

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: September 3, 2024

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Approval of the Second Reading of Ordinance 774 N.S. - Adding Division 17.56 Emergency Shelters to Chapter 17 of the Piedmont City Code; and Amending Divisions 17.02, 17.40, 17.46, 17.50, 17.62, 17.64, 17.66, 17.68, 17.78, and 17.90 to Implement Programs from the 6th Cycle Housing Element, as well as other maintenance items recommended by staff. (CEQA Review: Consistent with Housing Element Implementation EIR (SCH 2022020362) and exempt under CEQA Guidelines 15061(b)(3), and 15378).

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**RECOMMENDED ACTION**

Approve the Second Reading of Ordinance No. 774 N.S., Attachment A, Adding Division 17.56 Emergency Shelters to Chapter 17 of the Piedmont City Code; and Amending Divisions 17.02, 17.40, 17.46, 17.50, 17.62, 17.64, 17.66, 17.68, 17.78, and 17.90 to Implement Programs from the 6<sup>th</sup> Cycle Housing Element, as well as other maintenance items recommended by staff, as amended at the direction of City Council on July 1, 2024. (CEQA Review: Consistent with Housing Element Implementation EIR (SCH 2022020362) and Exempt under CEQA Guidelines 15061(b)(3), and 15378).

**BACKGROUND**

**City Council Discussion and Action**

On July 1, 2024, the City Council approved a first reading of Ordinance 774 N.S.- adding division 17.56 Emergency Shelters to Chapter 17 of the Piedmont City Code; and amending divisions 17.02, 17.40, 17.46, 17.50, 17.62, 17.64, 17.66, 17.68, 17.78, and 17.90 to Implement the 2023-2031 Housing Element Implementation Project, as well as other maintenance items recommended by staff. The City Council's motion to approve the first reading directed staff to amend City Code section 17.40.020.C to clarify the provisions on rented rooms.

**Summary of Shared Housing Related Policies and Programs in the Housing Element**

The Housing Element outlines Piedmont's strategy to address housing needs through goals, policies, and programs focused on various areas, including new construction, housing preservation, affordability, special needs populations, sustainability, equal access, and identifying and addressing barriers or obstacles that prevent the development of housing.

To implement Housing Element Goal 5: Special Housing Needs, specifically Policies 5.1 (Retrofits for Diminished Mobility) and 5.2 (Accessory Dwelling Units, Shared Housing, Seniors), as well as Program 5.B (Shared Housing Matching Services), the City is updating Division 17.40 Residential Rentals of the Piedmont City Code.

The focus of updates to Division 17.40 Residential Rentals is to implement Housing Element Goal 5: Special Housing Needs, Policy 5.1 Retrofits for Diminished Mobility of Piedmont Residents, and Policy 5.2 Accessory Dwelling Units, Shared Housing, Seniors. Program 5.B Shared Housing Matching Services provides actionable steps to implement the City's goals.

Program 5.B Shared Housing Matching Services states in part: "To help increase awareness of home sharing options, the City of Piedmont will issue a request for proposals (RFP) to partner with an organization to provide shared housing matching services (representative services include counseling, referrals, educational workshops, and supportive services) in Piedmont. Any shared housing program in Piedmont should be designed to include extremely low-income families, as well as empty nesters and other members of the senior population. In addition, the City will amend its zoning ordinance to relax the limits on the number of home sharing leases allowed per single-family residence to further promote affordable housing." The key actions of Program 5.B are:

- **Establish a Shared Housing Matching Service:** Partner with a nonprofit to connect homeowners with extra space to individuals or families seeking housing. (Target completion: September 2023- *City is actively working on this action item*)
- **Relax Zoning Restrictions:** Amend the Zoning Ordinance to allow more home-sharing leases. (Target completion: August 2024 – ***Currently under discussion***)

As directed by the City Council at the July 1, 2024 public hearing, staff is recommending amendments to the Zoning Ordinance (division 17.40) to revise restrictions related to home-sharing of single-family and multi-family residences to promote affordable housing opportunities.

**Other proposed draft amendments and related discussions for existing divisions 17.02, 17.46, 17.50, 17.62, 17.64, 17.66, 17.68, 17.78, and 17.90, and new division 17.56 Emergency Shelters, remain unchanged from the July 1, 2024, [council report](#).**

## DISCUSSION

### **Updates to Division 17.40 Residential Rentals**

As outlined in Housing Element Program 5.B, staff recommends revising Division 17.40 to align with best practices in home-sharing regulations. Research indicates that most jurisdictions regulate home-sharing based on occupancy limits rather than lease or lessee restrictions.

U.S. Department of Housing and Urban Development's (HUD) [occupancy guidelines](#) suggest a maximum of two persons per bedroom as a reasonable standard, although this may vary depending on size and configuration of the unit and sleeping areas.

Based on this analysis, staff proposes the following changes summarized in the list below and followed by the revised content:

1. Clearly define the purpose of the "Rented room" section.
2. Add a definition of "Owner" and modify the definition of "Rented Room."
3. Clearly state the requirements of a rented room, including the following:
  - A rented room must include at least one bedroom.
  - A written agreement must be executed between the property owner and tenant or the subtenant and tenant upon the property owner's approval. The agreement should outline the terms of the tenancy, including shared spaces such as the kitchen and bathroom.
  - No permanent or temporary kitchen is allowed in the rented room.
  - The rented room must be occupied by the tenant as a primary residence, defined as that place where a person has his or her true, fixed, and permanent home and to which that individual has the intention of returning to, whenever absent.
  - There must be no more than 2 people in one bedroom.
4. Other code language changes to clarify the rented room procedures and enforcement.

By making these revisions, staff has restructured the section regulating rented rooms, and included occupancy limits to ensure consistency with best practices. Additionally, language has been added to ensure that the rented room is being used as a primary residence. The revisions are set forth below in track changes:

**“17.40.020 Rented room.**

A. Applicability and Purpose. This section 17.40.020 applies to the rental of a room or rooms in a residential property for a period of 30 consecutive days or longer; and its purpose is to facilitate shared housing that aligns with the City's Housing Element program on shared housing, ensuring rented rooms are used as primary residences.

B. Definitions. In this section:

Owner means a property owner of a single-family or multi-family dwelling, as shown in the records of the Alameda County Assessor's Office

Rented room means a room or any combination of rooms that is/are rented by an owner of a single-family dwelling or multi-family dwelling that meet the requirements of Section 17.40.020.C.2 and 17.40.020.D. means the renting of a room or any combination of rooms within an existing single-family or multi-family dwelling unit that meets all of the following requirements:

1. one or more rooms, including at least one bedroom, is rented to a lessee under a rental agreement, not for the entire dwelling;
2. the rental period is a minimum of 30 consecutive days;
3. the tenant has the common use of the primary kitchen facilities, with no temporary or permanent cooking facilities in the rented room(s); and
4. either shared or separate bathroom.

C. General.

1. The owner of a single-family or multi-family dwelling unit in any zoning district is permitted to rent a multiple rented rooms in such dwelling unit, subject to the requirements of this section, to a limit of one lessee. With the written consent of the property owner, a tenant has the same right. This provision does not authorize an owner or tenant to operate a boarding house, or otherwise rent or sublease more than one rented room per dwelling unit.

2. Each Rented Room must meet the following requirements:

- a. A Rented Room must include at least one bedroom.
- b. The tenant of the Rented Room and the Owner, or the subtenant of the Rented Room and tenant with the Owner's consent, must enter into a form of written rental agreement.
- c. The rental period for a Rented Room is a minimum of 30 consecutive days.
- d. The tenant of the Rented Room must have the common use of the primary kitchen facilities, with no temporary or permanent cooking facilities in the Rented Room.
- e. The tenant of a Rented Room must have access to either a shared or separate bathroom.
- f. The Owner is required to get a business license as provided in Section 17.40.040.
- g. The Rented Room must be occupied by the tenant as a primary residence, defined as that place where a person has his or her true, fixed, and permanent home and to which that individual has the intention of returning to, whenever absent.
- h. The maximum occupancy of any bedroom in a Rented Room is two people.

D. Safety. The ~~property owner~~ is responsible for assuring that any Rented Room meets all the rented rooms meet building code requirements. The ~~property owner~~ must either (at the ~~owner's~~ Owner's discretion):

1. Request that the City inspect the property to assure that the primary residence and the ~~rented Rented rooms Room~~ meet ~~B~~building ~~e~~Codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The ~~property owner~~ shall pay a ~~nominal~~ an inspection fee in the amount established by City Council resolution; or

2. Submit to the City a signed ~~safety~~ declaration in a form prepared by the city to warrant and represent that the Rented Room meets all building code requirements and consist of legally existing rooms eligible for use as a bedroom and habitable spaces., ~~to~~ The declaration shall be kept in the property file at the City."

CEQA REVIEW

On February 20, 2024, the City of Piedmont adopted a program-level [Environmental Impact Report](#) for the Housing Element Implementation Project (Housing Element Implementation EIR) (SCH 2022020362). Other proposed amendments to Piedmont City Code Chapter 17, Articles 1, 3, 4 and 5 are not a project as they are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of these provisions would have a significant effect on the environment, and the revisions are not a project as they modify

organizational or administrative activities that will not result in a direct or indirect physical changes to the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3)).

### FISCAL IMPACT

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

### CITY CHARTER

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

### REVIEW BY CITY ATTORNEY

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

### CONCLUSION

A second and final reading is required for adoption. If passed, this ordinance will become effective October 3, 2024.

Prepared By: Gopika Nair, Associate Planner

### ATTACHMENTS

A 6-17 Ordinance No. 774 N.S. – Revisions to City Code Chapter 17 Planning and Land Use

Separate Related Documents and Links:

- The City of Piedmont's 6<sup>th</sup> Cycle [Housing Element](#)
- [Piedmont City Code Chapter 17, Planning and Land Use](#)
- May 13, 2024, Planning Commission study session [report](#) and [meeting video](#)
- June 10, 2024, Planning Commission public hearing [report](#) and [meeting video](#)
- July 1, 2024, City Council 1st reading and public hearing [report](#) and [meeting video](#).

## ORDINANCE NO. 774 N.S.

## AN ORDINANCE

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

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

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

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

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

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

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

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

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

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

**WHEREAS**, the proposed amendments to the Zoning Ordinance were presented and discussed as study session at the regular meeting of the Planning Commission held on May 13, 2024, during which members of the public had the opportunity to comment on the proposed amendments; and

**WHEREAS**, the Planning Commission has held a duly noticed public hearing and has taken public testimony on the proposed amendments to City Code Chapter 17 on June 10, 2024, consistent with existing City Code section 17.72.040 and recommended City Council approval of the proposed amendments; and

**WHEREAS**, the City Council has held a duly noticed public hearing and took public testimony on the proposed amendments to City Code Chapter 17 on July 1, 2024, consistent with existing City Code section 17.72.050.

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

#### SECTION 1 – INTENT

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

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

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

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

### SECTION 3 – AMENDMENT OF SUBSECTION 17.02.010.C.

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

#### “C. City Charter.

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

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

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

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

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

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

#### SECTION 4 – ADDITION OF SUBSECTION 17.02.010.D.

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

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

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

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

“3. Allow short term renting of single-family dwelling units and rooms in single-family dwelling units for less than 30 consecutive days, while still preserving the residential character of neighborhoods, and preventing short-term rental activities from becoming a nuisance or a threat to public health, safety or welfare.”

#### SECTION 6 – REPLACEMENT OF SECTION 17.40.020

Section 17.40.020 of Division 17.40, Residential Rentals, of the City Code is replaced in its entirety as follows:

##### **“17.40.020 Rented room.**

A. Applicability and Purpose. This Section 17.40.020 applies to the rental of a room or rooms in a residential property for a period of 30 consecutive days or longer and its purpose is to facilitate shared housing that aligns with the City's Housing Element program on shared housing, ensuring rented rooms are used as primary residences.

B. Definitions. In this section:

*Owner* means a property owner of a single-family or multi-family dwelling, as shown in the records of the Alameda County Assessor's Office

*Rented room* means a room or any combination of rooms that is/are rented by an owner of a single-family dwelling or multi-family dwelling that meet the requirements of Section 17.40.020.C.2 and 17.40.020.D.

C. General.

1. The owner of a single-family or multi-family dwelling unit in any zoning district is permitted to rent multiple rooms in such dwelling unit, subject to the requirements of this section. With the written consent of the property owner, a tenant has the same right. This provision does not authorize an owner or tenant to operate a boarding house.
2. Each Rented Room must meet the following requirements:
  - a. A Rented Room must include at least one bedroom.
  - b. The tenant of the Rented Room and the Owner, or the subtenant of the Rented Room and tenant with the Owner's consent, must enter into a form of written rental agreement.
  - c. The rental period for a Rented Room is a minimum of 30 consecutive days.
  - d. The tenant of the Rented Room must have the common use of the primary kitchen facilities, with no temporary or permanent cooking facilities in the Rented Room.
  - e. The tenant of a Rented Room must have access to either a shared or separate bathroom.
  - f. The Owner is required to get a business license as provided in Section 17.40.040.
  - g. The Rented Room must be occupied by the tenant as a primary residence, defined as that place where a person has his or her true, fixed, and permanent home and to which that individual has the intention of returning to, whenever absent.
  - h. The maximum occupancy of any bedroom in a Rented Room is two people.

D. Safety. The Owner is responsible for assuring that any Rented Room meets all Building Code requirements. The Owner must either (at the Owner's discretion):

1. Request that the City inspect the property to assure that the primary residence and the Rented Room meet Building Codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The Owner shall pay an inspection fee in the amount established by City Council resolution; or
2. Submit to the City a signed declaration in a form prepared by the city to warrant and represent that the Rented Room meets all building code requirements and consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The declaration shall be kept in the property file at the City."

**SECTION 7 – AMENDMENT OF SECTION 17.40.040**

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

“A person renting a room or multiple rooms or operating a short-term rental is considered to have rental property and must pay an annual business license tax under City Code chapter 10.”

**SECTION 8 – AMENDMENT OF SUBSECTION 17.46.040.B.2**

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

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

**SECTION 9 – AMENDMENT OF SUBSECTION 17.50.020.B.4**

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

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

**SECTION 10 – ADDITION OF DIVISION 17.56 EMERGENCY SHELTERS**

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

**“DIVISION 17.56                      EMERGENCY SHELTERS**

Sections:

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

**17.56.010      Purpose and intent**

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

**17.56.020      Applicability**

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

**17.56.030      Emergency Shelter Permit; Application and Issuance.**

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

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

**17.56.040      Standards for Emergency Shelters**

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

1. Each operator of an emergency shelter shall have a written management plan that uses best practices to address the housing needs of those using the shelter. The written management plan shall address the standards in this section. The operator shall also establish a liaison to coordinate with City staff, school district officials, local businesses, and residents on issues related to the operation of the facility.
2. Emergency shelters shall provide on-site personnel during hours of operation when individuals who are utilizing the emergency shelter are present. The management plan shall include procedures for screening residents to ensure compatibility with services provided at the facility.
3. The maximum number of beds or persons permitted to be served nightly is 15.
4. No emergency shelter facility shall be located within 300 feet of another emergency shelter, measured from the property line.
5. When abutting a residence, all waiting and intake areas shall be located indoors. A minimum of 100 square feet of waiting area must be provided to ensure that the public sidewalks or private walkways are not used as queuing or waiting areas. The onsite client intake area must be equal to one-quarter of the area provided for client beds. This may be a multi-use area.
6. Any outdoor storage, including, but not limited to, items brought on site by clients for overnight stays, shall be screened from public view by a minimum six-foot-tall decorative wall or fence on a non-street facing yard.

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

#### **17.56.050      Appeal Process**

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

#### **SECTION 11 – AMENDMENT OF SUBSECTION 17.62.030.C.2**

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

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

#### **SECTION 12 – AMENDMENT OF SUBSECTION 17.64.020.A**

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

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

1. A building permit has been issued, substantial money expended, and construction diligently pursued; or
2. A final inspection has been issued; or

3. The conditional use is established in reliance on the approval.

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

#### SECTION 13 – AMENDMENT OF SUBSECTION 17.64.020.B

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

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

#### SECTION 14 – AMENDMENT OF SUBSECTION 17.66.030.A.1.

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

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

#### SECTION 15 – AMENDMENT OF FOOTNOTE 1 TO SUBSECTION 17.66.040.A.2.b.

Footnote in relation to Subsection 17.66.040.A.2.b of Section 17.66.040, Approval authority, of the City Code is amended to read in its entirety as follows:

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

#### SECTION 16 – AMENDMENT OF SUBSECTION 17.68.050.A.

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

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

#### SECTION 17 – AMENDMENT OF SUBSECTION 17.78.030.B.

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

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

#### SECTION 18 – AMENDMENT OF SUBSECTION 17.78.040.A.1.

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

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

#### SECTION 19 – AMENDMENT OF SUBSECTION 17.90.010 TO MODIFY DEFINITION OF “THROUGH LOT”.

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

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

#### SECTION 20 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “BUILDING HEIGHT”.

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

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

#### SECTION 21 – AMENDMENT OF SUBSECTION 17.90.020 TO MODIFY MEASUREMENT OF “BUILDING HEIGHT OF AN ACCESSORY STRUCTURE”.

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

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

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

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

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

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

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

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

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

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

#### SECTION 24 – CONFLICTS

If a previous City Council ordinance or resolution is in conflict with this ordinance, that ordinance or resolution is superseded, and the provisions of this ordinance prevail.

#### SECTION 25 – SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

#### SECTION 26 – CODIFICATION

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

#### SECTION 27 – POSTING, EFFECTIVE DATE, AND SUBMISSION

This Ordinance shall be posted at City Hall after its second reading by the City Council for at least 30 days and shall become effective 30 days after the second reading. The City Clerk is directed to submit a copy of this ordinance to the Department of Housing and Community Development in the manner required by law.

[END OF ORDINANCE]