

City of Piedmont
CITY COUNCIL AGENDA REPORT

DATE: April 6, 2026

TO: City Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Public Hearing – Consideration of First Reading of Ordinance 791 N.S. Amending Divisions 17.60 [General provisions] and 17.78 [Appeals; Call for Review] Amendments to and Resolution to Amend Chapter 2 of the Piedmont Design Guidelines Related to Story Pole Certification Deadline (CEQA Review: Exempt under CEQA Guidelines Section 15378(b)(5) and 15183)

RECOMMENDED ACTION

- 1) Approve the Introduction and First Reading of Ordinance 791 N.S., Attachment A, amending divisions 17.60 General provisions and 17.78 [Appeals; Call for Review];
- 2) Adopt the attached Resolution, Attachment B, amending Chapter 2 of the *Piedmont Design Guidelines* to update the deadline for story pole certification.

EXECUTIVE SUMMARY

Amendments to Piedmont City Code Chapter 17, Planning and Land Use Sections 17.60.070 and 17.78.020 are proposed to provide clarification and make technical refinements to existing regulations. The revisions include aligning decision-making timelines compliant with Government Code requirements and establishing a time-of-day deadline for filing appeals.

An amendment to Chapter 2.12.03 of the *Piedmont Design Guidelines* is proposed to modify the existing deadline related to submission of verification of story pole installation for design review permit applications. The revision would require story pole verification to be submitted 17 calendar days in advance of a Planning Commission meeting instead of 14 days in advance to account for recent changes in United States Postal Service (USPS) collection hours, ensuring staff has sufficient time to verify story pole installation, place the permit application on the Commission's agenda and provide timely notice to adjacent neighbors regarding proposed project.

PROPOSED REVISIONS TO CITY CODE:

The recommended revisions are outlined and discussed below in order of City Code section number. A redline version of the edits to the current Zoning Ordinance is included as Attachment C, at the end of this report.

1) Subsection 17.60.070.A – Decision

This section outlines actions and decisions made by the hearing body on applications. The existing language states that decisions are made based on the regulations in effect at the time an application

approved or denied. This current language, which applies regulations in effect at the time of decision, is inconsistent with State law. The proposed draft changes provide two critical updates:

- By tying regulations to the date an application is deemed complete pursuant to Government Code §65943, the City provides applicants with greater certainty and prevents “moving the goalposts” during the staff review period.
- To comply with the Housing Affordability Act (SB 330), the City must recognize the “vesting” of ordinances and standards at the time a preliminary application for housing development is submitted under the provisions of SB 330. This protection lasts for 180 days, provided a full application follows within the 180 days.

This proposed draft amendment is to ensure local procedures are consistent with California Government Code and provides a more predictable environment for residents and developers.

2) Section 17.78.020 – Application

This section outlines the appeal process for decisions made on applications. The existing language requires appeals to be filed within 10 days of a decision but does not specify the exact time-of-day by which an appeal must be filed with the City Clerk. The proposed draft amendment establishes a clear time-of-day deadline of 5:00 p.m. for filing an appeal.

PROPOSED REVISIONS TO CHAPTER 2 OF PIEDMONT DESIGN GUIDELINES

The recommended revision is outlined and discussed below. A redline version of the edit to the *Piedmont Design Guidelines* is included as Exhibit A, Attachment B, at the end of this report

Chapter 2.12.03 – Procedures

Chapter 2.12 of the *Piedmont Design Guidelines* establishes the procedures for erecting story poles. These visual aids help neighbors, staff, and the Planning Commission visualize the scale and massing of proposed construction during the design review process.

Currently, applicants must submit story pole installation verification to the Planning & Building Department at least 14 days prior to a scheduled Planning Commission meeting. The receipt of verification is necessary to determine the application complete and eligible to be placed on the Planning Commission agenda, which must be posted 14 days in advance of the Planning Commission meeting. Due to recent changes in USPS collection schedules – moving from a 5:00 p.m. pickup to 9:00 a.m. pick up – the existing window is no longer sufficient for staff to receive installation verifications and process mailings on the same business day.

Staff recommends that the story pole verification deadline be extended to 17 calendar days prior to the meeting date (instead of the 14 days). This adjustment provides staff with the necessary time to receive story pole verification, deem applications complete, draft and post agendas, and mail neighbor notifications in a timely manner.

CALIFORNIA ENVIRONMENTAL QUALITY ANALYSIS (CEQA REVIEW)

The proposed Code amendments are not considered a "project" under the California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000 et seq.), specifically exempt under Section 15378(b)(5) and 15183. This exemption applies because the amendments primarily involve changes to local ordinances and regulations, and do not involve any physical development or direct impacts on the environment. Therefore, the amendments are not subject to further CEQA review.

PLANNING COMMISSION DISCUSSION AND RECOMMENDATION

On March 9, 2026, the Planning Commission held a public hearing to consider the proposed City Code Amendments and Design Guidelines Amendment. Following a staff presentation, the public comment session was opened; however, no members of the public addressed the Commission.

During the deliberation, the Commission focused on the proposed revisions to City Code Section 17.60.070. Staff also provided a briefing on the mandatory SB 330 processing requirements and associated timelines. Following the discussion, the Planning Commission voted unanimously to adopt resolutions recommending City Council approval of both the City Code and Design Guidelines Amendments. A video recording of the meeting is linked at the conclusion of this report.

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.

FISCAL IMPACT

If adopted by City Council, the recommended Code and Design Guidelines revisions are not anticipated to result in a fiscal impact. The recommended amendments are related to the routine task of project review and approval administered by the Planning & Building Department, which collects fees established in the Master Fee Schedule to help cover the costs of the services provided, including a fee for appeals.

CITY ATTORNEY REVIEW

The proposed amendments have been reviewed by the City Attorney.

PUBLIC PARTICIPATION

The March 9, 2026, Planning Commission meeting provided opportunities for public comments. No written or verbal comments were received. In addition, public hearing notice of this agenda item was posted on March 20, 2026, in the newspaper of record, *The Piedmonter*. The public will have the opportunity to address the Council directly during this meeting regarding the proposed changes and documents discussed in this report. Written comments may also be submitted to the Council in advance of the meetings. This report, information on the proposed changes to the Code, and methods to submit comments on the proposed ordinance can be found on the City's website at: https://piedmont.ca.gov/government/city_council/staff_reports

CONCLUSION AND NEXT STEPS

As noted above, the proposed updates to Piedmont's City Code and Design Guidelines are proposed to provide clarification and make technical refinements to existing regulations.

Staff recommends that the City Council receive Planning Commission's recommendation and adopt the proposed amendments to the City Code and Design Guidelines. Should the Council

approve a first reading of the recommended ordinance on April 6, 2026, a second reading could occur as soon as April 20, 2026, and the Code amendments would go into effect thirty days after that time. Should the Council approve the resolution adopting the Design Guidelines amendments on April 6, 2026, the Design Guidelines amendments would go into effect on April 6, 2026.

Prepared By: Kevin Jackson, Director of Planning & Building
Gopika Nair, Senior Planner
Lamis Chabbani, Assistant Planner

ATTACHMENTS AND RELEVANT DOCUMENTS

	<u>Pages</u>	
A	5-7	Ordinance 791 N.S.
B	9-13	Resolution Recommending Adoption of Amendments to Chapter 2 of Piedmont Design Guidelines (Exhibit A: Amendments to Piedmont Design Guidelines)
C	15-23	Proposed Redline Edits

LINKS TO RELEVANT DOCUMENTS:

Piedmont City Code Chapter 17, Planning and Land Use:
https://piedmont.ca.gov/government/charter__city_code

Chapter 2 of Piedmont Design Guidelines:
https://piedmont.ca.gov/services__departments/planning__building/about_planning_/design_guidelines

March 9, 2026, Planning Commission Meeting Video:
https://piedmont.granicus.com/player/clip/3137?view_id=9&redirect=true

ORDINANCE NO.791 N.S.

AN ORDINANCE AMENDING SECTIONS OF DIVISIONS 17.60 GENERAL PROVISIONS AND 17.78 APPEALS; CALLS FOR REVIEW OF THE PIEDMONT CITY CODE TO CLARIFY REGULATIONS RELATING TO APPEALS DEADLINE AND UPDATING LANGUAGE RELATING TO APPLICABLE REGULATIONS IN EFFECT FOR A PROJECT

WHEREAS, the proposed amendments to Piedmont City Code (Chapter 17, Planning and Land Use) Sections 17.60.070 (General Provisions) and 17.78.020 (Appeals) are intended to bring the City Code into compliance with applicable Government Code requirements, clarify the regulations applicable to a project, and establish a clear deadline for filing appeals; and

WHEREAS, the proposed Code amendments are not considered a "project" under the California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000 et seq.), specifically exempt under Section 15378(b)(5) and 15183. This exemption applies because the amendments primarily involve changes to local ordinances and regulations, and do not involve any physical development or direct impacts on the environment; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and has taken public testimony on the proposed amendments to City Code Chapter 17 on March 9, 2026, consistent with existing City Code section 17.72.040 and recommended that the City Council adopt the proposed amendments to divisions 17.60 General provisions and 17.78 Appeals; Call for Review, to bring the City Code into compliance with updates to clarify the appeals deadline and clarify what regulations are in effect for a design review permit application; 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 April 6, 2026, consistent with existing City Code section 17.72.050.

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

SECTION 1 - BACKGROUND AND INTENT

Amendments to Piedmont City Code (Chapter 17, Planning and Land Use) sub-section 17.60.070.A and Section 17.78.020 of Chapter 17 of the Piedmont City Code are proposed to bring the City Code into compliance with applicable Government Code requirements, clarify the regulations applicable to a design review permit application, and establish a clear deadline for filing appeals.

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

- A. The above recitations are true and correct and incorporated herein by reference.
- B. The proposed Code amendments are not considered a "project" under the California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000 et seq.)

and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000 et seq.) and are specifically exempt under Section 15378(b)(5) and 15183. This exemption applies because the amendments primarily involve changes to local ordinances and regulations, and do not involve any physical development or direct impacts on the environment. Therefore, the amendments are not subject to further CEQA review.

C. The proposed revisions implement amendments that clarify the regulations applicable to a project consistent with State law and establish a clear deadline for filing appeals.

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

SECTION 3 – AMENDMENT OF SUBSECTION 17.60.070.A

Subsection 17.60.070.A of Section 17.60.070 [Decision; New application] of the City Code is amended in its entirety to read as follows:

“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 when the application is deemed complete pursuant to Government Code section 65943, or for housing development projects, at the time a preliminary application is deemed submitted pursuant to the requirements of Government Code section 65941.1, provided that a submittal of a full application follows within 180 days. 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.”

SECTION 4 – AMENDMENT OF SECTION 17.78.020

Section 17.78.020 Application of the City Code is amended in its entirety to read as follows:

“A person wishing to file an appeal must submit an application, stating the grounds for appeal, within ten calendar days after the date of the decision. The request must be filed with the City Clerk by 5:00 p.m. and must be accompanied by the appeal fee.”

SECTION 5 – 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 6 – 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 7 – CODIFICATION

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

SECTION 8 – CUSTODIAN

The Planning and Building Director is the custodian of all documents referenced in this ordinance.

SECTION 9 – 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.

[END OF ORDINANCE]

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RESOLUTION NO. ____

**ADOPT AMENDMENTS TO THE CITY OF PIEDMONT DESIGN GUIDELINES TO
UPDATE THE DEADLINE FOR STORY POLE CERTIFICATION**

WHEREAS, Chapter 2.12 of the Piedmont Design Guidelines establishes the procedures for erecting story poles. These visual aids help neighbors, staff, and the Planning Commission visualize the scale and massing of proposed construction during the design review process; and

WHEREAS, currently, applicants must submit installation verification to the Planning and Building Department at least 14 days prior to a scheduled Planning Commission hearing. Receipt of verification is required for the application to be deemed complete, for the application to be placed on a Planning Commission agenda, and for staff to mail official notices. Due to recent changes in United States Postal Service collection schedules – moving from a 5:00 p.m. pickup to 9:00 a.m. pick up – the existing window is no longer sufficient for staff to deem the application complete, include the application on the agenda, and process mailings on the same business day; and

WHEREAS, to ensure neighbors receive timely notification and that agendas are able to be completed and posted in conformance with the City Code, staff recommends that the story pole verification deadline is extended to 17 calendar days prior to the hearing (instead of the 14 days). This adjustment provides staff with the necessary time to complete verification and meet mailing deadlines; and

WHEREAS, the Planning Commission convened a public hearing on the draft amendments to the Piedmont Design Guidelines on March 9, 2026, and provided an opportunity for public and Commissioner comments at that time. Following the public comment period and Commissioner deliberations, the Planning Commission unanimously recommended that the City Council approve the proposed amendments; and

WHEREAS, City Council approval of the amendments to the Piedmont Design Standards and Guidelines is required before they become effective; and

NOW, THEREFORE, BE IT RESOLVED that, after reviewing the revised document, staff report, and all documents and public testimony received, the City Council of the City of Piedmont does hereby resolve, declare, determine and order as follows:

SECTION 1. The City Council finds that:

1. The facts set forth in the recitals in this Resolution are true and correct and hereby incorporated by this reference;
2. The recitals constitute findings in this matter and, together with the staff report, and other written reports, public testimony and other information contained in the records, are an adequate and appropriate evidentiary basis for the actions taken in this Resolution;

3. The provisions in this Resolution, as adopted, are consistent with General Plan Policies Housing Element Policy 4.1 Communicating Planning and Building Information and Design & Preservation Element Policy 28.11: Design Review and staff recommended updates to implement best and current practices; and
4. This Resolution will not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION 2. The adoption of the proposed amendment is not considered a "project" under the California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000 et seq.), and is specifically exempt under Section 15378(b)(5). This exemption applies because the amendment primarily involves changes to local regulations, and does not involve any physical development or direct impacts on the environment.

SECTION 3. The amendment to the Piedmont Design Guidelines, attached as **Exhibit A**, is adopted by the City Council.

SECTION 4. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

SECTION 5. The Planning and Building Director is the custodian of all documents referenced in this resolution.

[END OF RESOLUTION]

2.12 STORY POLES

The following guidelines apply to discretionary design review permit applications.

2.12.01 PURPOSE

To enable neighbors, Planning Commissioners and staff to envision the proposed construction of design review applications and ensure the accuracy of the story pole representations, in accordance with Piedmont City Code Sections 17.66.010, and 17.66.020.

2.12.02 PROTOCOLS

The Planning & Building Department shall require the installation and verification of story poles for design review applications pursuant to Piedmont City Code Division 17.66 when:

1. A new residence and/or any other detached structure requiring design review is proposed;
2. An upper level expansion of an existing residence (including decks and dormers) is proposed;
3. A neighbor's light, view and/or privacy is in question;
4. The installation is needed by the staff or Planning Commission to assess the proposed height and/or bulk of large single story expansions or any other proposed expansions.

2.12.03 PROCEDURES

Unless otherwise directed by the Planning & Building Director or the Director's designee, story poles are to be erected by the applicant or the applicant's representative and verified by a California Licensed Land Surveyor or Licensed California Civil Engineer. Verification must be in the form of a completed Story Pole Certification Form that is stamped and signed by the licensed professional along with photographs of the story poles. The Certification Form, the format of which shall be determined by the Director of Planning, shall state that the story poles are in compliance with the proposed application.

The verification shall be submitted to the Planning & Building Department no later than 12:00 noon, 17 days before a scheduled Planning Commission hearing in accordance with the most recently published Planning Commission schedule. **Without exception, applications that do not have verification received by noon on the required deadline date will not be eligible for the Planning Commission agenda.** For Director Design Review applications, staff will not consider the application to be complete or send the required notice to neighbors until verification is received, and will not take action on the application until at least 14 days from the receipt of the story pole verification. Applicants are encouraged to install and verify well in advance of the deadline to avoid problems with weather and surveyor scheduling.

Story poles shall be installed to define the outlines of the proposed construction in order to show the proposed height and mass of the construction. Typically, there will be a pole at every proposed corner to indicate the wall planes, and poles that represent roof points, with boards, tape or ropes that connect the poles to indicate the roof height, ridges, slopes and relationship to the walls. There are no required materials for the poles, but the poles must be clearly visible and stable (wood and aluminum stud framing and rigid PVC pipes are typical materials for the vertical members with flag banners, PVC pipe, colored rope, plastic construction netting or durable caution tape preferred as horizontal members), and the tape or ropes should be brightly colored, clearly visible and strongly attached. Staff and the Planning Commission may require colored flags or plastic construction netting to help understand the proposed construction. Should inclement weather cause damage to the story poles, they may need to be repaired and reverified prior to the application being considered by the Planning Commission or staff. Please contact staff if you have questions about a specific project.

Story poles shall remain erected through the appeal period after action is taken on the application, and shall be removed promptly after the end of the appeal period if an appeal has not been filed. If an appeal is filed, the story poles must remain erected until final action is taken on the application.

2.12.04 STORY POLE CERTIFICATION FORM

Please see the Story Pole Certification Form directly following this page. It must be submitted along with photographs of the story poles.

CITY OF PIEDMONT
CALIFORNIA



City use only
Date Received _____

Time Received _____

STORY POLE CERTIFICATION FORM

(Must be prepared by a California Licensed Surveyor or Civil Engineer and must be accompanied by photographs of the installed story poles.)

On _____, I surveyed the story poles located at
(Date)

_____, Piedmont, CA, related to plans
(Property address)
submitted as part of design review application _____.
(Application number)

I have determined that the story poles are in substantial compliance with the plans dated

_____, and accurately represent the proposed
(Plan date or City date-stamp date)
construction in terms of dimensions, corner/wall locations, and ridge heights/locations.

PLEASE STAMP AND SIGN BELOW

(Name - please print)

(Company)

(Address)

(Phone Number)

(Email address)

(Piedmont Business License Number)

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Chapter 17

PLANNING AND LAND USE

ARTICLE 1. GENERAL PROVISIONS

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

ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS

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

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 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 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.

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 when the application is deemed complete pursuant to Government Code section 65943, or for housing development projects at the time a preliminary application is submitted pursuant to the requirements of Government Code section 65941.1, provided that a submittal of a full application follows within 180 days. . 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 17.78**APPEALS; CALL FOR REVIEW**

Sections:

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

17.78.010 General.

Except for a decision regarding an accessory dwelling unit under division 17.38 or wireless communication facilities under division 17.46, any interested person may appeal a decision of the Director to the Planning Commission, or a decision of the Planning Commission to the City Council, all under the terms of this division 17.78. Appeals of decisions regarding wireless communication facilities are governed under Section 17.46.100. (Ord. 778 N.S., 03/2025)

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

17.78.020 Application.

A person wishing to file an appeal must submit an application, stating the grounds for appeal, within ten calendar days after the date of the decision. The request must be filed with the City Clerk by 5:00 p.m., and must be accompanied by the appeal fee.

17.78.030 Notice; Hearing; Decision; Remand.

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

B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible or as set forth in section 17.64.010.B, taking into account the notice requirements. The appeal body may continue the hearing, but not more than once without the consent of the appellant. At the hearing, the appeal body will consider the written and oral evidence presented. (Ord. 774 N.S., 09/2024)

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

D. Remand. Notwithstanding subsection C above, the City Council acting as the appeal body may remand the matter to the Planning Commission for further consideration. The remand will include either specific issues to be considered, or direction that the Planning Commission open

the entire application for de novo review. Unless the City Council determines otherwise: (1) the remand hearing before the Planning Commission will be scheduled at a Planning Commission meeting, occurring between 14 and 75 days after the date of remand action, or as may be extended by mutual agreement by the appellant and applicant; and (2) no additional fees will be charged to the applicant or appellant relating to the remand. The decision of the Planning Commission on the remand is final unless appealed under this division 17.78, or the City Council retains appeal jurisdiction over the entire matter at the time of the remand and requests only an advisory opinion on specific issues from the Planning Commission. The burden of proof on remand is on the applicant.

17.78.040 Standard of review.

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

1. Deference. Due deference shall be given to the actions of the Planning Commission and staff in light of the substantial number of planning applications heard by them and the major accumulated group experience that those actions represent. (Ord. 774 N.S., 09/2024)
2. Grounds for overruling decision. The appeal body may overrule the action of the decision maker only if one of the following occurs:
 - a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;
 - b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;
 - c. there is a significant error in the application of the Piedmont Design Standards and Guidelines; or
 - d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.
3. Burden of proof. During an appeal, the burden of proof is on the appellant.

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

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

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

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

17.78.050 Call for review.

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

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

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

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