Chapter 17
PLANNING AND LAND USE

ARTICLE 1. GENERAL PROVISIONS

Divisions

DIVISION 17.02 TITLE; INTENT; CITY CHARTER

Sections:

17.02.010 Title; Intent; City Charter.

A. Title. This chapter 17, Planning and Land Use, is also known as the zoning ordinance.

B. Intent. The City of Piedmont consists primarily of unique single-family residences set among mature trees and other vegetation. The residents wish to:

1. preserve the architectural heritage and beauty of the city's homes, the mature vegetation, the tranquility and privacy that now exist, and significant views;
2. reduce on-street parking and traffic in the neighborhood streets and facilitate pedestrian and bicycle activity;
3. avoid overcrowding and its detrimental effects on city schools and other services and facilities;
4. preserve the city's historical heritage;
5. preserve the existing stock of small homes and otherwise allow for a variety of housing types for all income levels, including single-family and multi-family dwellings;
6. ensure excellence of architectural design, and compliance with the Piedmont Design Standards and Guidelines, as approved by the City Council and amended from time to time;
7. allow retail, office, and service commercial uses that primarily serve city residents; and
8. promote property improvements without sacrificing the goals already mentioned.

These zoning regulations are designed to implement these purposes.

C. City Charter. 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.

In this subsection C, Section 9.02, 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.

DIVISION 17.04 APPLICABILITY AND INTERPRETATION

Sections:

17.04.010 Applicability to property.
Zoning regulations apply to all land within the city, including land owned by the city and other local, state, or federal agencies to the extent allowed by law.

17.04.020 Applicability to streets and rights-of-way.
Public streets, utility and other rights-of-way are in the same zoning district as contiguous property. Where contiguous properties are classified in different zoning districts, the centerline of the street or right-of-way will be the zoning district boundary, unless otherwise depicted on the zoning map.

17.04.030 Compliance with regulations.
No land may be used, and no structure may be constructed, occupied, enlarged, altered, demolished or moved in any zoning district except in accordance with this chapter.

17.04.040 Public nuisance.
Neither the provisions of this chapter nor the approval of any permit authorized by this chapter authorize the maintenance of a public nuisance. A violation of a provision of this division is a public nuisance. (See section 17.80.010B.)

17.04.050 Conflict with other regulations.
Where conflict occurs between the provisions of this chapter and any other city code, chapter, resolution, guideline, or regulation, the more restrictive provision will control unless otherwise specified in this chapter.

17.04.060 Relation to prior ordinance.
The provisions of this chapter supersede all prior zoning ordinances of the city.

17.04.070 Extension of time for holidays and weekends.
If a deadline falls on a weekend or holiday, the time for performing an act is extended to the next working day. A *holiday* is a day on which city offices are closed.

17.04.080 Rules for construction of language.

A. A reference to a public official in the city is to that person who performs the function referred to and includes a designated deputy of the official.

B. References to days are to calendar days unless otherwise indicated.

C. Section headings do not govern, limit, modify or affect the scope, meaning or intent of a section.

D. The words *property*, *activities* and *facilities* include any part of them.

E. References to federal, state, or city codes include those codes as they may be amended.

17.04.090 Application during local emergency.

The city council, or its authorized designee, may authorize a deviation from this chapter during a local emergency declared and ratified under the municipal code in accordance with the California Emergency Services Act (Gov't. Code § 8550 et seq.).

17.04.100 Severability.

The chapters, articles, divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this code are severable. If a court declares any to be unconstitutional, invalid or unenforceable, that determination will not affect the remaining provisions.

DIVISION 17.06 GENERAL REQUIREMENTS

Sections:

17.06.010 General.
On-site improvements not covered by this chapter are subject to the requirements of Piedmont City Code chapter 8 Building, Construction and Fire Prevention.

17.06.020 Dual city lots.
If an applicant seeks city approval for improvements on a lot that falls within both Piedmont and Oakland boundaries, the city will consider the entire lot area in evaluating floor area ratio, landscape, structure coverage and setbacks.

17.06.030 Building permits to conform.
The Chief Building Official will not issue a building permit for the construction, alteration, or establishment of an improvement or use within the city contrary to this chapter. Each application for a building permit shall state on it the purpose for which the proposed improvement is intended.

17.06.040 Subdivision to conform.
No lot may be created that does not conform to this chapter and chapter 19, Subdivisions.

17.06.050 Private construction on city or public utility property.
A. Zone A regulations apply. The Zone A regulations and standards apply to a private residential structure, or fence over four feet high, which is located on or over city property, a city easement, or a public utility easement.

B. Encroachment permit required. No building permit will be issued for construction by a person other than the city or a public utility on or over city property or a city easement unless an encroachment permit has first been obtained from the Director of Public Works. An encroachment permit will not be issued until required design review and variance approvals have been given, and the appeal period has lapsed.

C. Public utility improvements. No public utility may construct an improvement on or over city property or a city easement unless prior written permission has been obtained from the Director of Public Works.

D. Public utility easement. The city will not grant a permit or approval under this chapter if the improvement is to be constructed on or over a public utility easement of which the city has actual knowledge, unless the applicant provides written evidence of the prior consent of the public utility owning the easement.

DIVISION 17.08 ESTABLISHMENT OF ZONES; ZONING MAP; INTERPRETATION

Sections:

17.08.010 Establishment of zones.

The zoning system of the City consists of two parts: (1) the City Charter, which contains the zoning policy and requirements for voter approval of zone classification changes; and (2) this chapter 17 of the City Code.

The City is divided into five zones as follows:

Zone A Single-family residential zone
Zone B Public facilities zone
Zone C Multi-family residential zone
Zone D Commercial and mixed-use commercial/residential zone
Zone E Single family residential estate zone

Within each zone, certain uses of land and buildings are allowed as permitted or conditional uses, and certain other uses of land and buildings are restricted or prohibited. If a use is not permitted or conditionally permitted, it is not allowed. Other regulations may apply.

17.08.020 Zoning map.

The zones referred to in section 17.08.010 above are established and described on the City's Zoning Map. The City Clerk maintains the official copy of the zoning map.

17.08.030 Rules for interpretation of text and zoning map.

A. Zoning regulations. Where uncertainty exists regarding the interpretation of a provision of this chapter or its application to a specific site, the Director determines the intent of the provision. The Director's decision may be appealed to the Planning Commission under division 17.78.

B. Zoning map. Where uncertainty exists regarding the boundary of a zoning district, the following rules apply:

1. District boundaries shown as approximately following the property line of a lot shall be construed to follow the property line.

2. District boundaries shown as approximately following the right-of-way line of a street or other identifiable boundary line, are construed to follow the right-of-way or property boundary line.

3. If any uncertainty remains as to the location of a district boundary or other feature shown on the zoning map, the location is determined by the Director, subject to appeal to the Planning Commission under division 17.78.

C. Record of interpretation. The Director will keep a public record of interpretations made under this section.

ARTICLE 2. ZONING DISTRICTS: USES AND REGULATIONS

Divisions

DIVISION 17.20 ZONE A: SINGLE FAMILY RESIDENTIAL

Sections:

17.20.010 Intent.

Zone A is established for single-family residential use. The intent is to:

- Preserve, protect and enhance Piedmont's residential character, protecting the quiet, family atmosphere of neighborhoods.

- Protect residents from the harmful effects of excessive noise, light deprivation, intrusions on privacy, overcrowding, excessive traffic, insufficient parking, blockage of significant views, and other adverse environmental impacts.

- Maintain openness and areas of vegetation between residences to enhance a healthy environment.

- Achieve design compatibility between additions, remodeling and other new construction by establishing development standards.

- Minimize the out-of-scale appearance of large homes, parking areas, and other development relative to the lot size and to other homes in a neighborhood.

17.20.020 Permitted uses.

The following are permitted uses in Zone A:

A. Single-family residence together with accessory structures and associated uses, located on the same lot.

B. Rented room, subject to section 17.40.020, or short-term rental, subject to a short-term rental permit under section 17.40.030.

C. Accessory dwelling unit, subject to division 17.38.

D. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47. (Ord. 742 N.S., 05/2017)

17.20.030 Conditional uses.
The following are allowed as conditional uses in Zone A:

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. Reservoir.

D. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.20.040 Regulations.
In Zone A:

	Zone A requirements
Lot area	Minimum 8,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 60 feet.
Lot coverage; Landscaping	Maximum 40% by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. (A site feature is not calculated in the lot coverage if (1) the feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 30% landscaping, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.

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

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

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

DIVISION 17.22 ZONE B: PUBLIC FACILITIES

Sections:

17.22.010 Intent.

Zone B is established to regulate and control development of public facilities that are compatible with the character of surrounding uses.

17.22.020 Permitted uses.

The following are permitted uses in Zone B:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A). An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone B used for residential purposes.

B. City building, used by a governmental entity or other nonprofit entity.

C. Public school.

D. Parks, including recreational uses and facilities.

E. Cemetery, public utility.

F. Emergency shelter, supportive housing or transitional housing, as defined in Health and Safety Code sections 50801(e), 50675.14(b) and 50675.2(h), respectively. (Ord. 747 N.S., 02/2020)

17.22.030 Conditional uses.

The following are allowed as conditional uses in Zone B:

A. City building used by a for-profit commercial entity.

B. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.22.040 Regulations.

A. Certain city projects are subject to:
   1. the green building requirements of chapter 8, division 8.10 and following; and
   2. the bay-friendly landscaping requirements of chapter 3, section 3.30 and following.

B. In Zone B, for residential use:

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.

DIVISION 17.24 ZONE C: MULTI-FAMILY RESIDENTIAL

Sections:

17.24.010 Intent.

Zone C is established to regulate and control residential development, including some multi-family dwellings, in harmony with the character of the neighborhood.

17.24.020 Permitted uses.

The following are permitted uses in Zone C:

A. A single-family residence, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. A multi-family dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area (12 units/acre), and not exceeding one dwelling unit per each 2,000 square feet of lot area (21 units/acre).

   The Planning Commission will grant a density bonus for affordable housing in accordance with Government Code section 65915. A multi-family residential project that incorporates affordable units is also eligible for a 20% reduction in planning application fees.

C. Accessory dwelling unit, subject to division 17.38. (Ord. 747 N.S., 02/2020)

17.24.030 Conditional uses.

The following are allowed as conditional uses in Zone C:

A. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.24.040 Regulations.

A. In Zone C, for multi-family residential use:

	Zone C requirements
Lot area	Minimum 10,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 90 feet

Lot coverage; Landscaping	Maximum 50% of the total by primary and accessory structures, subject to exception for accessory dwelling unit construction set forth in division 17.38. Minimum 30% landscaping, or 20% by landscaping for a project in which at least 20% of the units are affordable, as defined by the California Department of Housing and Community Development, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary or accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38. Site feature of any height may require a design review permit under division 17.66.
Side yard and rear yard setback	Minimum 5 feet for primary or accessory structure, except that a setback of only four feet is required for a new structure to be used as an accessory dwelling unit and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.* If the existing multi-family dwelling has a rear or side setback of less than four feet, no modification of the existing multifamily dwelling shall be required for construction of an accessory dwelling unit.** However, an accessory structure may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. A site feature proposed within these distances may require a design review permit under division 17.66.
Floor area ratio	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 55% of the lot area if the parcel is 5,000 square feet or less. Maximum 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet.

	Maximum 45% of the lot area if the parcel is more than 10,000 square feet.

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

DIVISION 17.26 ZONE D: COMMERCIAL AND MIXED USE

Sections:

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 city residents, 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, accessory structures, and associated uses as listed in section 17.20.020 (for Zone A).

B. An accessory dwelling unit, subject to division 17.38, shall be permitted on a parcel in Zone D used for residential purposes. (Ord. 747 N.S., 02/2020)

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. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47.

D. Retail, office, and service commercial uses of a type that will primarily serve city residents. Commercial uses that will primarily serve city residents are those uses residents 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 city.

A structural change 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. Mixed-use commercial/residential development. Mixed-use commercial and residential developments must have both:

1. ground floor retail, office, or service commercial uses to primarily serve city residents. Ground floor residential use is not permitted, except for an entry to the upper floor(s); and

2. multi-family residences above the ground floor of not more than 20 units per net acre. When affordable housing is provided, the Planning Commission will grant a density bonus in accordance with Government Code section 65915.

F. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

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 minor servicing; hotel or motel; fast food restaurant; drive-through establishment.

17.26.050 Regulations.

A. In Zone D, for each conditional use:

	Zone D requirements	
	Civic Center Subarea [1]	**Grand Avenue Subarea [2]**
Lot area	No minimum area, but an existing lot may not be subdivided into smaller lots.	No minimum 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	Maximum 40 feet, and 3 stories.	Maximum 35 feet, and 3 stories. For a building site adjacent to a single family residence: • within 10 feet of the abutting lot line: maximum 25 feet measured from adjacent grade; and • daylight plane starting at 25 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: 10 feet minimum from lot line. Along Grand Avenue: 15 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 5 feet from that abutting lot line.	Side Yard: no minimum setbacks, except minimum 5 feet from lot line abutting a single-family residence. Rear Yard: 5 feet minimum.
Floor to ceiling height for ground floor	15 feet minimum	12 feet minimum

[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:

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.

(Ord. 747 N.S., 02/2020)

DIVISION 17.28 ZONE E: ESTATE RESIDENTIAL

Sections:

17.28.010 Intent.

Zone E is established for estate residential homes, which tend to be larger lots. The other purposes set forth for Zone A also apply to Zone E.

17.28.020 Permitted uses:

The following are permitted uses in Zone E:

A. Single-family residence together with accessory structures and associated uses, located on the same lot.

B. Rented room, subject to section 17.40.020, or short-term rental, subject to a short-term rental permit under section 17.40.030.

C. Accessory dwelling unit, subject to division 17.38.

D. Small or large family day care home in accordance with California Health and Safety Code sections 1597.43 - 1597.47. (Ord. 747 N.S., 02/2020)

17.28.030 Conditional uses.

The following are allowed as conditional uses in Zone E:

A. Wireless communication facility, subject to a wireless communication facility permit (rather than a use permit) under division 17.46.

17.28.040 Regulations.

In Zone E:

	Zone E requirements
Lot area	Minimum 20,000 square feet, subject to exception for accessory dwelling unit construction set forth in division 17.38.
Frontage, on public or private street	Minimum 120 feet.
Lot coverage; landscaping	Subject to exception for accessory dwelling unit construction set forth in division 17.38: Maximum 40% by primary and accessory structures. (A site feature is not calculated in the lot coverage if (1) the

	feature is not more than 7 feet height and (2) the total of all site features is 400 square feet or less.) Minimum 40% landscaping.
Structure height	Maximum 35 feet, except accessory dwelling units shall be subject to restrictions set forth in division 17.38.
Street yard setback	Minimum 20 feet for primary and accessory structure, subject to exception for accessory dwelling unit construction set forth in division 17.38. No minimum setback for a site feature, but a site feature may require a design review permit, under division 17.66.
Side yard and rear yard setback	Minimum 20 feet for primary or accessory structure, except that a setback of only four feet is required for a new structure to be used as an accessory dwelling unit, and no setback is required for conversions of an existing structure to an accessory dwelling unit or portion thereof in the same location and same dimensions.** However, an accessory structure not to be used as an accessory dwelling unit may be located anywhere within the side and rear setback areas except that it: (a) must be located within 35 feet of the rear lot line; (b) must be located at least 5 feet from a habitable structure on an abutting property, and, for a corner lot, at least 5 feet from a side lot line of an abutting property to the rear; (c) may not exceed 15 feet in height; and (d) may not be habitable. These distance requirements for an accessory structure also apply to a garage or carport attached to a primary structure. No minimum setback for a site feature, but a site feature may require a design review permit under division 17.66.
Floor area ratio*	Subject to exception for accessory dwelling unit construction set forth in division 17.38: 55% of the lot area if the parcel is 5,000 square feet or less. 50% of the lot area if the parcel is 5,001 square feet to 10,000 square feet. 45% of the lot area if the parcel is more than 10,000 square feet.

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

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

ARTICLE 3. SPECIAL REGULATIONS

Divisions:

DIVISION 17.30 PARKING

Sections:

17.30.010 Single family residential use. (All zones)

A. Applicability. This section 17.30.010 applies to the following single family residential uses 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 will affect the need for parking. Either an increase in the number of bedrooms, as defined, 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 (chapter 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet: 1-4 bedrooms 5-6 bedrooms 7 or more bedrooms	 2 3 4

* 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.

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

3. An applicant may increase the primary dwelling unit up to four bedrooms without adding additional parking, as long as:

a. no existing parking space is eliminated if it creates a nonconformance;
b. the required number of parking spaces are provided, even if uncovered or tandem;
c. the parking spaces are not within the required 20-foot street setback; and
d. section B.4 below does not apply.

4. 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)

17.30.020 Multi-family residential use. (Zone C).
This section applies to each multi-family residential use.

	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (division 17.38)	0*
Dwelling unit 700 square feet or less	1
Dwelling unit greater than 700 square feet	1.5

* 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)

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

A. Residential uses in mixed use commercial/residential:

Dwelling Unit Size	Minimum number of off-street, covered, non-tandem parking spaces
Accessory dwelling unit (division 17.38)	0*
Studio or 1 bedroom	1
2 bedrooms	1.5
3 or more bedrooms	2

* 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.

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]

[1]Or 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, or covered parking structure in conjunction with the construction of an accessory dwelling unit, or (2) conversion of a garage, carport, 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. 747 N.S., 02/2020)

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.

DIVISION 17.32 FENCES; TRASH ENCLOSURES; CORNER OBSTRUCTIONS

Sections:

17.32.010 Fence, wall, retaining wall, terracing.

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

	Height, measured from exiting or proposed grade; Design review permit requirement
Retaining wall, with or without guardrail	Maximum 30 inches. (No design review permit required.) If more than 30 inches, requires a design review permit under division 17.66.
Fence, wall, or a combination of either with a retaining wall within 24 inches	
Within street setback	Requires a design review permit under division 17.66 for any height.
Other areas	If 6 feet or less: exempt from design review permit. If more than 6 feet high, requires a design review permit, under division 17.66. If more than 8 feet high, requires a design review permit, under division 17.66, with notification requirements of division 17.62.
Trash enclosure	(See general requirements in subsection B.1, below.)
Within street setback	No building permit or design review permit required if the enclosure complies with section 17.32.020, subsections A and B below. Otherwise requires design review permit under division 17.66.
Other areas	No building permit or design review permit required if the enclosure complies with section 17.32.020 B below.
Terracing	Design review is not required if a series of one or more retaining walls and fences, at least 24 inches apart, on a single slope is designed so that no single wall or fence exceeds the height limits in this subsection.

(Ord. 743 N.S., 05/2018)

17.32.020 Trash enclosure.

A. General requirement. A trash enclosure must be:

1. a solid fence, wall, or combination of fence and retaining wall at least four feet in height and up to six feet in height; or

2. an open fence up to six feet in height in combination with dense, evergreen landscaping at least four feet in height at maturity and up to any height; or

3. dense, evergreen landscaping at least four feet in height at maturity and up to any height.

B. Standards. A design review permit is not required, but a trash enclosure within a street setback will be reviewed at the planning counter for compliance with this chapter and the Piedmont Design Standards and Guidelines (Trash Enclosures). The enclosure must be:

1. located as far away from the street as possible;
2. as small as is necessary to enclose the carts;
3. as low in height as necessary to adequately screen the carts; and
4. designed in compliance with the Piedmont Design Standards and Guidelines.

(Ord. 769 N.S., 10/2023)

17.32.030 Corner obstructions.

No fence, wall, retaining wall, hedge, or vegetation may be erected or grown in the front or street side yard of a corner lot to a height of more than three feet within the sight distance zone, a triangular area formed by measuring 30 feet along the front and side lot lines along the right-of-way from their "extended" intersection and connecting these two points, or as otherwise may be approved by the Planning Commission.

DIVISION 17.34 LANDSCAPING.

Section:

17.34.010 Intent.

The regulations in this division are intended to maintain and enhance the city's residential character, preserve the architectural heritage, protect the city's natural beauty and visual character, improve property values, and prevent blighted areas.

17.34.020 Landscape plans.

A. When required.

1. An applicant must include landscape plans in an application for a conditional use permit, design review permit, or variance for a new residence or other building.

2. The Planning Director, Planning Commission or City Council may request that an applicant prepare landscape plans with an application for a building permit, conditional use permit, design review permit, wireless communications facility, or variance for improvements which substantially disturb the site.

B. Application fee. The fee for approval of a landscape plan is included in the fee for the accompanying application as provided in section 17.60.040.

C. Contents. Plans must clearly set forth the areas and types of existing and proposed landscaping, and their relation to the structure(s) requiring the approval or permit. Landscaping must conform to Piedmont Design Standards and Guidelines as well as any state regulations, including the California Water Efficient Landscape Ordinance (23 Cal. Code of Regulations Division 2, Chapter 2.7).
(Ord. 769 N.S., 10/2023)

17.34.030 Decision.

The decision-making body for the accompanying application will take action on the landscape plan, at the same time and in the same manner as that required for the underlying application. That body may modify the design and attach conditions as appropriate to assure compliance with this division. The conditions may include installation of an irrigation system.

The applicant may appeal a decision on the landscape plan under division 17.78, Appeals.

17.34.040 Requirements.

The minimum dimensions and areas for landscaping are set forth in the regulations for each zoning district.
A residential property owner must landscape all required street setback areas, except for areas paved for ingress and egress. This requirement does not apply to a mixed use.

17.34.050 Completion.
The applicant must complete the landscaping to the satisfaction of the Planning Director and/or Chief Building Official. The city may require a cash deposit or letter of credit to assure completion. If required, the city will release the financial security in increments proportionate to the progress of landscape completion. The city may withhold final approval of a project until landscaping is completed.

17.34.060 Maintenance.
All landscaped areas required here or as a condition of approval must be planted with living materials, and if mulch is used it must be made from organic material. The landscaped area must be maintained in a healthy and attractive state, with irrigation, weeding, and replacement as needed. The decision-maker may, as a condition of approval of any landscaping, require execution of a contract for the maintenance of the landscaping.

DIVISION 17.36 SIGNS.

Sections:

17.36.010 Applicability; Definitions

A. Applicability. This division applies to any sign located on real property and visible to the public. This division does not apply to :

1. a sign held or otherwise mounted on a person;
2. a sign posted on the interior of a building or structure (except windows visible to the public);
3. a sign posted on property owned by the Piedmont Unified School District; or
4. any sign mandated, regulated, or expressly permitted by law including the City Code, permits issued by other public agencies, the California Building Code, and the California Manual on Uniform Traffic Control Devices.

No variance is authorized under this division.

B. Definitions. In this division:

Campaign sign means a sign that is designed to influence the passage or defeat of any measure on a ballot or to influence voters with respect to the nomination, election, defeat, or removal of a candidate from public office at any national, state, or local election.

Commercial message means a message by a speaker likely to be engaged in commerce targeting an audience of actual or potential customers where the content of the message is commercial in character.

Commercial sign means any sign containing a commercial message.

Director of Public Works means the Director or his or her designee.

Noncommercial message means any message except for a commercial message.

Noncommercial sign means a sign that does not contain a commercial message.

Nonresidential parcel means all parcels except for residential parcels.

Residential parcel means a parcel of real property containing a single-family residence, accessory structure or associated use, or a multi-family residential project.

Sign means one or more visual figures, including but not limited to words, letters and numbers, other writings, designs, pictures and illustrations, or any combination of those, which are erected, placed on, fixed to, painted or represented on or above a building or structure, window, sidewalk, street or other way, on the ground or any part of a building or structure, or in any other manner so as to be visible to the public. Sign includes, but is not limited to, a banner, handbill, pennant, insignia, bulletin board, ground sign, billboard, poster, mural, electronic advertising and information device, illuminated sign, and marquee.

Temporary freestanding sign means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, wood or other light materials, with or without frames, supported by one or more upright poles or rock, block, A-frame, or masonry base in or upon the ground and not attached to a building.

17.36.020 Purpose.

The purposes and intent of this division is to:

A. regulate signs located on all real property in the City over which the City has zoning and land use regulatory power.

B. maintain and enhance the City's appearance by regulating the design, character, location, number, type, quality of materials, size, illumination, and maintenance of signs.

C. serve the City's interests in maintaining and enhancing its visual appeal for residents, tourists, and other visitors by preventing the degradation of visual quality which can result from excessive and poorly designed, located, or maintained signage.

D. generally limit commercial signs to on-site locations in order to protect the aesthetic environment from the visual clutter associated with the unrestricted proliferation of signs, while providing channels of communication to the public.

E. limit the size and number of signs to levels that reasonably allow for the identification of a residential, public, or commercial location and the nature of any such commercial business.

F. encourage signs that are appropriate for the property on which they are located and consistent with the permitted uses of that property.

G. minimize the possible adverse effects of signs on nearby public and private property, including sidewalks, streets, roads, and highways.

H. protect the investments in property and lifestyle quality made by persons who choose to live, work, or do business in the City.

I. protect and improve pedestrian and vehicular traffic safety by balancing the need for signs that facilitate the safe and smooth flow of traffic (e.g., directional signs and on-site signs) without an excess of signage which may distract drivers or overload their capacity to quickly receive information.

J. reduce hazardous situations, confusion and visual clutter caused by the proliferation, placement, illumination, animation and excessive height, area, and bulk of signs which compete for the attention of pedestrian and vehicular traffic.

K. regulate signs in a manner so as to not physically interfere with or obstruct the vision of pedestrian or vehicular traffic.

L. avoid unnecessary and time-consuming approval requirements for certain minor or temporary signs that do not require review for compliance with the City's building and electrical codes, while limiting the size and number of such signs so as to minimize visual clutter.

M. respect and protect the right of free speech by sign display, particularly the important role that campaign signs play in the political process, while reasonably regulating the structural, locational, and other noncommunicative aspects of signs, generally for the public health, safety, welfare and specifically to serve the public interests in community aesthetics and traffic and pedestrian safety.

N. enable the fair, consistent, and efficient enforcement of the sign regulations of the City.

O. regulate signs in a constitutional manner, which is content neutral as to Noncommercial signs and viewpoint neutral as to commercial signs. All administrative interpretations and discretion are to be exercised in light of this policy and consistent with the purposes and intent stated in this section.

P. recognize that properties owned by the Piedmont Unified School District serve many functions, including as places of learning, athletic venues, and community centers, and reserve for the Piedmont Unified School District the discretion to regulate the posting of signs on its properties in a manner that balances the need to maintain safe and aesthetically attractive facilities with the need to create environments that promote learning and foster civic engagement.

17.36.030 Public Property.

A. Prohibition. Except as permitted under section (B) below, no person may display a sign on public property or within the public right-of-way, including, but not limited to, a street, sidewalk, flight of stairs, pathway, lane, or alley. No person may paint, mark, or write on, or post or otherwise affix a sign to or on a street lamp post, hydrant, tree, shrub, tree stake, or guardrail, public utility structure or poll, wire system, street sign, traffic sign, traffic signal, wall, fence, or other structure located on public property or within the public right-of-way.

B. Exceptions.

1. City Buildings and Facilities. The Director of Public Works may approve the installation of a sign by the City on City-owned buildings and facilities located on City-owned property and within the public rights-of-way provided the sign conforms to the Piedmont Design Standards and Guidelines.

2. Sidewalks. A temporary freestanding sign no larger than four square feet on a side (excluding the frame) may be placed on a City sidewalk or curbside planting strip on Saturdays and Sundays between 12 p.m. and 5 p.m., as long as the sign does not impede pedestrian or vehicular traffic or otherwise constitute a safety hazard.

3. Piedmont Park and Veterans' Memorial Building. A group or individual hosting a permitted event in Piedmont Park or at the Veterans' Memorial Building may place up to two temporary freestanding signs no larger than four square feet on a side (excluding the frame) in Piedmont Park, on the adjacent curbside strips, or on the exterior of the Veterans' Memorial Building during the permitted event and for a period not to exceed 2 hours before the start of the permitted event and 2 hours after the conclusion of the permitted event, as long as the sign does not impede pedestrian or vehicular traffic or otherwise constitute a safety hazard.

4. Other public property. The Director of Public Works may issue a sign permit to display a sign in the following locations:

a. Across Magnolia Avenue at the intersection of Highland Avenue and Magnolia Avenue.

b. On the fence outside of the Piedmont Corporation Yard.

c. On backstops or fences within or surrounding Coaches Field, Beach Playfield, Hampton Field, Vista Street tennis courts, the City pool, and other City-owned recreation facilities.

It is the City's intent that these locations constitute a non-public forum to promote community events benefiting residents and provide residents with information on non-partisan or noncommercial matters of general community interest. Signs in these locations will serve to notify citizens and visitors of upcoming events that are (i) City-sponsored, (ii) City co-sponsored, (iii) sponsored by any other local governmental or educational entity, (iv) sponsored by a local non-profit, or (v) sponsored by a local business. Signs in these locations must conform to the Piedmont Design Standards and Guidelines and the stated purpose of this division.

(Ord. 769 N.S., 10/2023)

17.36.040 Private property.

A. Generally

1. Consent required. The consent of the property owner or the person in control of the property is required before placing any sign on private property.

2. Campaign signs. This division shall not limit the right of owners or occupants of private property to post campaign signs on their property. Campaign signs placed on residential parcels shall comply with the same size, height, location, and lighting restrictions applicable to noncommercial signs placed on residential parcels. Campaign signs placed on nonresidential parcels shall comply with the same size, height, location, and lighting restrictions applicable to noncommercial signs placed on nonresidential parcels. Any person who posts a campaign sign on private property shall remove the campaign sign within ten days after the day of the election to which it pertains.

3. Real estate signs. This division shall not limit the right of property owners or their agents to place real estate signs on their property pursuant to Civil Code § 713.

B. Residential parcels. No person may display a sign on a residential parcel (including contiguous property held by the same owner), unless the sign conforms to the following requirements:

1. Temporary freestanding noncommercial signs.

Number	Maximum of 2
Size	Maximum of 4 square feet per sign
Height	Maximum (including frame) is 4 feet
Location	Street yard of a residential parcel, but not in the public right of way
Lighting	No illumination

2. Noncommercial window signs.

Number	Maximum of 2
Size	Maximum of 4 square feet per sign
Location	Street yard-facing windows

3. Noncommercial entryway signs.

Number	Maximum of 2
Size	Maximum of 1 square foot per sign
Location	Attached to the front door, front gate to the parcel, front porch, or entryway to the residence
Lighting	No illumination

4. Multifamily developments. Notwithstanding subsections (1) and (2) above, the resident(s) of each unit of a multifamily development may display two noncommercial signs, not to exceed a total of four square feet in area per sign, in the windows of that unit. If the unit in a multifamily development includes a patio, deck, balcony, or other outdoor space in the exclusive possession of the resident(s) of that unit, the resident(s) may display up to two temporary freestanding noncommercial signs that satisfy the size, height, and lighting requirements of subsection (B)(1) of this section in that outdoor space. If the unit in a multifamily development includes a front gate to the unit, front porch, or entryway to the unit that is in the exclusive possession of the resident(s) of that unit, the resident(s) may display up to two noncommercial signs that satisfy the requirements of subsection (B)(3) of this section.

C. Private, Nonresidential Parcels. No person may display a sign on a nonresidential parcel, unless the sign conforms to the following requirements:

1. Signs Permitted as a Matter of Right.

a. Temporary freestanding signs. One commercial or noncommercial temporary freestanding sign is permitted for each private nonresidential parcel that has frontage within forty feet of the curb line of a publicly-maintained street. The sign may be placed on private property, or within the first eighteen inches of any public property that is directly in front of the individual private nonresidential parcel. The sign may not exceed four square feet per side (excluding frame). A minimum passageway width of forty-eight inches must be maintained along the sidewalk in front of such sidewalk display sign. No temporary freestanding sign may be illuminated or placed outside a business during non-business hours.

b. Window signs. For each window on all private nonresidential parcels, commercial or noncommercial signs may cover a maximum of 25 percent of the total window area.

2. Design review.

a. General. Each sign other than a sign permitted as a matter of right requires a design review permit by the Planning Commission.

b. Application; Planning Commission review; Standards for approval. An applicant shall submit an application for sign design review permit and the Planning Commission shall hold a hearing on the application in accordance with the application, notice and hearing requirements and procedures set forth in section 17.66.050. The decision of the Planning Commission may be appealed to the City Council in accordance with the appeal procedures of division 17.78. The hearing body will not approve the design of signage on a private nonresidential parcel unless the sign conforms to the purpose of this division, as stated in section 17.36.020, and meets the following standards:

i. Approval of the sign design review permit will not result in more than one sign per applicant for each building façade;

ii. Each sign shall be simple in design. Graphic depictions related to the nonresidential use are appropriate;

iii. Each sign shall be compatible in design, color and scale to the front of the building, adjoining structures and general surroundings;

iv. The sign shall be oriented toward the pedestrian and vehicular traffic;

v. The sign shall be constructed of sturdy materials; and

vi. The design of the sign is consistent with the City's General Plan and Piedmont Design Standards and Guidelines.

D. Mixed use developments. No person may display a sign on a mixed use development parcel, unless the sign conforms to the following requirements:

1. A sign displayed by owners and occupants of nonresidential portions of a mixed use development must comply with section 17.36.040(C).

2. Signs displayed by owners and occupants of residential portions of a mixed use development must comply with section 17.36.040(B). (Ord. 743 N.S., 05/2018)

17.36.050 Substitution of message

A noncommercial message of any type may be substituted for all or part of the commercial or noncommercial message on any approved sign allowed under this division. No special or additional approval from the City is required to substitute a noncommercial message for any other message on an allowable sign provided the sign design is already approved or exempt from the approval requirements of this division and no design, structural, or electrical changes are being made.

17.36.060 Nonconforming signs

A permanently-located sign lawfully existing on November 3, 2010 is permitted without conforming to this division, except that if the sign is altered, relocated, partially demolished, or reconstructed, this division applies. Normal repairs and maintenance which do not change the location or appearance of the sign are permitted without requiring conformity.

17.36.070 Enforcement

A. Illegal sign. An illegal sign is a sign in violation of this division and constitutes a public nuisance.

B. Summary abatement. Upon the determination of the Director of Public Works that a sign placed on public property or within the right-of-way is unsafe or in violation of this division, the City may immediately remove and store the illegal sign without prior notice. The City shall immediately provide written notice of the removal to the owner and/or person responsible for placing the sign on public property or within the right-of-way, if known to the City. If the sign remains unclaimed for a period of fifteen days after removal, it will be deemed unclaimed personal property and may be disposed of by the City in accordance with applicable law. In the case of an unsafe or illegal sign removed by the City, the costs of such removal and storage will be borne by the owner and/or person responsible for placing the sign on public property or within the right-of-way, and may be collected by the City in the same manner as it collects any other debt or obligation. No sign that has been removed and stored by the City may be released until the costs of removal and storage have been paid. The determination by the Director of Public Works made under this subsection (B) and the costs of removal and storage of the sign may be appealed in accordance with Section 17.78 of the City code.

DIVISION 17.38 ACCESSORY DWELLING UNITS

Sections

17.38.010 Purpose and intent.

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

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

A. Establish the requirements for accessory dwelling units and junior accessory dwelling units in the city, consistent with California Government Code section 65852.2 and 65852.22;

B. Encourage the use of existing accessory dwelling units and the construction of new accessory dwelling units, consistent with this Division;

C. Help achieve the goals and policies of the General Plan Housing Element by encouraging a mix of housing types affordable to all economic segments of the community; and

D. Clarify the requirements for the various kinds of accessory dwelling units in the city. (Ord. 768 N.S., 01/2023)

17.38.020 Definitions.

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

Accessory dwelling unit means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living,

sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit may also include (1) an efficiency unit, as defined in Health and Safety Code section 17958.1 and (2) a manufactured home as defined in Health and Safety Code section 18007. (Formerly called second dwelling unit. See section 17.38.030 for types of accessory dwelling units and permits.)
(Ord. 769 N.S., 10/2023)

Affordable housing definitions:

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

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

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

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

Household Size means the number of persons in a household.

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

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

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

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

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

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

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

A. Legal accessory dwelling units.

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

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

2. Second unit permit. A second unit permit issued before December 31, 2016 is a legal accessory dwelling unit.

3. Conditional use permit second unit. Between January 19, 1994 and July 1, 2003, second units were approved by conditional use permit. A second unit permitted under a conditional use permit during that period of time is a legal accessory dwelling unit.

4. Exempt accessory dwelling unit. If an accessory dwelling unit was established before 1930, and the City has confirmed the exempt status in writing, the accessory dwelling unit is a legally existing accessory dwelling unit.

5. Temporary use permit second unit. A temporary use permit second unit approved by the City between May 6, 1987 and July 1, 2003, under former Chapter 17D, is a legal accessory dwelling unit (and the temporary nature now recognized as permanent).

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

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

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

1. Business tax. An accessory dwelling unit that is rented is subject to an annual business tax for rental property, under City Code chapter 10.

2. Rent restrictions. An accessory dwelling unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See section 17.38.070.) (Ord. 768 N.S., 01/2023)

17.38.040 Permit requirement.

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

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

17.38.050 Permit application and review procedures.

A. Application.

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

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

B. Ministerial review. The Director shall review each application ministerially to determine if the development standards in section 17.38.060 are met, and shall within 60 days of a completed application approve or deny the application, except if the application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to create a new single-family or multi-family dwelling on the lot, the Director shall delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until permits for the new single-family or multi-family dwelling are approved. The Director will review the application without notice or public hearing. The time period for review may be tolled at the request of the applicant.

C. Decision and conditions. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final. (Ord. 768 N.S., 01/2023)

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

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

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

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

2. Access. The accessory dwelling unit must have independent, exterior access.

3. Subdivision. No subdivision of land is authorized that would result in an accessory dwelling unit being located on a separate parcel, unless each parcel meets all of the zoning requirements for the zoning district in which it is located.

4. Building Height. A detached accessory dwelling unit shall not exceed a building height of 18 feet. An additional height of two feet for a detached accessory dwelling unit shall be allowed to accommodate a roof pitch that is aligned with the roof pitch of the primary

dwelling unit. An attached accessory dwelling unit shall not exceed a building height of 25 feet or the height limitations for a primary dwelling unit of the underlying zoning district, whichever is lower.

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

6. Limitations on city's approval. Under Government Code section 65852.2, the following limitations apply to any city approval:

    a. Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City shall not require the replacement of off-street parking spaces. (Gov't. Code §65852.2 (a)(1)(D)(xi).)

    b. Side and Rear Setbacks. No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure. If an accessory dwelling unit is not converted from an existing structure, the minimum setback is four feet from the side and rear lot line. (Gov't. Code §65852.2 (a)(1)(D)(vii).)

    c. Street Yard Setback. Accessory dwelling units of 800 square feet or less can be constructed in the street yard setback only if it is determined by the Director that there is no other configuration on the property that would allow for the construction of an 800 square foot accessory dwelling unit outside the four feet side and rear setbacks and in compliance with all other standards in this section, including height limits. (Gov't. Code §65852.2 (c)(2)(C).)

    d. Fire sprinklers. Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in any other existing dwelling. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

        i. When fire sprinklers are currently installed in the primary dwelling unit; or

        ii. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit. (Gov't. Code §65852.2 (a)(1)(D)(xii), Gov't. Code §65852.2 (e)(3))

    e. Passageway. No passageway will be required. (Gov't. Code §65852.2 (a)(1)(D)(vi).)

f. Minimum lot area or lot size. Notwithstanding anything in divisions 17.20 through 17.28, no minimum lot area or lot size shall be imposed with respect to the approval of permits for an accessory dwelling unit. (Gov't. Code §65852.2(a)(1)(B).)

g. Floor Area Ratio, Lot Coverage, and Landscaping.

i. Lot coverage. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

ii. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.

iii. Floor Area Ratio. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum floor area ratio requirement. Maximum floor area ratio for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. (Gov't. Code §65852.2(c)(1)(C).)

h. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling or multi-family dwelling.

i. Nonconforming Zoning Conditions. The City shall not require as a condition for approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit the correction of nonconforming zoning conditions, or building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

j. Utility Connections. For an accessory dwelling unit described in section 17.38.060.D.1, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.

C. Junior accessory dwelling unit development standards.

1. General provisions. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling shall not be constructed unless a single-family dwelling unit exists on a site and such single-family dwelling unit has been constructed lawfully, or the junior accessory dwelling unit is proposed as part of the construction of the single-family dwelling unit. A junior accessory dwelling unit shall be a permitted use in any lot zoned to allow a single-family residential use.

b. No lot shall contain more than one (1) junior accessory dwelling unit.

c. A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling, however, an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling shall be permitted for purposes of accommodating ingress and egress. For purposes of this provision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

d. A junior accessory dwelling unit shall not be sold or otherwise conveyed separate from the single-family dwelling unit.

e. A junior accessory dwelling unit shall have an exterior point of access directly into the junior accessory dwelling unit that is separate and independent from the single-family dwelling unit.

f. A building permit shall be required to construct a junior accessory dwelling unit or to establish a junior accessory dwelling unit within the existing space of a single-family dwelling. Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.

g. A junior accessory dwelling unit that shares a bathroom with the existing or proposed single-family dwelling unit shall provide an interior entry to the existing or proposed single-family dwelling unit’s “main living area”.

2. Development standards. The following provisions shall apply to junior accessory dwelling units:

a. A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes. Installation of fire sprinklers in a junior accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the primary dwelling unit” under the circumstances as specified in section 17.38.060.B.6.d.

b. The minimum floor area for a junior accessory dwelling unit shall be 150 square feet.

c. The maximum floor area for a junior accessory dwelling unit shall not exceed five-hundred square feet. If the sanitation facility is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.

d. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may be constructed only if the following setbacks are maintained:

   i. a street yard setback accordance with the applicable zoning district.
   ii. a minimum side yard setback of four feet.
   iii. a minimum rear yard setback of four feet.

e. No parking shall be required for a junior accessory dwelling unit.

f. No lot coverage or landscaping requirement shall apply to a junior accessory dwelling unit.

g. No height restriction shall apply to a junior accessory dwelling unit.

h. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.

i. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, provided that it is constructed in compliance with all building standards and other standards of this division.

j. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in the Piedmont Design Standards and Guidelines.

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

   a. The City shall record a deed restriction with the County Recorder Office. The deed restriction shall prohibit the sale or other conveyance of the junior accessory

dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.

b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. The site's owner shall be required to reside in the single-family dwelling unit as its primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.

c. A site's owner shall not allow occupancy of a junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence.

d. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.

e. A junior accessory dwelling unit may be rented but shall not be used for rentals of a term less than thirty (30) consecutive days.

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

1. One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

   a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

   b. The accessory dwelling unit has exterior access that is separate from the exterior entrance proposed or existing single-family dwelling.

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

2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, subject to the following requirements:

   a. A total floor area limitation of not more than 800 square feet.

b. A height limitation of 18 feet, plus for single family residential zoned lots an additional two feet to accommodate a roof pitch that is aligned with the roof pitch of the existing or proposed main house.

The new construction detached accessory dwelling unit in this subsection may be combined with a junior accessory dwelling unit as described in subparagraph 1 above.

3. Not more than two detached accessory dwelling units that are located on a lot that has an existing multi-family dwelling, subject to a height limit of 18 feet and four-foot rear yard and side yard setbacks. If the existing multi-family dwelling has a rear or side setback of less than four feet, modification of the existing multifamily dwelling is not required as a condition of constructing the accessory dwelling unit.

4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this subsection shall not exceed 25 percent of the existing dwelling units in the multi-family dwelling structure or one new accessory dwelling unit, whichever is greater. (Ord. 768 N.S., 01/2023; Ord. 769 N.S., 10/2023)

17.38.070 Unit size exception.

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

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

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

1. Rent restriction.

a. Declaration of rent restrictions. The accessory dwelling unit permit with a unit size exception shall have a condition describing the type of rent restriction applicable to the property. The rent-restriction shall be recorded in the county

recorder's office, as a declaration of rent restrictions (in a form provided by the city), and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration.

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

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

17.38.075 Pre-approved Plans Incentive.

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

1. The design unit meets the requirements of section 17.38.060.

2. The roofing material and exterior siding material of the proposed unit are the same as that of the primary residence.

3. The plans are the same as those in Appendix A of the Piedmont Design Standards and Guidelines with only a 3 percent variation or less in any one dimension.

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

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

1. Rent restriction.

   a. Declaration of rent restrictions. The accessory dwelling unit permit constructed using City-owned plans shall be subject to declaration of rent restrictions (in a form provided by the city), which shall be recorded in the county recorder's office, as a

declaration of rent restrictions, and will remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the recorded declaration.

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

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

17.38.080 Enforcement.

Enforcement of notices to correct a violation of any provision of any building standard for any accessory dwelling unit shall comply with Section 17980.12 of the Health and Safety Code. (Ord. 768 N.S., 01/2023)

17.38.090 Removal of Owner Occupancy Restrictions.

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

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

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

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

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

17.38.100 Separate Conveyance.

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

DIVISION 17.40 RESIDENTIAL RENTALS

Sections

17.40.010 Purpose and intent.

A. Purpose. The purpose of this division is to establish regulations governing the rental of residential property within the city.

B. Intent. By enacting this division 17.40, the city council intends to:

1. Provide a community benefit by allowing alternative forms of lodging, allowing residents to participate in the sharing economy, and allowing residents an opportunity for additional source of income.

2. Allow the renting of homes, apartments, or rooms for periods of 30 days or more.

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 single-family character of neighborhoods, and preventing short-term rental activities from becoming a nuisance or a threat to public health, safety or welfare;

4. Establish standards and a permit requirement for short-term rentals; and

5. Prohibit the short-term rental of accessory dwelling units and multi-family dwelling units to preserve them for long-term housing. (Ord. 742 N.S., 05/2018)

17.40.020 Rented room.

A. Applicability. 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.

B. Definitions. In this section:

Rented room 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. The owner of a single-family dwelling unit in any zoning district is permitted to rent a rented room in such dwelling unit 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.

D. Safety. The property owner is responsible for assuring that the rented rooms meet building codes. The property 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 rooms meet building codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The property owner shall pay a nominal 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 be kept in the property file at the city. (Ord. 742 N.S., 05/2018)

17.40.030 Short-term rental.

A. Applicability. This section 17.40.030 applies to short term rentals of less than 30 consecutive days. The short-term rental must be located in a single-family dwelling unit that is the primary residence of the property owner or long-term tenant. It may not be located in an accessory dwelling unit (permitted or unintended) or multi-family dwelling. The short-term rental may be hosted or non-hosted.

B. Definitions. In this section:

Advertising platform means any online site that provides a means for the host to advertise or otherwise offer for rent a short-term rental.

Host or *hosted* means the primary occupant of the dwelling is present during the short-term rental. *Non-hosted* means the primary occupant is not present during the short-term rental.

Operate means the operation of a short-term rental, and includes the acts of establishing, maintaining, or listing for rent a short-term rental with an advertising platform.

Primary Occupant means an occupant who is either the owner of the dwelling or a long-term tenant in the dwelling with a month-to-month lease or lease of a longer duration.

Short-term rental means the use of a dwelling unit, or portion of it, for a rental of less than 30 consecutive days.

Unintended accessory dwelling unit means a living space which meets the definition of an accessory dwelling unit, but which is not approved for habitation as an independent dwelling unit under the provisions of division 17.38. An unintended accessory dwelling unit may

include a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.

C. Short-Term Rental Permit; Permit Issuance. No person may operate a short-term rental without first obtaining a short-term rental permit. A short-term rental permit may be approved by the Director, provided that the Director determines the applicant has met the following requirements:

1. Application. The applicant must complete an application on a form provided by the city, accompanied by a fee established by city council resolution.

2. Property owner consent. If the applicant is a tenant, he or she must demonstrate written approval of the property owner to allow short-term rentals.

3. Insurance. The applicant must provide evidence of, and maintain, general liability insurance of at least $1,000,000 during the term of the short-term rental permit that covers the applicant's short-term rental operations.

4. Contact information. The applicant must provide current contact information to the city, and information regarding the advertising platform(s) to be used.

5. Safety. The dwelling or rooms serving as a short-term rental must have a smoke detector, carbon monoxide detector, fire extinguisher, and adequate egress, all as determined by the chief building official. The applicant must either (at the applicant's discretion):

a. Request that the city inspect the property to assure that the primary residence and the rented rooms meet building codes, consist of legally existing rooms eligible for use as a bedroom and habitable spaces. The property owner shall pay a nominal inspection fee in the amount established by city council resolution; or

b. Submit to the city a signed safety declaration in a form prepared by the Director, to be kept in the property file at the city.

D. Appeals. Any interested party may appeal any decision by the Director to approve or deny a short-term rental permit pursuant to division 17.78 of the Piedmont Municipal Code. No permit shall be deemed issued or effective until the appeal period set forth in division 17.78 has expired.

E. Permit Term and Renewal. A short-term rental permit is valid until December 31 of the year it is issued, unless suspended or revoked. The permittee may renew the permit annually, by submitting a renewal application and fee before the expiration of the permit.

F. Operating standards. A short-term rental is allowed only if it conforms to these standards:

1. Permit. The short-term rental is operated under a short-term rental permit issued by the city in accordance with Section 17.40.030.

2. 2-night minimum. The short-term rental must be rented for a minimum of two consecutive nights.

3. 60 days maximum. The short-term rental may not be rented more than 60 days in a calendar year.

4. No Events. The short-term rental may be used for dwelling, sleeping or lodging purposes, but may not be rented for any other commercial purpose, including temporary events or gatherings.

5. Guest Safety. The short-term rental permittee must provide the following materials electronically to any guests before arrival and make available printed materials on-site for the guest with the following information:

a. A diagram of exits, fire extinguisher locations, and fire and police contact numbers;

b. The short-term rental permittee's contact information;

c. The city's noise regulations (sections 12.8 – 12.12);

d. The city's smoking ordinance (chapter 12, article II);

e. The city's garbage and recycling guidelines (available on the city's website, or a print copy of the residential services guide: *recycling, organics and garbage*).

6. Current Information. The short-term rental permittee shall, during the term of the permit, promptly inform the Director regarding any changes regarding information provided in the application, including contact information and information regarding advertising platforms used by the permittee to advertise the short-term rental. (Ord. 742 N.S., 05/2018; Ord. 747 N.S., 02/2020)

17.40.040 Business license tax.

A person renting a room 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. (Ord. 742 N.S., 05/2018)

17.40.050 Enforcement.

The city may enforce this division by any means permitted by law, including but not limited to those set forth in chapter 1 (General Provisions), article 2 (Code Enforcement) of this code, or under division 17.80, Enforcement. The city council may establish fines by resolution. (Ord. 742 N.S., 05/2018)

DIVISION 17.42 ADDITIONAL BEDROOMS IN EXISTING DWELLING UNITS

Sections

17.42.010 Purpose and intent.

The State Legislature has declared that local jurisdictions cannot adopt or enforce an ordinance requiring a public hearing as a condition of reconfiguring existing space to increase the bedroom count within an existing dwelling unit. (Gov't. Code § 65850.02.)

The regulations in this division are intended to establish a ministerial process with no public hearings for projects proposing additional bedrooms as provided in Government Code 65850.02. (Ord. 768 N.S. 01/2023)

17.42.020 Permit requirement.

A. Additional bedroom permit. Construction of not more than two additional bedrooms within an existing dwelling unit shall be permitted upon issuance of an additional bedroom permit by the Director, as provided in this Division.

B. Building permit. A building permit shall also be required for modifications of a dwelling unit as set forth in the California Residential Code and other building standards adopted by the City. (Ord. 768 N.S. 01/2023)

17.42.030 Permit application and review procedures.

A. Application.

1. Application. An owner may apply for permits to construct additional bedrooms in an existing dwelling unit by submitting a complete application to the Director on a form provided by the city.

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

B. Ministerial review. The Director shall review each application ministerially to determine if the development standards in section 17.42.040 are met. The Director will review the application without notice or public hearing.

C. Decision and conditions. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final. (Ord. 768 N.S. 01/2023)

17.42.040 Standards.
The Director may not approve an application for additional bedroom permit unless the project conforms to all of the following standards:

A. The application proposes no more than two additional bedrooms within an existing dwelling unit. Area within an existing dwelling unit shall not include garages, carports, porches, decks, or crawl spaces.

B. The additional bedrooms shall be created solely within existing space of the dwelling unit and no additional expansions of existing space are proposed to be added to the building (e.g., attic dormers and other structural protrusions).

C. The project meets the requirements of division 17.30 Parking of this Code.

D. Exterior design modifications (e.g., window and door changes) necessary to meet the health and safety requirements of Chapter 8 Building, Construction & Fire Prevention of this Code conform to the standards of the City of Piedmont Design Standards and Guidelines. (Ord. 768 N.S. 01/2023; Ord. 769 N.S., 10/2023)

DIVISION 17.44 HOME OCCUPATION

Sections

17.44.010 Definitions.

In this division:

Cottage food operation has the meaning set forth in Health and Safety Code section 113758.

Home occupation means an occupation conducted at a residence. It does not include a residential rental under division 17.40.

17.44.020 Home occupation permit required.

A. Purpose; Presumption. The following regulations apply to home occupations. Restrictions upon home occupations are an accommodation between the values fostered by the preservation of neighborhoods for residential living, and the liberty to conduct private, nonintrusive economic activity in one's home.

The existence of any of the following create a presumption that there is a home occupation for which a permit is required:

1. Services conducted for pay on the premises;

2. The maintenance on the premises of an inventory of materials used as commercial products or in producing a commercial product;

3. The regular advertising of the residential address; or

4. A residential address is designated as the business location on the business license application (see chapter 10); or

B. Application and fee. A resident wishing to conduct a home occupation must submit an application to the City Clerk on the form provided, together with the non-refundable fee established by City Council resolution. The applicant must also submit a rendering of the house floor plan showing which room will be used for the home occupation. (The drawing must be accurate in its representation, but need not be an architectural rendering.)

C. Notice. The applicant must notify adjacent residents of the intent to obtain a home occupation permit and conduct a business, in a form prescribed by the City Clerk. The notification will include the applicant's name, the address, and description of the business. If the adjacent residents acknowledge receiving this information and sign the form, the notification is complete. If any adjacent resident does not sign the notification form, the city will mail notice to

that resident and advise the resident of the 15-day period during which comments may be directed to the City Clerk.

D. Review and decision. After the notification period under subsection C, the City Clerk will review the application and any comments received, and determine whether the home occupation permit should be granted. The decision will be based on whether the application complies, and is likely to continue complying, with the restrictions under section 17.44.030 below. The city will notify the applicant in writing of the decision. The decision of the City Clerk may be appealed to the City Council by filing an appeal form with the City Administrator within 10 days of the decision.

E. Validity. Once approved, a home occupation permit is valid as long as there is no change in the location or nature of the business, and it is not revoked for violation of a condition of approval or requirement of this under division 17.80, Enforcement.

F. Business license tax. Each person operating an approved home occupation must also have a current city business license. (See City Code chapter 10.) The failure to maintain a business license for six months or more is grounds for revocation of the home occupation permit.

17.44.030 Restrictions.

A home occupation must comply with these restrictions.

1. No employee. Other than residents (or persons who are primarily employed on the premises such as a housekeeper), no other employee may be involved in the home occupation. However, a cottage food operations business may employ not more than one part-time or full-time non-household member as an employee.

2. No traffic. The occupational use may not generate pedestrian or vehicular traffic or parking beyond that normal to the neighborhood. No business invitee is permitted to visit the premises, except that a cottage food operation may engage in direct sales.

3. No merchandise. The occupation may not involve the delivery or storage of resale merchandise on the premises.

4. No outdoor storage. There may not be any outdoor storage of materials or supplies in connection with the home occupation.

5. No sign; no other indication. There may not be any sign on the premises used in connection with the home occupation. The home occupation must be conducted so that there is no external indication of a non-residential use, either by use of color, materials or construction, lighting, signs, sounds or noises, vibrations, or any other indicator.

6. One room only. No more than one room in the residence or any structure on the premises may be used in connection with the home occupation (except for telephone or computer uses). A garage may not be used for the home occupation. A cottage food

operation is restricted to the registered or permitted area of the home provided for by Alameda County Environmental Health.

7. No advertising using address. There may be no advertising, notices, publications or other written or oral means used to connect the occupation with the premises, and in particular there may be no use of the address in any way connected with the occupation. This restriction does not prohibit: (a) the use of business cards, stationery or invoices with the address of the premises; or (b) the normal advertising or the posting of signs related to the rental or sale of the property, as otherwise permitted by this code.

8. Prohibited occupations. The following occupations or businesses are not permitted, including the use of the telephone number of the premises for business purposes: automobile mechanic or garage; retail general merchandise; sale or storage of scrap metals, salvaged materials, or garbage (other than garbage normally associated with a residence); sale, production or marketing of pornographic publications, films, or products; massage business; manufacture of products requiring heavy machinery.

9. Compliance with terms of home occupation permit. The permit holder must comply with the terms of the permit, may not change or increase the use beyond what was stated in the permit application, and may not operate the business in a way that adversely affects the residential character of the neighborhood.

10. Cottage food operations (CFO) must meet the following additional requirements:

    a. A CFO is restricted to the primary kitchen of the premises as defined in section 17.90.010. (See *Kitchen, primary*.)
    b. A CFO must comply with the restrictions on gross annual sales as set forth in Health & Safety Code section 113758.
    c. A CFO must obtain and maintain a registration and/or operating permit from Alameda County Environmental Health. A copy of the registration/permit must be furnished to the City Clerk within 15 days of issuance.
    d. Cottage food operations may not conduct sales in an attached garage, detached accessory structure or outside of the dwelling.
    e. If direct sales are proposed at the site of the cottage food operation, no third party or customer is permitted to dine at the cottage food operation.

DIVISION 17.46 WIRELESS COMMUNICATION FACILITIES

Sections:

17.46.010 Purpose.

The purpose of this division is to provide a comprehensive set of standards for the development and installation of wireless communication facilities. The regulations are designed to protect and promote public safety and community welfare, property values, and the character and aesthetic quality of the city, while at the same time not unduly restricting the development of wireless communication facilities, and not unreasonably discriminating among wireless communication service providers of functionally equivalent services, including retail and other commercial providers of wireless communication services. This division applies to applications for approval of the installation of new or modified wireless communication facilities, including applications previously received by the city but not yet approved, disapproved or conditionally approved by a final city decision.

17.46.020 Definitions.

In this division:

Antenna means a device for transmitting and receiving radiofrequency signals. *Antenna* includes panel antennas, reflecting discs, microwave dishes, whip antennas, directions and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations. The height of the antenna includes all array structures. *Antenna* includes a Distributed Antenna System (DAS), which is a network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

Base station means all equipment and apparatus, excluding antennas, that are components of the WCF, including any antenna support system regular and backup power supply, other associated electronics, electronic receiving and relay equipment, enclosed equipment, electrical meters, and the necessary housing and foundations.

Camouflaged means designed to mask or blend with the surrounding environment in such a manner to render it generally unnoticeable to the casual observer. By way of example, a wireless communication facility may be camouflaged in a faux tree, faux bush, flagpole, or otherwise designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings.

Collocation means the location of two or more wireless communication facilities on a single support structure.

Concealed means not observable. By way of example, a wireless communication facility will be considered concealed if it is contained within new or existing architectural details of a building, e.g., real or faux clock or bell tower, or on the roof of a building and concealed by parapets or screenwalls, or concealed by any other means, so long as the wireless communications facility does not substantially compromise the aesthetics of the building, and the new concealment element has been approved under a wireless communication facility permit.

Equipment cabinet means a cabinet or structure used to house equipment associated with a wireless communication facility.

FCC means Federal Communications Commission.

Monopole means a single free-standing pole, post, or similar structure, used to support equipment associated with a wireless communication facility.

Public right-of-way means a public highway, street, alley, sidewalk, or parkway that is subject to Public Utilities Code section 7901.

Related equipment means equipment ancillary to the transmission and reception of voice and data via radio frequencies. *Related equipment* may include, but is not limited to, cable, conduit and connectors.

Service provider means an authorized provider of wireless communication services.

Tower means a structure built for the sole or primary purpose of supporting wireless communication facilities, including a monopole. This does not include a structure that was installed to replace or collocate upon an existing power pole, light standard, energy transmission tower, or building.

Wireless communication facility means an unstaffed facility, generally consisting of antennas (including a Distributed Antenna System), an equipment cabinet or structure, and related equipment that receives and/or transmits radio frequency signals.

17.46.030 Applicability; Exemptions.

A. Applicability. This division 17.46 applies to all wireless communication facilities, except those exempted in subsection B below (though other permit requirements may apply).

B. Exemptions. The following facilities are exempt from this division:

1. Wireless communication facility for which a federal or state statute or regulation exempts the facility from the imposition of the permit requirements of this division but only to the extent of such exemption.

2. Satellite dish antenna, less than one meter in diameter for receiving radio or television stations by the property owners, occupants or guests.

3. City-owned or operated communication facilities.

4. Communication equipment located completely inside a structure, not visible from the outside, whose purpose is solely to provide wireless communications within the same structure, including Wi-Fi hotspots and access points, with no alteration to the exterior of the structure.

17.46.040 Location; City site agreement.

A. Priority for location.

1. Preference for Zone B, publicly-owned property, and public right of way sites. In order of preference, wireless communication facilities should be located (i) on publicly-owned property outside of the public right of way, in Zone B within the city (ii) on publicly-owned facilities in any other zone outside of the public right of way, or (iii) public rights-of-way.

2. Alternative locations. Any location for a wireless site outside of Zone B, not on publicly-owned property, or not with a public right of way will be considered according to the following priority:

a. The applicant must first attempt to locate a site in Zone D, the commercial zone, that is not used for residential purposes.

b. If it is infeasible to locate in Zone D, the applicant must attempt to locate at a non-residential property in Zone A, C or E.

3. General. In all cases, the preference, in order, is to locate on or in an existing structure which the wireless communication facility can be concealed; or to collocate on an existing wireless communication facility; or to locate on a new structure that can be incorporated in an inconspicuous or compatible manner with the surrounding area.

B. City site agreement.

1. Consideration by staff. If the applicant wishes to locate on city-owned property or facilities, the applicant must discuss its desired location(s) with staff (Public Works Director and Planning Director, as appropriate) before the submittal of an application. If the location appears to be generally feasible, city staff will negotiate the principal terms for a proposed site agreement with the applicant, spelling out in detail the specific facilities to be located on city property or facilities, the term of the agreement, the compensation to be provided the city, and other terms.

2. Consideration by City Council. When the principal terms for a proposed agreement have been prepared and approved by city staff, staff will scheduled the matter for hearing

before the City Council. The City Council will consider the proposed agreement as part of an ordinance, 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.

3. Limited nature of consent. The city's consent as property owner to process a wireless communication facility permit is not be deemed city consent to lease or license the property.

C. No wireless communication facilities on residential property. Wireless communication facilities shall not be installed on property which is used for residential purposes, irrespective of the zoning district in which such residential property is located.

17.46.050 Permit; Application.

A. Permit. A wireless communication facility permit is a type of conditional use permit specifically for wireless communication facilities and is required for each facility. If the wireless communication facility permit is approved, the owner or operator must also obtain a building permit before beginning construction.

B. Application.

1. All applications. An application for a wireless communication facility permit must include:

a. a complete application on a form provided by the city, setting forth information for the applicant to submit;

b. evidence of a significant gap in coverage or capacity which the application seeks to address; and

c. applicable fees and/or deposits, including a deposit for independent technical review under section 17.46.060 below. If the application is to collocate a wireless communication facility at an existing wireless communication facility location, or to modify an existing wireless communication facility, the application shall address the applicability, if any, of federal or state laws governing such applications.

2. Application for location on city property. An applicant for a wireless communication facility proposed to be located on city property or in a public right-of-way must submit additional items, as set forth on the supplemental application form provided by the city, setting forth supplemental information for the applicant to submit.

17.46.060 Independent Technical Review.

The Director is authorized in his or her discretion to retain an independent technical consultant to review materials submitted by the applicant and to provide an analysis of issues including but not limited to: whether the wireless communication facility meets the applicable radio frequency emission regulations; whether a significant gap in coverage or capacity exists and whether the proposed facilities are the least intrusive means of doing so; whether there are alternative sites and the feasibility of those sites; whether there are ways to mitigate aesthetic impacts; and any other specific technical issues designated by the Director. The applicant must pay the consultant's costs, and must increase the deposit to cover the anticipated amount as the Director may deem necessary from time-to-time.

17.46.070 Standards.

A. Development Standards. The following development standards apply.

1. Collocation. New wireless communication facilities must be collocated with existing facilities and with other planned new facilities whenever feasible. A new wireless tower must be designed and constructed to accommodate future collocation(s) unless the city determines that collocation would be infeasible because of physical or design issues specific to the site.

2. Height limits; Screening. No wireless communication facility may exceed 35 feet in height, measured from the ground to the highest point of the wireless communication facility, unless the zoning district in which the wireless communication facility is located expressly provides a higher height limit. Ground mounted wireless communication equipment, base station, antenna, pole, or tower must be the minimum functional height, unless a variance is granted. Roof mounted equipment and antennas must be located to minimize visibility.

3. Visual impact. Wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views.

The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city.

4. Public health, peace and safety. A wireless communication facility may not adversely affect the public health, peace and safety.

5. Public right-of-way. A wireless communication facility located in the public right-of-way may not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. Equipment, walls, and landscaping located above grade must be at least 18 inches from the front of the curb and not interfere with the public’s use of the right-of-way.

6. Compliance with laws. Each wireless communication facility must comply with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC sections 253, 332(c)(7), 47 USC section 1455 (also known as section 6409 of the 2012 Middle Class Tax Relief and Jobs Act), California Government Code sections 50030, 65850.6 and 65964, and California Public Utilities Code sections 7901 and 7901.1. Each reference to a federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect.

B. Operation and Maintenance Standards

1. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.

2. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size.

3. FCC compliance. Each wireless communication facility must comply with FCC regulations, and avoid interfering with any city communication facilities, operations, utilities, equipment, or public safety communications. If the facility negatively impacts city facilities or equipment, the operator must comply with all FCC regulations and orders to resolve the interference. At the city's discretion, and at the operator's expense, the city may retain an outside technical consultant to evaluate and verify compliance with FCC regulations and to determine the cause of interference for an existing facility.

4. Facility maintenance. Each wireless communication facility must be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than 90 days from the time of notification.

Landscaping elements at a wireless communication facility site must be maintained in good condition, and in compliance with the approved landscape plan. The owner or operator is responsible for replacing any damaged, dead, or decayed landscape materials and making necessary irrigation and equipment repairs as soon as reasonably possible.

5. Noise. A wireless communication facility must be operated to minimize noise that is audible as provided in Chapter 8 of the City Code

6. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site restored to its original, preconstruction condition. In addition, the service provider must provide the city with a notice of intent to vacate a site a minimum of 30 days before the vacation. For a wireless communication facility to be located on public property, this removal requirement will be included within the lease. For a facility to be located on private property, the property owner is encouraged to also include this in the lease, because the property owner will otherwise be responsible for removal.

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

However, a permit granted for a collocation or modification under section 17.46.080 D.2.b will be effective for the shorter of: (i) the term of the original permit; or (ii) a longer period if required by state or federal law.

17.46.080 Hearings; Findings.

A. Reviewing body. The Planning Commission is the reviewing body, except that:

1. the City Council is the reviewing body for a facility in Zone B or on city-owned property or facilities (including collocations), following a recommendation from the Planning Commission; and

2. the Director is the reviewing body for an application for a collocation that meets the criteria set forth in section 17.46.080.D.2.b or for which the wireless communication facility will be fully concealed or camouflaged. The Director will take action on the application without public notice or public hearing, unless the Director refers the application to the Planning Commission.

B. Planning Commission. After receiving a completed application, the city staff will schedule a noticed public hearing before the Planning Commission consistent with divisions 17.62 and 17.64. If the application involves city-owned property, the Planning Commission makes a recommendation to the City Council.

C. City Council. The City Council will hear each application: (i) involving a facility in Zone B or on city-owned property or facilities; or (ii) appealed from the Planning Commission.

D. Required findings; Exceptions.

1. Findings. Before approving a wireless communication facility permit, the reviewing body must make the following findings:

a. The facility is necessary to close a significant gap in the operator's service coverage or capacity.

b. The applicant has evaluated and met the priority for location standards of section 17.46.040 A above.

c. The proposal satisfies each of the applicable development standards in section 17.46.070 above.

d. The proposed design is consistent with the Piedmont Design Standards and Guidelines.

e. The proposed facility has been located and designed for collocation to the greatest extent reasonably feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility.

2. Exceptions.

a. General. The decision-making body may grant an exception to any requirement of this division 17.46, including without limitation the priority for location under section 17.46.040 A, if the applicant establishes that strict compliance would violate federal or state law.

b. Modification. The Director may consider and grant, modify and grant or deny a modification to an existing wireless communications facility if the modification meets the requirements of section 6409. In determining whether to approve the requested modification the Director shall consider the following:

i. Alterations to the width, bulk, or arrangement of a wireless communication facility that may result in a potentially significant or material impact to public access or use of any public or private right-of-way, or any potentially significant or material impact to public health, safety, or welfare;

ii. Alterations to required access, parking, or landscaping from that shown on the approved site plans;

iii. Alterations that include excavation outside the wireless telecommunications facility site, defined as the boundaries of the controlled, leased or owned property surrounding the tower and base station and any access or utility easements related to the site as shown on the approved plans;

iv. An increase in the height of a freestanding tower that is less than the applicable height limit;

v. Replacement of the wireless tower or foundation;

vi. Alteration or expansion of the exterior of a facility that was originally approved as concealed or camouflaged in such a manner so that it may no longer be concealed or camouflaged; or

vii. An increase by more than ten percent of the physical dimensions or exposed surface area of any component of the tower or base station (including, but not limited to, the height, circumference, or width of the wireless tower or base station), or an increase by more than ten percent from the dimensions of any structures required to support the wireless tower or base station, such as guy wires, as approved and constructed through the discretionary permit process; provided that in no event may the height exceed the maximum height permitted under this section 17.46, the zoning district or the wireless tower or base station's initial approval.

Any proposed modification that is not a collocation, or for which the wireless communication facility will be fully concealed or camouflaged, or that does not fall within the requirements of section 6409 shall be reviewed and considered under the same provisions and requirements as those required for the original consideration of the permit proposed for modification

DIVISION 17.48 CANNABIS CULTIVATION AND FACILITIES

Sections

17.48.010 Purpose and intent.

The purpose and intent of this division is to prohibit any commercial cannabis facility and to regulate cannabis cultivation within the city limits. It is recognized that it is a federal violation under the Controlled Substances Act to possess or distribute cannabis even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with a cannabis facility, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare. (Ord. 743 N.S., 05/2018; Ord. 738 N.S., 12/2017; Ord. 728 N.S., 03/2017)

17.48.020 Definitions.

In this division:

Cannabis or *marijuana* has the meaning set forth in Business and Professions Code section 26001(f) and includes all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. *Cannabis* or *marijuana* also means the separated resin, whether crude or purified, obtained from cannabis. *Cannabis* or *marijuana* does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. *Cannabis* or *marijuana* does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

Commercial cannabis activity has the meaning set forth in Business and Professions Code section 26001(k), and includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product.

Commercial cannabis facility means any building, facility, use, establishment, property, or location where any person or entity establishes, commences, engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any commercial cannabis activity that requires a state license or nonprofit license under Business and Professions Code sections 26000 and following, including but not limited to

cannabis cultivation, cannabis distribution, cannabis transportation, cannabis storage, manufacturing of cannabis products, cannabis processing, the sale of any cannabis or cannabis products, and the operation of a cannabis microbusiness.

Cultivation has the meaning set forth in Business and Professions Code section 26001(l) and includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

State Cannabis Laws shall mean and include California Health and Safety Code Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act); California Health and Safety Code Sections 26000 through 26211 (Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")); California Health and Safety Code Sections 26220 through 26231.2; the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; and all other applicable laws of the state of California. (Ord. 738 N.S., 12/2017; Ord. 728 N.S., 03/2017)

17.48.030 Prohibitions on commercial cannabis facilities.

Commercial cannabis facilities are prohibited in all zones in the City. No person or entity may establish or operate a commercial cannabis facility within city limits. A property owner may not allow its property to be used by any person or entity as a commercial cannabis facility. (Ord. 738 N.S., 12/2017; Ord. 728 N.S., 03/2017)

17.48.040 Cannabis cultivation.

A. All cannabis cultivation within city limits is prohibited except that a person may cultivate no more than six living cannabis plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of that private residence. Such cultivation shall only occur inside residences and accessory structures that are fully enclosed and secured against unauthorized entry.

B. If a private residence is not occupied or inhabited by the owner of the private residence, then no persons living in the residence may cultivate cannabis without written consent signed by the owner expressly allowing cannabis cultivation to occur at the private residence.

C. Persons cultivating cannabis under this section shall comply with all applicable Building Code requirements set forth in the Piedmont City Code.

D. There shall be no use of gas products (CO2, butane, propane, natural gas, etc.) on the property for purposes of cannabis cultivation.

E. All private cultivation under this section shall comply with Health and Safety Code section 11362.2(a)(3). (Ord. 738 N.S., 12/2017; Ord. 728 N.S., 03/2017)

17.48.050 Cannabis deliveries.

A. State-licensed commercial cannabis facilities located outside the City may personally deliver cannabis and cannabis products to individuals within the City, provided that such deliveries are in strict compliance with State Cannabis Laws and have complied with Municipal Code Chapter 10 regarding business licenses.

B. Vehicles used in the delivery process must be unmarked without any designation or logo that identifies the vehicle as a cannabis delivery vehicle.

C. Cannabis and cannabis product deliveries within the City may not occur between 9:00 p.m. and 7:00 a.m. (Ord. 738 N.S., 12/2017)

17.48.060 Penalties.

Violation of any provision of this division is subject to penalties as set forth in City Code Chapter 1, Article II. (Ord. 743 N.S., 05/2018; Ord. 738 N.S., 12/2017)

17.48.070 Civil injunction.

Any violation of this division is declared to be a public nuisance per se and contrary to the public interest and, at the discretion of the City, will be subject to a cause of action for injunctive relief. (Ord. 743 N.S., 05/2018; Ord. 738 N.S., 12/2017)

DIVISION 17.50 NONCONFORMING USES AND STRUCTURES

Sections:

17.50.010 Nonconforming use.

A. General. Use of a structure or land that was lawfully established and maintained, but which does not conform to current use regulations is nonconforming use. A nonconforming use may continue, except as otherwise provided in this section.

B. Regulations. The following regulations apply to each nonconforming use:

1. There may be no increase or enlargement of the area, space of volume occupied and used.
2. There may be no change in the nature or character of the nonconforming use.
3. If the nonconforming use is replaced by a conforming use, the nonconforming use is automatically terminated.
4. If the nonconforming use discontinues active operation for a continuous period of one year, the nonconforming use terminates and the facilities accommodating or serving the activity must thereafter be used only for uses permitted or conditionally permitted by the zoning district. This provision does not apply to a nonconforming dwelling unit.

17.50.020 Nonconforming structure.

A. General. A structure that was lawfully erected but which does not conform to the currently applicable zoning requirements prescribed in the zone district is a nonconforming structure. It may be used and maintained except as otherwise provided in this section. A nonconforming structure is also subject to the California Building Code adopted by the city under chapter 8.

B. Regulations. The following regulations apply to a nonconforming structure:

1. Maintenance and repair. Routine maintenance and repairs may be performed on a nonconforming structure.

2. No alteration or enlargement. A nonconforming structure may not be altered, partially demolished, or enlarged unless required by law, or unless the alteration or enlargement conforms to the standards of the zoning district. An existing nonconforming structure may be altered or enlarged without variance as long as the alteration or enlargement does not relate to or involve the nonconformity. If an alteration or enlargement does relate to or involve a nonconformity of a non-conforming structure, a variance is required under division 17.70.

In this section, *reconstruction* means rebuilding all or a portion of an improvement in a way that differs from the prior construction, including but not limited to differences in design or

materials or both. *Replacement* means rebuilding all or a portion of an improvement to be exactly the same as what was replaced.

3. Accessory dwelling unit. Regarding a nonconforming accessory dwelling unit, exterior design and material modifications beyond those authorized under division 17.38 are permitted if:

a. such modifications comply with objective standards in the Piedmont Design Standards and Guidelines; and

b. there is no increase in the size or change to the location of the accessory dwelling unit, no increase in structure coverage or decrease in landscape coverage related to the accessory dwelling unit.

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.

This subsection 4 does not apply to:

a. a garage, pool house, exempt accessory dwelling unit under section 17.38.030, or accessory structure, and any of those may be replaced as it was, within two years, without increasing the degree of nonconformity, and without a variance under division 17.70.

b. a deck, balcony, porch, or site feature, and any of those may be replaced as it was, within one year, without increasing the degree of nonconformity, and without a variance under division 17.70.

If a nonconforming primary structure has been demolished or destroyed less than 70%, reconstruction must be completed within two years from the date of issuance of the building permit. If a property owner of a non-conforming structure has received permission to demolish or destroy less than 70% of the structure, but during renovation, more that 70% is destroyed or demolished, the project approval terminates and the property is subject to current zoning regulations as set forth in the paragraph above.

The percentage of physical building destruction or demolition is determined by the Building Official.

If the nonconforming structure is not rebuilt within the time period allowed under this subsection 4, the nonconforming rights terminate. (Ord. 747 N.S., 02/2020; Ord. 768 N.S. 01/2023)

ARTICLE 4. ADMINISTRATION

Divisions:

DIVISION 17.60 GENERAL PROVISIONS

Sections:

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, some wireless communication facilities permits, and to make recommendations to the City Council regarding conditional use permits, zoning amendments, 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 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 17.62 NOTICE REQUIREMENTS

Sections:

17.62.010 General.

Whenever a public hearing is required, notice of the public hearing will be given in accordance with this section. Unless stated otherwise, notice will be given at least 14 calendar days before the hearing.

In addition to the notices sent to the applicant and other property owners under section 17.62.030 C, notice shall also be mailed or delivered to any person who has filed a written request for notice with the City Clerk. The city may charge a fee that is reasonably related to the cost of providing this service. Requests for notice must be renewed annually.

The failure of any person or entity to receive notice does not constitute grounds for any court to invalidate the actions of the city for which the notice was given. (Gov't. Code §65093.)

A public hearing conducted under this part may be continued from time to time to a specific date and time, without additional notice.

For combined applications with multiple permits, the greater notice requirement applies to the entire packet of applications.

In addition to the notice requirements set forth here, the Planning Director may give notice of a hearing in any other manner the director deems necessary or desirable.

17.62.020 Contents of notice.

When a notice of a public hearing is required, the notice shall include the following information:

1. A general description (in text or by diagram) of the location of the property that is the subject of the hearing;
2. A general explanation of the matter to be considered;
3. The date, time and place of the public hearing;
4. The identity of the hearing body;
5. A reference to application materials on file for detailed information;
6. A statement that any interested person may appear and be heard; and
7. Other information which is required by statute or specific provisions of this chapter or which the Planning Director deems necessary or desirable.

17.62.030 Summary of notice requirements.

A. General. Notice of a public hearing will be given for a particular matter in accordance with the schedule set forth at subsection E below.

Published notice means that the notice will be published at least once in a newspaper of general circulation, at least 14 calendar days before the hearing.

Notice regarding landscape plans will be given as part of the related application.

B. Notice by applicant.

1. Before Planning Commission. The applicant for a design review permit or a variance, to be considered by the Planning Commission, must notify the adjacent property owners of the proposed project at least 30 calendar days before the date of the initial hearing. The notice must be in writing, describe the project in specific detail, and give the date of the hearing on the application. The applicant must submit to the Planning Director at least 30 calendar days before the hearing an affidavit of service by mail or personal delivery and a copy of the written notice.

2. Expedited design review by Director. The applicant for an expedited design review permit under section 17.66.040.B.3 may be required to notify adjacent neighbors as specified in the Design Standards and Guidelines or the application instructions.

C. Method of city notice.

1. Publication or posting/mailing. The city will give notice either by (i) publication in a newspaper of general circulation circulated in the city; or (ii) posting on the official city hall bulletin board and mailing a copy to each property owner of record shown on the latest equalized assessment rolls according to the schedule in subsection E. In addition to these requirements, the city may post notification at the project site.

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

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

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

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

		Notice by City at least 14 days before the hearing, measured from the project boundary. [2]				
	Notice by applicant 30 days before hearing[1]	**to adjacent property owners**	**to property owners within 100 feet**	**to property owners within 200 feet**	**to property owners within 300 feet**	**to property owners within 500 feet**
Design review permit	Variable depending on application. See division 17.66.					
Ministerial design review	No public notice. See division 17.67.					
Variance Single (other than for height or floor area ratio)	X		X			
More than one, or for height or floor area ratio	X			X		
Signs	X[4]		X			
Landscape plan	X[4]		X[4]			
Lot line adjustment Between two lots More than two lots			X		X	
Wireless communication facility permit	X[4]		X			
Accessory Dwelling Unit Permit	No notice for an ADU permit application is permitted. See division 17.38.					
Negative declaration or Environmental Impact Report required	X[4]				X	
Tract map or parcel map	X				X	
Conditional use permit, or modification						X
Reasonable accommodation[3]			X			
Zoning Regulation Amendment	Publish notice in newspaper of general circulation within the City.[5]					
Zoning Map Amendment	Publish notice in newspaper of general circulation within the City.[5]					
Other applications		X				
Appeal, Call for Review	Subject to Section 17.78.030.A.					

[1] See section 17.62.030B.
[2] See section 17.62.030C.
[3] Subject to section 17.76.040.
[4] For an application considered by Planning Commission
[5] Subject to section 17.62.030, subsections A and C.

(Ord. 743 N.S., 05/2018; Ord. 747 N.S., 02/2020; Ord. 769 N.S., 10/2023)

DIVISION 17.64 HEARINGS; TERM OF APPROVAL; CONDITIONS

Sections:

17.64.010 Hearings.

A. Planning Commission. If an application will be considered by the Planning Commission, city staff will schedule the matter at the next meeting that has an open agenda, once the application is complete, and at least 14 days later to allow time for noticing.

B. City Council. If this chapter requires a City Council hearing, the hearing will be scheduled for the next available regular City Council meeting unless the hearing is for an appeal, in which case the hearing will be scheduled at least 45 calendar days after the filing of an appeal.

C. Continued hearing. When necessary for proper evaluation of an application, the Planning Commission or City Council may continue a hearing to a later meeting date.

D. Voting. A City Council or Planning Commission decision must be made by a majority of the body. (See City Charter Section 2.07C and City Code Section 25.14.) (Ord. 743 N.S., 05/2018)

17.64.020 Term of approval.

A. General. An approved conditional use permit, design review permit, accessory dwelling unit permit 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.

B. Administrative extension. 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.

C. Re-application. An application for re-approval of an expired, previous approval is subject to all the requirements of this code in effect on the date of the final decision on the re-application. (Ord. 743 N.S., 05/2018; Ord. 769 N.S., 10/2023)

17.64.030 Conditions of approval.

A. General. In its review of an application, the reviewing body may impose reasonable conditions necessary to:

1. Achieve the general purposes of this chapter or the specific purposes of the zoning district in which the site is located, or to make it consistent with the general plan and Piedmont Design Standards and Guidelines;

2. Protect the public health, safety, and general welfare; or

3. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

B. Guarantee. The Director, Planning Commission, or City Council may impose a condition of approval requiring a guarantee that specified conditions of approval will be met. The guarantee may be in the form of a bond, cash deposit, letter of credit or other guarantee. The city may also require that the applicant agree in writing to the city's right to complete or repair incomplete or incorrect work on the applicant's property, to recover the costs incurred from the applicant, and if unpaid, to impose a lien against the property for the costs. The costs may include staff time, contractor and consultant services, and legal services. If the conditions are not met, the City may use the guarantee to meet the conditions. The guarantee will be released upon a showing that all the specified conditions of approval have been met.

DIVISION 17.66 DESIGN REVIEW PERMIT

Sections:

17.66.010 Intent.

Design review is intended to: promote orderly, attractive, safe and harmonious development; uphold the aesthetic values of the community; and ensure excellence of architectural design; all as set forth in the Piedmont Design Standards and Guidelines. (Ord. 769 N.S., 10/2023)

17.66.020 Implementation.

A. Piedmont Design Standards and Guidelines. The City Council has adopted the Piedmont Design Standards and Guidelines that are available online and at city hall. The Standards and Guidelines are the criteria for the applicant and hearing body in determining whether a specific project conforms to section 17.66.060, Standards.

B. Director. The Director will prepare:

1. the permit application forms; and

2. public lists for guidance to applicants on which applications are subject to each type of design review.

(Ord. 769 N.S., 10/2023)

17.66.030 Permit required; Exceptions.

A. Permit required. A design review permit is required for any of the following, unless an exception applies under subsection B.

1. improvement requiring a variance, conditional use permit, or building permit;

2. fence, wall, retaining wall, or trash enclosure as provided in division 17.32.

No improvement subject to design review under this division may be constructed, repaired or maintained except in accordance with a design review permit. The term *improvement* in this division means (1) the construction, alteration and repair of a building, structure, or facility permanently affixed to real property, or (2) a site feature.

The city will not issue a building permit under chapter 8 until the applicant has obtained the required design review permit. The city will not allow demolition unless the applicant has

approval of plans for a replacement structure or other site improvements under this chapter 17, and has obtained a building permit under chapter 8.

B. Exceptions. No design review permit is required for a small improvement or for an interior improvement not requiring a variance. The Director determines what is a *small improvement*, and will maintain a list, available to the public. (See section 17.66.020 B.)

17.66.040 Approval authority.

A. Planning Commission.

1. Applicability. The Planning Commission has the responsibility to review a design review permit if the project is:

a. part of an application for a variance or conditional use permit;

b. is valued at $125,000 or more (adjusted for inflation[1]);

c. a site feature greater than 7 feet high and located in a side or rear yard setback, or a site feature of any height located within a 20-foot street setback;

d. a retaining wall greater than 30 inches in height located within a street yard setback or a fence of any height located within a street yard setback; or

e. referred to the Planning Commission by the Director.

However, if any component of a project application requires final approval by the City Council, including a City project, the Planning Commission makes a recommendation and the Council is the final decision-making body. The Planning Commission shall not review any development application that is eligible for ministerial review under State law unless the applicant voluntarily requests discretionary review (See division 17.67).

2. Notice. If a project is subject to Planning Commission approval, the city will give notice:

a. in the same manner required for the underlying application of which design review is a part; or

b. to property owners within 100 feet of the property for a stand-alone design review permit application, including those for nonresidential signs under section 17.36.040.C.2 and landscape plans under section 17.34.020.A.2, except that design review permit applications for a new house shall require notice to property owners within 300 feet of

[1] The amount of $125,000 is automatically adjusted for inflation annually on January 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.

the property. (See division 17.62. In some cases, the applicant provides the notice to other property owners.)

3. Standards. In reviewing an application for a design review permit, the Planning Commission will apply the standards set forth in section 17.66.060, Standards.

B. Director.

1. Applicability. The Director has the authority to approve a design review permit application if the project is not covered by the Planning Commission applicability threshold under subsection A.1 above. The Director may refer an application to the Planning Commission.

2. Notice. The city will give notice of a design review permit application to the adjacent property owners if the proposal represents a significant change. The Director determines what is a significant change. (See section 17.66.020 B.)

3. Expedited review. An application for a minor modification is entitled to expedited review. The Director determines what is a minor modification, and will maintain a list, available to the public. (See section 17.66.020 B.)

4. Ministerial design review permit application. Application for a ministerial design review permit, as provided in division 17.67, shall be reviewed and approved by the Director.

5. Standards. In reviewing an application for a design review permit, the Director will apply the standards set forth in section 17.66.060, Standards.

6. Changes.

a. Conditions of approval. Only the approving hearing body may approve a change to a condition of approval, unless the condition provides otherwise.

b. Plans. A change in the plans will be reviewed by the approving hearing body, except that the Director may approve a change to plans approved by the Planning Commission or City Council if the change does not meet the threshold applicability provisions for review by the Planning Commission (see section 17.66.040 A 1), or is a minor modification. (See section 17.66.020 B.)

(Ord. 769 N.S., 10/2023)

17.66.050 Procedures: Application; Notice and hearing; Decision; Effective date; Appeal.

A. Application. An applicant for a design review permit must submit a complete application, accompanied by plans and materials in the form approved by the Director, and the application fee. The Director may waive submission of items deemed unnecessary to determine compliance with this chapter. An application is considered complete if it is in accordance with section 17.60.020.

B. Notice and hearing. The hearing body will hold a hearing on the application, unless the application qualifies for expedited review under section 17.66.040B.3, or no neighbor requests a hearing under section 17.66.040 B.2. Notice requirements are set forth in sections 17.66.040 A.2 and B.2, and in division 17.62.

C. Decision. The hearing body will approve, conditionally approve, or deny the application. The Director will notify the applicant of the decision in writing.

D. Effective date. A decision under this division takes effect at the end of the time allowed for an appeal, which is 10 calendar days after the date of the decision. If the decision is appealed, the decision is not final until the appeal process has been exhausted. (See division 17.78.)

E. Appeal. A decision of the Director may be appealed to the Planning Commission, and a decision of the Planning Commission may be appealed to the City Council, all in accordance with the appeal procedures of division 17.78.

17.66.060 Standards.

The hearing body may not approve a design review permit unless the design of the project conforms to all of the following standards:

A. The proposed design is consistent with the City's General Plan and Piedmont Design Standards and Guidelines.

B. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.

C. The proposed design does not adversely affect pedestrian or vehicular safety.

(Ord. 769 N.S., 10/2023)

DIVISION 17.67 MINISTERIAL DESIGN REVIEW PERMIT

Sections:

17.67.010 Intent.

It is the intent of the City in establishing this ordinance to support equitable distribution of affordable housing units across the City; promote and enhance community design and neighborhoods; remove barriers to development and access to housing through clear and objective standards; and facilitate the development of new multifamily housing units.

17.67.020 Implementation.

A. Piedmont Design Standards and Guidelines. The City Council has adopted the Piedmont Design Standards and Guidelines that are available online and at city hall. The Piedmont Design Standards and Guidelines are one of the criteria for the applicant and Director in determining whether a specific project conforms to section 17.67.060, Standards; Findings.

B. Director. The Director will prepare:

1. The permit application forms; and
2. Information to provide technical assistance to residents and applicants.

C. Voluntary discretionary review. Any applicant eligible for ministerial design review pursuant to section 17.67.030, may submit in writing to the Director a voluntary request to have the design review permit application considered according to the provisions of division 17.66 to receive discretionary design review for the applicant's development proposal.

17.67.030 Permit required.

A. Permit required. A ministerial design review permit is required for any development application which meets the eligibility criteria of Government Code section 65913.4, including a multifamily or mixed-use development application of four or more new housing units, and development applications consisting of two or more new housing units;

B. The building official will not issue a building permit under chapter 8 of the City of Piedmont City Code until the applicant has obtained the required ministerial design review permit. The city will not allow demolition pursuant to division 17.67 unless the applicant has approval of plans for a replacement structure pursuant to this chapter 17 and has obtained a building permit under chapter 8.

17.67.040 Approval authority.

A. Director.

1. Applicability. The Director has the authority to review and approve a ministerial design review permit application submitted pursuant to section 17.67.030, and any application to amend a previously approved ministerial design review permit, pursuant to State law.

2. Notice. No notice shall be provided for ministerial design review applications submitted pursuant to section 17.67.030.

3. Standards and Findings. In reviewing an application for a ministerial design review permit, the Director shall apply the standards set forth in section 17.67.060, Standards; Findings.

17.67.050 Procedures: Application; Notice and hearing; Decision; Effective date; Appeal.

A. Application. An applicant for a ministerial design review permit must submit a complete application, accompanied by plans and materials in the form approved by the Director, and the application fee, which fee shall be established by resolution. The Director may waive in writing submission of items deemed unnecessary to determine compliance with this chapter. An application is considered complete in accordance with section 17.60.020.

B. Notice and hearing. The Director shall review the ministerial design review permit application without notice or public hearing, unless otherwise required by State law.

C. Decision. The Director shall notify the applicant of the decision in writing.

D. Director's decision is final. Permits approved by the Director for ministerial design review permit applications are final.

17.67.060 Standards; Findings.

The Director may not approve a ministerial design review permit unless the Director first finds that the design of the project conforms to all of the following standards:

A. The proposed development meets the criteria of Government Code section 65913.4.

B. The proposed development meets applicable design standards as provided in the Piedmont Design Standards and Guidelines, as they may be amended from time to time by the City Council.

C. The proposed development complies with zoning ordinance regulations for the zone in which the project site is located.

(Ord. 769 N.S., 10/2023)

DIVISION 17.68 CONDITIONAL USE PERMIT

Sections:

17.68.010 General: Applicability.

A. General. No person shall begin a conditional use without first obtaining a conditional use permit. After recommendation from the Planning Commission, the City Council may grant a conditional use permit, subject to conditions.

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. 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. 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 a written application for 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 use permit, and the application fee. Where necessary, the Director or hearing body may waive a requirement or require additional information.

17.68.030 Hearing body.

The Planning Commission will hold a hearing on the application and make a recommendation to the City Council. The decision of the City Council is final.

17.68.040 Findings.

The Planning Commission may recommend and the City Council may approve a conditional use permit only after making the following findings:

1. The proposed use is compatible with the general plan and conforms to the zoning code.

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

3. 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.

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 approved with the 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.

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.

SECTION 17.70 VARIANCE

Sections:

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.

DIVISION 17.72 ZONING AMENDMENT

Sections:

17.72.010 General.

The zoning designations may be changed by amending the zoning map, and the zoning regulations may be changed by amending this chapter.

17.72.020 Initiating an amendment.

A. Zoning map. An amendment to the zoning map may be initiated by motion of the City Council or Planning Commission, or by request of all owners of property for which the change is sought.

B. Zoning regulations. An amendment to the zoning regulations may be initiated by motion of the City Council or the Planning Commission, or by request of a resident, property owner or business owner in the city.

C. City Charter. A proposed amendment to the zoning map or zoning classifications is subject to City Charter section 9.02. (See section 17.02.010C.)

17.72.030 Application.

An individual applicant may submit a zoning amendment application on the form provided by the city, together with the application fee.

17.72.040 Report; Notice and public hearing; Planning Commission recommendation.

A. Report. The Director will set a date, time and place for a public hearing and prepare a report to the Planning Commission on the proposed zoning map or zoning regulation amendment.

B. Notice and public hearing. Notice of the public hearing on the proposed amendment will be given in accord with division 17.62.

C. Planning Commission recommendation. Following the public hearing, the Planning Commission must make findings as to whether the proposed zoning regulation or zoning map amendment is consistent with the general plan, the purposes of this chapter 17, and the limitations on residential reclassification prescribed in City Charter section 9.02, and shall recommend approval, conditional approval, or denial of the proposal. A Planning Commission recommendation of denial of an application for a zoning map or zoning regulation amendment submitted by individual request terminates the proceedings, unless appealed.

17.72.050 City council action.

A. Notice and hearing. The Planning Director will set a public hearing before the City Council within 60 calendar days after the date of the Planning Commission recommendation. The city will provide notice of the hearing as set forth in division 17.64, Hearings. At the public hearing, the City Council will hear evidence for and against the proposed amendment. The City Council may continue the public hearing to a definite date and time without additional notice.

B. City Council decision. After the public hearing, the City Council may approve, modify, or reject the Planning Commission recommendation. Before adopting an ordinance, the Council must make findings that the proposed regulation or map amendment is consistent with the policies of the general plan, the purposes of this chapter 17, and the limitations on residential reclassification prescribed in City Charter section 9.02.

DIVISION 17.74 DEVELOPMENT AGREEMENTS

Sections:

17.74.010 Purpose; Scope.

The purpose of this division is to implement the development agreement provisions of the state planning and zoning law. All development agreements shall be processed in accordance with this division.

A development agreement provides assurance to a developer that he or she may proceed with a project in accordance with existing policies, rules and regulations and subject to certain conditions of approval. The assurance strengthens the public planning process, encourages private participation in comprehensive planning, and reduce economic costs of development. Also, by requiring some public benefit, this process assures some additional benefit to the public in exchange for the vested rights granted under a development agreement. (Gov't. Code §§65864-65869.5)

17.74.020 Application.

A. Filing by owner. An application for a development agreement may only be filed by a person having a legal or equitable interest in real property.

B. Form of application. An application for a development agreement must be on a form approved by the Director.

C. Application fees. The applicant shall pay fees for the filing and processing of an application as established by resolution of the City Council.

17.74.030 Contents of development agreement.

A. Required provisions. A development agreement must include the following:

1. The duration of the agreement;
2. The permitted uses of the property;
3. The density or intensity of the use;
4. The maximum height and size of the proposed buildings;
5. Provisions for the dedication of land for public purposes;
6. The public benefit offered by the applicant as consideration for entering into the agreement;
7. The provisions set forth in 17.74.080B.

B. Optional provisions. A development agreement may include the following:
1. Conditions, terms, restrictions, and requirements for subsequent discretionary actions; however, these conditions, terms, restrictions and requirements may not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement;
2. Provisions providing that construction will begin within a specified time and that the project or any phase be completed with a specified time;
3. Terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time;
4. Provisions requiring compliance with specific plans previously approved under a design review permit. (See division 17.66.)

C. Provisions not allowed. A development agreement may not include:
1. Requirements for the city to provide public facilities, improvements or services;
2. Requirements for the city to exercise its legislative or quasi-judicial powers in a particular way;
3. Waivers or modifications of any city fees or requirements.

17.74.040 Initial review.

The Director will determine whether the application is complete, and schedule a public hearing before the City Council. At the hearing, the Council will determine whether it wishes to enter into such an agreement and, if so, the general subject areas the staff is authorized to negotiate. The city will give notice of the hearing shall be given as provided in Government Code Sections 65090 and 65091.

17.74.050 Consideration and decision.

A. Negotiations. The Director will direct the negotiations with the developer regarding terms of the development agreement. The Director will determine what environmental review is appropriate under the California Environmental Quality Act (CEQA). Once negotiations are completed, the Director will schedule the proposed development agreement for the required hearings under this section.

B. Planning Commission hearing and recommendation. The Planning Commission will hold a public hearing to consider whether the development agreement should be approved. The city will give notice of the hearing as provided under Government Code sections 65090 and 65091. The Commission may recommend to the City Council approval, approval subject to conditions, or denial of the application.

D. City Council determination. The City Council will hold a public hearing to consider whether the development agreement should be approved. The city will give notice of the hearing as provided under Government Code sections 65090 and 65091. If the City Council approves the development agreement, it must be by City Council resolution, authorizing the City Administrator to sign the development agreement.

E. Findings. The Planning Commission may recommend approval and the City Council may approve the development agreement only after finding that the development is consistent with the general plan, applicable city codes and policies and this chapter.

F. Recordation. Within 10 days after the city enters into a development agreement, the City Clerk will record a copy of the agreement with the county recorder.

17.74.060 Amendment and cancellation.

A development agreement may be amended or cancelled using the same procedure for entering into the agreement, under sections. (Gov't. Code § 65868.)

17.74.070 Annual review.

A. Review. The Planning Commission will hold a public hearing to review each development agreement at least every 12 months from the date it is entered into, and shall forward their report to the City Council. Additionally, the Planning Commission or City Council, or both, may hold public hearings to conduct more frequent reviews of a development agreement. The City Council may impose a reasonable fee to cover the costs of this review.

B. Notice. The Director will give notice of the intention to conduct a review under this section as provided in Government Code Sections 65090 and 65091. In addition, at least 10 days before the hearing, the Director will give notice to all persons having a legal or equitable interest in the real property subject to the agreement. The notice shall include the following:

1. A statement that the applicant, or the successor-in-interest to the agreement, has the burden of demonstrating good faith compliance with the terms of the agreement; and

2. A statement that if, as a result of the review, the Planning Commission or City Council finds on the basis of substantial evidence that the applicant or successor to the agreement has not complied in good faith with the terms and conditions of the agreement, the City may modify or terminate the agreement.

C. Determination. If the Planning Commission finds, on the basis of substantial evidence, that the applicant or successor-in-interest has not complied in good faith with the terms or conditions of the agreement, it may recommend modification or termination to the City Council. Based on substantial evidence that the applicant or successor has not complied in good faith with the terms or conditions of the agreement, the City Council may modify or terminate the agreement. (Gov't. Code §65865.1)

17.74.080 Effect of development agreement.

A. General. The development of the property will be governed by those rules, regulations and official policies in effect at the time of execution of the agreement, regarding permitted uses of the land, density, design, improvement and construction standards and specifications, except as otherwise provided by the development agreement or as provided in subsection B below:

B. Limitations. Notwithstanding the vested rights set forth in subsection A above, the property owner must:

1. Pay the processing and development impact fees in effect at the time those fees are paid;
2. Comply with building code requirements in effect on a city-wide basis at the time of construction;

3. Comply with construction and technical design standards or specifications for public improvements that are applicable city-wide;

4. Comply with changes in city laws, regulations, plans or policies applicable city- wide, the terms of which are found by the City Council, based on substantial evidence, to be necessary to protect members of the public from a condition dangerous to their health or safety;

5. Comply with a change in city law, regulations, plans or policies which is:

   a. specifically mandated by state or federal law, or by any regional governmental agency that has legal authority over the city under state law or a joint powers agreement; or

   b. a result of or in response to state or federal law, or regional agency action, made necessary in order for the city to avoid losing or not receiving substantial funding or other substantial public benefits or facilities that would be available to the city only if it makes such a change; or

   c. specifically mandated by, or necessary for compliance with or implementation of, the terms of a permit, entitlement or other authorization necessary for the development of the property issued or granted to the city, county and/or property owners by any federal, state or regional agency; and

6. Following any subsequent environmental review, comply with required mitigation measures.

C. City's rights. A development agreement does not prevent the city in subsequent actions applicable to the property from:

1. applying new rules, regulations and policies which do not conflict with those set forth in the development agreement; or

2. denying or conditionally approving a subsequent development project application on the basis of such existing or new rules, regulations and policies. (Gov't. Code § 65866.)

DIVISION 17.76 REASONABLE ACCOMMODATION

Sections:

17.76.010 Intent.

It is the city's policy to provide individuals with disabilities reasonable accommodation in regulations and procedures to ensure equal access to housing, and to facilitate the development of housing. The purpose of this division is to provide a procedure under which a disabled person may request a reasonable accommodation in the application of zoning requirements.

This division is based on requirements of the Federal and State fair housing laws, and implements the Housing Element of the City's General Plan. It is distinct from the requirements for a variance set forth in division 17.70, Variances.

17.76.020 Requesting reasonable accommodation.

A. Request. An individual with a disability may request a reasonable accommodation in the application of the city's land use and zoning regulations. Such a request may include a modification or exception to the requirements for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers. A reasonable accommodation cannot waive a requirement for a conditional use permit when otherwise required or result in approval of uses otherwise prohibited by the city's land use and zoning regulations.

B. Availability of information. Information regarding this reasonable accommodation procedure will be available at the public information counters in the department of public works, advising the public of the availability of the procedure for eligible applicants, and be made available on the city's website.

C. Assistance. If an applicant needs assistance in making the request, planning staff will endeavor to provide the assistance necessary to ensure that the process is available to the applicant.

D. Balancing rights and requirements. The city will attempt to balance (1) the privacy rights and reasonable request of an applicant for confidentiality, with (2) the land use requirements for notice and public hearing, factual findings and rights to appeal, the city's requests for information, consideration of an application, preparation of written findings, and maintenance of records for a request for reasonable accommodation.

17.76.030 Application.
The applicant must submit a request for reasonable accommodation on a form provided by the city. The application must include the following information:

1. the basis for the claim that the individual is considered disabled under the fair housing laws: identification and description of the disability which is the basis for the request for accommodation, including current, written medical certification and description of disability and its effects on the person's medical, physical or mental limitations;

2. the rule, policy, practice and/or procedure of the city for which the request for accommodation is being made, including the zoning code regulation from which reasonable accommodation is being requested;

3. the type of accommodation sought;

4. the reason(s) why the accommodation is reasonable and necessary for the needs of the individual(s) with a disability (where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the accommodation);

5. copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation; and

6. other supportive information deemed necessary by the city to facilitate proper consideration of the request, consistent with fair housing laws.

The fee for an application for reasonable accommodation shall be established by resolution of the City Council.

17.76.040 Approval authority; Notice; Decision.
A. Approval authority.

1. Director. The Director has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is an individual with a disability within the meaning of this division 17.76, except as noted in subsection A.2 of this section. If the application involves physical changes to the property subject to Director review under division 17.66, the Director will review and decide the design review permit application. The Director may refer the matter to the Planning Commission.

2. Planning Commission. The Planning Commission will review and decide upon requests for reasonable accommodation (including whether the applicant is an individual with a disability within the meaning of this division), when an application involves a variance or other land use entitlement under this chapter, or when referred by the Director.

B. Notice. No advance notice or public hearing is required for Director's consideration of a reasonable accommodation request. A request for reasonable accommodation subject to review

by the Planning Commission requires advance notice and a public hearing under the requirements of divisions 17.62 and 17.64.

C. Decision. The Director will render a decision or refer the matter to the Planning Commission within 30 days after the application is complete. The reviewing body and will approve, approve with conditions or deny the application, based on the findings set forth in section 17.76.050.

17.76.050 Findings; Other requirements.

A. Findings. The reviewing body will approve the application, with or without conditions, if it makes the following findings:

1. The housing will be used by an individual with a disability;

2. The requested accommodation is necessary to make specific housing available to an individual with a disability;

3. The requested accommodation would not impose an undue financial or administrative burden on the city; and

4. The requested accommodation would not require a fundamental alteration in the nature of a city program or law, including land use and zoning.

B. Other requirements.

1. An approved request for reasonable accommodation is subject to the applicant's compliance with all other applicable zoning regulations.

2. A modification approved under this division is considered a personal accommodation for the individual applicant and does not run with the land.

3. Where appropriate, the reviewing body may condition its approval on any or all of the following:

   a. Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval;

   b. Removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;

   c. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;

   d. Recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;

e. Measures to reduce the impact on surrounding uses;

f. Measures in consideration of the physical attributes of the property and structures;

g. Other reasonable accommodations that may provide an equivalent level of benefit and/or that will not result in an encroachment into required setbacks, exceedance of maximum height, lot coverage or floor area ratio requirements specified for the zone district; and

h. Other conditions necessary to protect the public health, safety and welfare.

17.76.060 Appeal.

A decision under this Division may be appealed to the Planning Commission or City Council in accordance with division 17.78, Appeals.

17.76.070 Definitions.

Individual with a disability means a person who has a medical, physical or mental condition that limits a major life activity (as those terms are defined in California Government Code section 12926), anyone who is regarded as having such a condition or anyone who has a record of having such a condition. It includes an authorized representative of a disabled person. The term *individual with a disability* does not include a person who is currently using illegal substances, unless he or she has a separate disability. (42 U.S.C. § 3602(h).)

Reasonable accommodation means providing disabled persons flexibility in the application of land use and zoning regulations and procedures, or even waiving certain requirements, when necessary to eliminate barriers to housing opportunities. It may include such things as yard area modifications for ramps, handrails or other such accessibility improvements; landscape additions, such as widened driveways, parking area or walkways; building additions for accessibility; tree removal; or reduced off-street parking where the disability clearly limits the number of people operating vehicles. *Reasonable accommodation* does not include an accommodation that would (1) impose an undue financial or administrative burden on the city or (2) require a fundamental alteration in the nature of the city's land use and zoning program. (Govt. Code § 12927(c)(1), (l) and § 12955(l); 42 U.S.C. § 3604(f)(3)(B); 28 C.F.R. § 35.150 (a)(3).)

DIVISION 17.78 APPEALS; CALL FOR REVIEW

Sections:

17.78.010 General.

Except for a decision regarding an accessory dwelling unit under division 17.38, 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.

The city will not approve a building permit during the appeal period. (Ord. 747 N.S., 02/2020)

17.78.020 Application.

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

17.78.030 Notice; Hearing; Decision; Remand.

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

B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible, 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.

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 in light of the substantial number of planning applications heard by them and the major accumulated group experience that those actions represent.

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)

DIVISION 17.80 ENFORCEMENT

Sections:

17.80.010 Violations.

A. General. Violation of a permit or approval, or of any required condition, constitutes a violation of this chapter. Each day the violation (or a portion of it) continues is a separate offense.

B. Administrative citation. A violation of this chapter may be enforced under chapter 1, article II.

C. Public nuisance. A violation of this chapter is a public nuisance and may be abated under chapter 6, Government Code sections 38773 through 38773.7, or any other remedy available by law. The City Council may provide for the summary abatement of a nuisance at the expense of the persons creating, causing, committing, or maintaining it and by ordinance may make the expense of abatement a lien against the property on which it is maintained and a personal obligation against the property owner.

D. Criminal penalty. A violation of this chapter is a misdemeanor and is punishable by fine or imprisonment or both as provided in Penal Code section 19.

E. Civil penalties. The City Council may enact penalties and abatement procedures for failure to comply with the provisions of this chapter.

17.80.020 Permits, licenses, certificates, and approvals.

A permit, license, certificate, or approval granted in conflict with a provision of this chapter is void.

17.80.030 Enforcement responsibilities.

The Director is responsible for enforcing the terms of discretionary permits and their conditions under this chapter. The chief building official is responsible for enforcing the City Code regarding the erection, construction, reconstruction, moving, conversion, alteration, or addition to a building or structure. All other officers of the city are responsible for enforcing provisions related to their areas of responsibility.

17.80.040 Informal show cause hearing.

If the Director has reason to believe a violation of this chapter exists, the Director may direct the violator or property owner or both to appear before the Director to show cause why the city

should not proceed with enforcement action. Notice of the possible violation and the time and place of the hearing will be mailed to the property owner and any other interested person at least ten calendar days before the hearing. The contents of the notice shall be as set forth in division 17.62.

At the hearing, the Director will consider the testimony of the city staff, the property owner and any other interested person. The Director may make a finding as to whether or not a violation of this chapter exists, and may recommend to the staff and to the property owner one or more courses of action. The Director may, in his or her discretion, refer the matter directly to the Planning Commission for a revocation hearing under section 17.80.050, or a notice of violation hearing under section 17.80.060.

17.80.050 Revocation or modification.

A. General. If the Director or Planning Commission determines there may be grounds for revocation of a conditional use permit, variance, design review permit, wireless communication facilities permit, accessory dwelling unit permit, or other discretionary approval under this chapter, the Director will schedule a revocation hearing before the Planning Commission.

B. Notice and public hearing. The city will give notice in the same manner required for a public hearing to consider approval. The contents of the notice will be as prescribed by Division 17.62.

The hearing body will hear the testimony of city staff, the permittee, and any other interested person. A public hearing may be continued to a specific date and time without additional public notice.

C. Required findings. The hearing body may revoke or modify a permit or approval if it makes one or more of the following findings:

1. The permit or approval was issued on the basis of erroneous or misleading information or representation.

2. The use or the user is in violation of a condition of approval of the permit or approval, including the terms of the use stated in the application, or other law or regulation.

3. The use is so conducted as to be detrimental to the public health, welfare, or safety, or as to be a nuisance.

D. Modification. If the hearing body finds that grounds for revocation exist (under subsection C above), it may, instead of revocation, modify the conditions of approval so as to eliminate the reason for revocation.

E. Decision and notice; Effective date. The hearing body will render a decision and mail notice of the decision to the permittee and to any other person who has filed a written request for notice. A decision to revoke becomes final ten days after the decision, unless appealed.

F. Other remedies. The city's right to revoke a discretionary permit or approval is in addition to any other remedy allowed by law.

17.80.060 Notice of violation.

A. General. If property in the city exists in violation of this title, and the owner fails or refuses to correct the violation, the city may record a notice of violation against the affected property.

B. Procedure; Recording notice. Before recording such a notice, the city will do all of the following:

1. The Director will send written notice to the current owner that a violation exists and request that the owner correct the violation within a specific, reasonable period of time. The Director may, in his or her discretion, send more than one notice and conduct an informal show cause hearing to discuss the violation with the owner. (See section 17.80.040.)

2. If the owner fails or refuses to correct the violation within the time specified, the Director shall mail to the current owner by regular first class and by certified mail a notice of intention to record a notice of violation, describing the real property in detail, naming the owners, describing the violation in detail (including relevant municipal code sections), and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date and place for a Planning Commission hearing at which the owner may present evidence to the Planning Commission why the notice should not be recorded. The hearing shall take place no sooner than 30 calendar days and no later than 60 calendar days from the date of mailing.

3. The Planning Commission will hear the matter on the date scheduled. If, after the owner and the city staff have presented evidence, the Commission determines that there is no violation, the Director will mail a clearance letter to the current owner. If the owner fails to appear, or the Commission determines that there is a violation, the Commission may, by resolution, direct the Director to record the notice of violation with the county recorder. The Commission's decision may be appealed to the City Council under division 17.78.

4. The notice of violation, when recorded, is constructive notice of the violation to all successors in interest in the property, under California Civil Code sections 1213 and 1215.

C. Release. If the owner corrects the violation after the notice has been recorded, and has notified the city in writing and consented to an inspection to confirm the correction, the Director will record a release or cancellation of the notice of violation.

ARTICLE 5. DEFINITIONS; 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.

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 8.

Business (license) tax. See chapter 10.

Day means a calendar day, unless stated otherwise. (See also section 17.04.080 regarding extensions of time for holidays and weekends.

City Code means the Piedmont City Code.

Conditional use permit or *use permit*. See division 17.68.

Daylight plane. See Section 17.90.020, Measurements.

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.

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 residence for one family.

Short term rental. See section 17.40.020.

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 the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses. If the dwelling unit is rented, this means that all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease for the entire dwelling, with joint use and responsibility of the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than by the landlord or property manager.

Fence. See Measurements.

Floor area. See Measurements.

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.

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.

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 both the street lot line and rear lot line of which have frontage on a street.

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.

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.

Residence. See *Dwelling*.

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.

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 Standards and 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 Standards and Guidelines. Site feature does not include an accessory structure, primary structure, or built feature listed in Building Code subsection 8.02.020.B.

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 in an exterior wall, an interior bearing wall, a floor, or a roof.

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 division17.50.

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.

Wireless communication facility and related definitions. See section 17.46.020.

Yards.

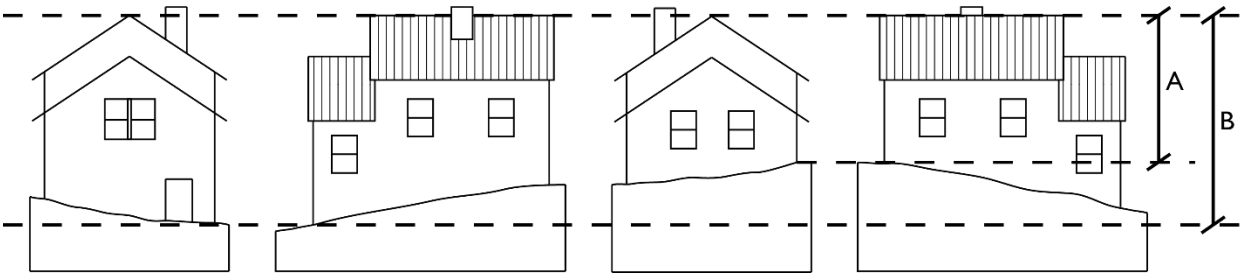
Rear yard means a yard abutting the rear lot line, measured between the rear lot line and the nearest point of the primary structure.

Side yard means a yard measured between the side lot line and the nearest point of the primary structure.

Street yard means a yard facing a street, measured between the street lot line and the nearest point of the primary structure. (Ord. 742 N.S., 05/2018, Ord. 747 N.S., 02/2020; Ord. 769 N.S., 10/2023)

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 edge, penthouse, mechanical equipment, or parapet wall. *Building height* is not measured to the highest point of a chimney or communications antenna.

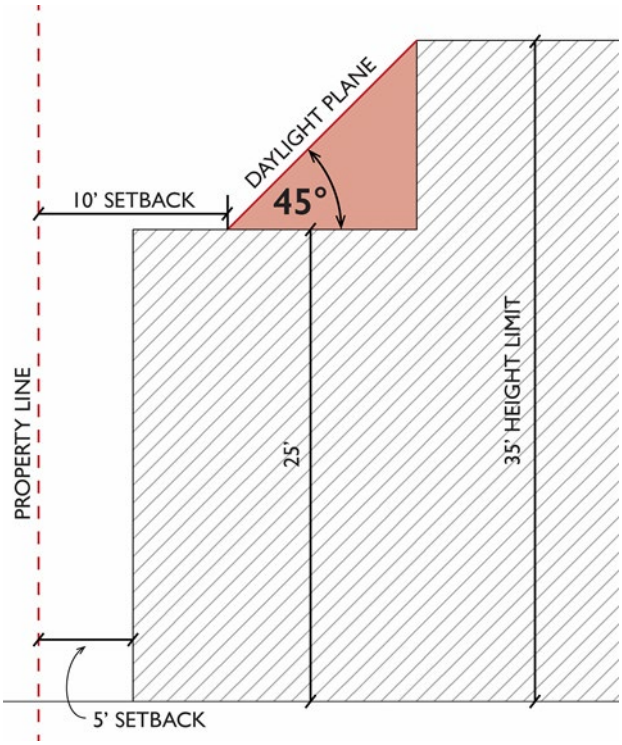


(A + B)/2 = Building height

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 edge, 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.

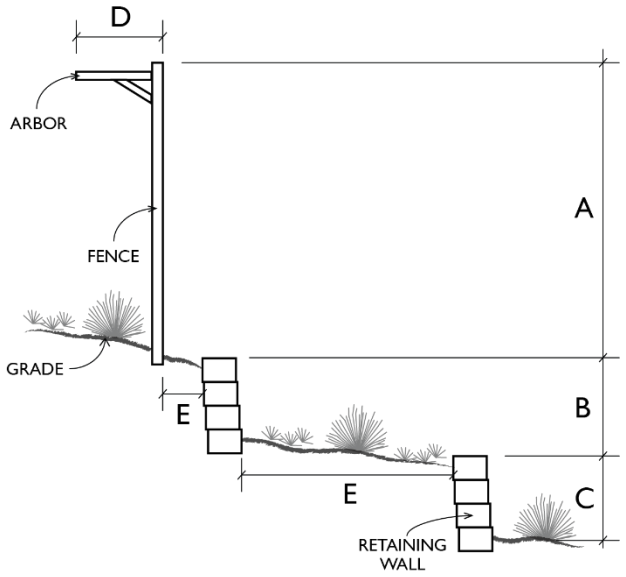
Coverage means the percentage of the lot area that is covered. Coverage may refer either to (1) all structures and site features including their vertical projections to the ground except eaves, sills, cornices, awnings that project three feet or less from the wall surface, (2) hardscape surfaces, or (3) to both, as may be specified in the context. (See Design Standards and 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.

Fence includes 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.

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.

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)

Rev. 2023-01-19 (Ord. 768 N.S., 01/2023). Rev 2023-10-16 (Ord. 769 N.S., 10/2023)