Review
- 17.68.060 Modification
- 17.68.070 Permit to run with land

17.68.010 General: Intent; Applicability.

A. ~~General~~General; Intent. No person shall begin a conditional use without first obtaining a conditional use permit. The purpose of conditional use permits is to provide a process for reviewing land uses which may be compatible with the zoning district, but whose effect on the site and surroundings cannot be determined before being proposed for a specific location. After recommendation from t~~The Planning Commission, the City Council may approve a conditional use permit, upon making findings of approval and imposing any necessary subject to conditions of approval.~~

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

~~1. a use listed as a conditional use in any zone, or a change in an existing conditional use, unless the new proposed use is permitted by right or is a minor modification under 17.68.060. A conditional use permit is not required for a single-family residence.~~

~~2. new construction, or a structural change to: commercial or mixed use in Zone D.~~

C. Wireless communication facilities permit. A wireless communication facility is a conditional use in ~~Zones A through E~~all zones if not otherwise permitted by and approved under division 17.46. However, a wireless communication facilities permit under division 17.46 is required instead of a conditional use permit.

17.68.020 Application.

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

17.68.030 Hearing Decision Making body.

A. Conditional Use Permit. The Planning Commission will hold a hearing on ~~the a conditional use a~~an application and make a final recommendation decision to the City Council. The decision of

~~the City Council is final~~ The decision of the Planning Commission ~~can~~ may be appealed to the City Council subject to Division 17.78.

B. Minor modification. The Director will make a determination on a minor modification. The decision of the Director can be appealed to the Planning Commission subject to 17.78.

17.68.040 Findings for Conditional Use Permit.

A. The Planning Commission ~~may recommend and the City Council~~ may approve a conditional use permit ~~for a residential use requiring a conditional use permit (e.g. large family day care home, residential group home, residential component of mixed-use development)~~ only after making the following findings:

1. The proposed use is ~~compatible-consistent~~ with the general plan ~~and, any applicable specific plan,~~ and ~~the use~~ conforms to the zoning code.

~~2. The use is primarily intended to serve Piedmont residents (rather than the larger region); and~~

~~32.- The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include: no substantial increase in traffic, parking, or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values.~~

The proposed use will not cause an increase in peak hour traffic exceeding 50 trips as determined by a traffic study.

3. The proposed use will not generate a parking demand greater than the number of on-site spaces provided in accordance with the city parking standards.

4. The proposed use will not produce mechanically-generated noise levels that exceed 50 dBA measured at the nearest residential property line.

B. The Planning Commission may approve a conditional use permit for a commercial or commercial component of mixed-use development only after making the following findings:

1. Necessity, Desirability, Compatibility. That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the general neighborhood; and

2. Adverse Impacts. That such use as proposed will not be detrimental to the public health, safety, or general welfare, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

a) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

- b) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - c) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, trash and recycling management, lighting and signs; and
3. Consistency with Zoning Ordinance, General Plan and Specific Plan. That such use or feature as proposed will comply with the applicable provisions of this chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.

17.68.050 Review.

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

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

17.68.060 Modification.

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

A. Application. A person may apply for a minor modification to a conditional use permit if the modification meets any of the following criteria:

- 1. The cumulative physical expansion of any structure or space approved in the original Conditional Use Permit by no more than 10 percent.
- 2. Relocation of a use within the same property or structure.
- 3. A maximum 25% increase or decrease in the number of employees or hours of operation.

B. Minor Modification Findings: The Director may approve a minor modification to a conditional use permit only after making the following findings:

- 1. The modification qualifies as a minor modification described in 17.68.060.A.
- 2. The modification does not have any new significant impact and is Categorically Exempt from the California Environmental Quality Act,
- 3. The modification is consistent and in substantial conformance with the conditions of approval of the existing conditional use permit.

C. Other Modifications. An applicant wishing to make modifications to an existing conditional use permit that does not meet the criteria in section 17.68.060.A, shall submit an application for an amendment to their existing conditional use permit. Consideration of this application requires the same procedures and findings as for the original use permit.

D. It is not the intent of this Section that a series of minor modifications be used to circumvent the need for a new Conditional Use Permit.

17.68.070 Permit to run with land.

A conditional use permit granted pursuant to the provisions of this division shall run with the land and shall continue to be valid upon a change of ownership of the business or property which is the subject of the conditional use permit.

SECTION 17.70**VARIANCE**

Sections:

- 17.70.010 General; Exceptions.
- 17.70.020 Application
- 17.70.030 Hearing body
- 17.70.040 Findings

17.70.010 General; Exceptions.

A. General. The city may approve a variance from the provisions of this chapter, except for those features set forth in subsection B, which do not require a variance.

B. Exceptions.

1. These features do not require a variance: fence, retaining wall, or site feature.
2. A variance is not required to replace a nonconforming:
 - a. garage, pool house, exempt accessory dwelling unit, or accessory structure, which is destroyed, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under this division; (See section 17.50.020 B.4.)
 - b. deck, balcony, porch, or site feature, which is destroyed, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under this division. (See section 17.50.020 B.4.)
3. If a proposed improvement of an existing structure is subject only to a design review permit except that a feature of the improvement requires a variance, the city may approve it without the need for a variance if: (1) the extent of the nonconformity is unchanged or reduced; and (2) the proposal meets the design review permit requirements of section 17.66.050, Standards. (See section 17.66.020 F.)
4. A variance shall not be required to construct an accessory dwelling unit meeting the standards of division 17.38. (Ord. 747 N.S., 02/2020; Ord. 768 N.S. 01/2023)

17.70.020 Application.

The applicant must submit a written application for a variance on a form provided by the Director. The application shall be accompanied by: plans as set forth in the required materials for a variance; a statement of the reasons for and evidence in support of the request; and the application fee. Where necessary, the Director or hearing body may waive a requirement or require additional information, including a survey.

17.70.030 Hearing body.

The Planning Commission will hold a hearing and decide on a variance request.

However, when another related application is normally decided by the City Council, the City Council will also be the decision-making body on the variance, and the Planning Commission will make a recommendation to the City Council. For example, this applies to an application for a subdivision (under chapter 19), ~~conditional use permit (under division 17.68), or a wireless communications facility permit (under division 17.46).~~

17.70.040 Findings.

A. Findings. The hearing body may approve a variance only if it makes the following findings:

1. The property and existing improvements present unusual physical circumstances of the property (including but not limited to size, shape, topography, location and surroundings), so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other conforming properties in the zone;
2. The project is compatible with the immediately surrounding neighborhood and the public welfare; and
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction. In this subsection 3, *unreasonable hardship* refers to the unusual physical characteristics of the property and existing improvements, and not to conditions personal to the applicant. (See also Reasonable accommodation, at division 17.76.)

B. No variance for use. The city may not grant a variance authorizing a use or activity not otherwise permitted.

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. See Measurements.

Frontage. See Measurements.

Grade. See Measurements.

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

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

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

Home occupation. See division 17.44.

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

Includes means includes but not limited to.

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

Kitchen:

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

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

Landscape; hardscape; open space:

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

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

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

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

Lots; lot lines:

Lot means a parcel of land under one ownership.

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

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

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

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

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

Street lot line means a lot line along a street.

Through lot means a lot 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.

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.

Rented room. See section 17.40.020.

Setback. See Measurements, section 17.90.020.

Short-term rental. See section 17.40.030.

Sign. See section 17.36.010.

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

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

Structure; Site feature:

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

Deck. See Measurements, section 17.90.020.

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

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

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

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

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

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

Uses.

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

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

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

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

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

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

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

Variance. See division 17.70.

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

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.

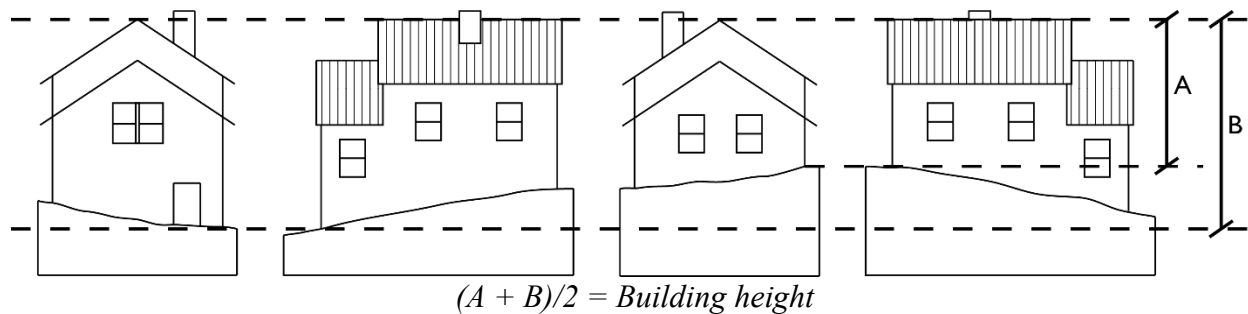
Rear yard means a yard abutting the rear lot line, measured between the rear lot line and the nearest point of the primary structure.

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)

17.90.020 Measurements

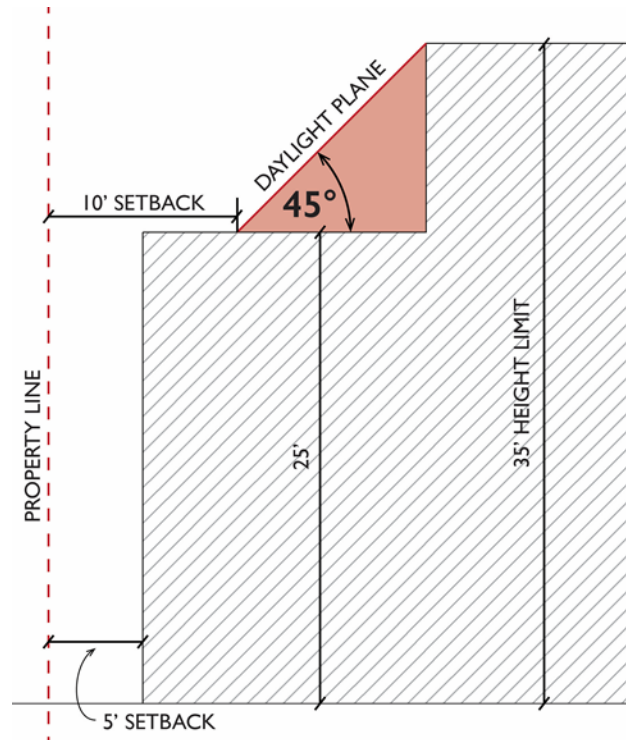
Building height is measured from the average level of the highest and lowest point of that portion of the ground covered by the footprint of the building to the highest point of the roof ridge, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of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

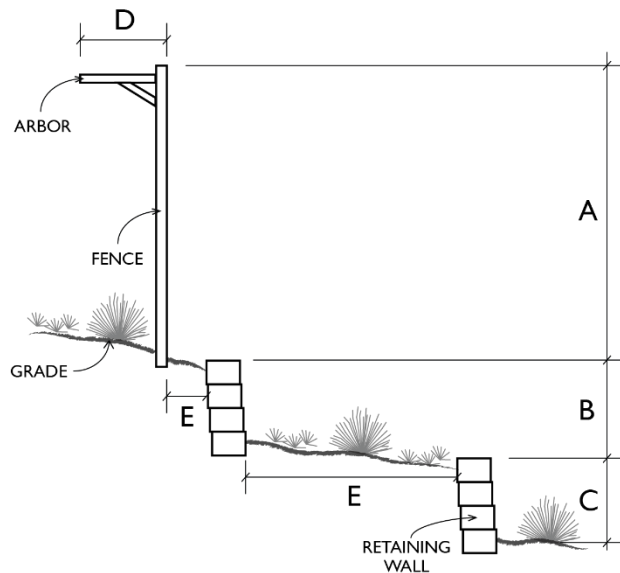
Daylight plane means a height limitation that when combined with the maximum height limit, defines the maximum building envelope. A new structure or addition must fall within this envelope. The daylight plane is measured inward toward the center of the property at an angle of 45 degrees from a point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



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

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

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

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

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

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

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

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

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

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

Grade.

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

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

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

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)