



## MEMORANDUM

DATE: November 9, 2015

TO: Planning Commission

FROM: Kevin Jackson, Interim Planning Director

SUBJECT: Consideration of Short Term Rentals

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### AGENDA ITEM NUMBER 4

#### RECOMMENDATION:

1. Open the public portion of the hearing, provide all members of the public with an opportunity to be heard, and discuss the proposed Municipal Code amendments; and
2. Recommend adoption, with appropriate Code section numeration, a version of one of two proposed Code amendments to the City Council:
  - A. Code amendments (shown in red line) that permit short-term rentals with some restrictions as shown in Exhibit 1, pages 7 – 39, or a version thereof; or
  - B. Code amendments (shown in red line) that prohibit short-term rentals as shown in Exhibit 2, pages 41 – 70, or a version thereof.

The Commission may recommend adoption of Code amendments as proposed in Exhibit 1 or Exhibit 2. Alternatively the Commission may recommend adoption of Code amendments with modifications identified at the hearing and specified in the motion for recommendation.

#### BACKGROUND:

At its September 21, 2015 hearing, the City Council had indicated their intention to prohibit short term rentals in all second units and apartments, and to not regulate home-swaps. During this same discussion, the City Council requested that the Planning Commission consider the City's options and make a recommendation for the regulation of short term rentals of single family homes.

At its regular hearing on October 12, 2015, the Planning Commission received a report from staff on short term rentals (Exhibit 4, pages 75 – 124). As directed by the City Council, the Planning Commission considered the following propositions:

1. Does the City want to permit hosted short term rentals?
2. Does the City want to permit un-hosted vacation rentals of houses?

3. If either of the above is permitted, does the Commission recommend any restrictions and/or performance measures including:
  - A. A limit on the number of short term rental days/nights per year?
  - B. An approval process (involving notice to neighbors) that is:
    - i. ministerial through staff, or
    - ii. discretionary through the Planning Commission?
  - C. A safety certification (smoke and carbon monoxide detectors):
    - i. self certification by owner, or
    - ii. inspection by the Building Department?
  - D. Allowing long-term tenants to provide hosted short-term rentals?
  - E. Any other requirements, such as insurance?

As noted in the attached abridged draft minutes (Exhibit 3, pages 71 – 73), the Commission heard testimony from five members of the public and received four written comments, all of which represented a wide range of opinions on the advantages and disadvantages of short term rentals. All written comments received through October 12, 2105 are attached as Exhibit 5, pages 125 – 141. At the end of a thorough discussion, the Commission continued its deliberation to the meeting of November 9, 2015 so that so that all Commissioners, including those not in attendance, have a chance to evaluate the issues. In so doing, the Commission requested that staff return with specific Municipal Code language that the Commission can consider. This report provides that language and options that the Commission may consider.

#### PROPOSED CODE AMENDMENTS:

Attached to this report are two versions of Municipal Code amendments:

1. Exhibit 1, pages 7 – 39, contains amendments that would **PERMIT short-term rentals, both hosted and un-hosted**. As proposed, the amendments have the following characteristics:
  - a. A specified ministerial or discretionary approval process beyond the processes that currently exist is not required for short-term rentals;
  - b. The same safety and business license tax regulations that are required for the renting of rooms in Section 17.39 are required for short-term rentals;
  - c. A maximum of 90 cumulative rental days per year is required;
  - d. Short-term rentals are permitted in primary dwelling units only. They are not permitted in second units or apartment units;
  - e. Short-term rentals are not considered a home occupation as defined in Chapter 17B;
  - f. No more than one un-hosted short-term rental is permitted at a time in an individual primary dwelling unit; and
  - g. The sections of Chapter 17 that are amended are:
    - The table of contents;
    - Section 1.2;
    - Sections 17.5 through 17.9;
    - Section 17.39; and
    - Section 17.40.3.

and

2. Exhibit 2, pages 41 – 70, contains amendments that would **PROHIBIT short-term rentals, both hosted and un-hosted**. The sections of the Code that are amended in this proposal are:
  - Section 1.2;
  - Sections 17.5 through 17.9; and
  - Section 17.40.3.

### **Regulation under a new Code Chapter?**

As shown in Exhibit 1, Section 17.39, which governs Rented Rooms, is proposed to be modified to regulate both rented rooms and short-term rentals, both hosted and un-hosted. However, please note that the modification of this section works best for hosted short-term rentals if there is no specified approval process for short-term rentals. Should the Commission want to recommend the permitting of un-hosted short-term rentals and/or the requirement of an approval process, either ministerial or discretionary, staff recommends that the commission direct staff to develop a new Code Chapter, such as 17D, to regulate short-term rentals for the City Council's consideration.

### **Definitions**

In both versions of Code amendments, a number of definitions have been revised or added in order to clarify dwelling units, home rentals, and exchanges.

### **Numeration of Code Sections**

The numeration of Code sections provided in Exhibits 1 and 2 is a preliminary attempt to provide order and reference for the Commission's discussion at tonight's hearing. The Commission is asked to direct staff to revise the numeration as is appropriate to the recommended alterations before taking them to Council for consideration.

### **OPTIONS FOR APPROVAL PROCESS AND ADDITIONAL REGULATIONS:**

#### **Potential Approval Processes**

Should the Commission want to recommend that short-term rentals be permitted, and that an approval process should be required, it may want to consider the following options:

- A. Ministerial Registration – Under this option, owners seeking hosted or un-hosted short-term rentals would simply register with the City. A form would be prepared, and a processing fee would be assessed. Like the issuance of a building permit, this decision would be ministerial: the approval would be granted if certain objective performance standards are met. The Commission might consider requiring that the property owner agree to the following conditions as part of the registration:
  - i. The owner's contact information would be provided to the City should the police department need to contact owners to address a problem during a rental. Additionally, this contact information could be posted to the City's website (as is required in some jurisdictions), or provided directly to neighbors.
  - ii. Long-term tenants would be prohibited from subletting for short term rentals (but

owners could do so;

- iii. Only one tenancy could occur at a time (hosted rental owners could not rent different rooms to different tenants at the same time);
- iv. A statement that the space subject to rental meets Building Code requirements for safety, such as adequate egress and working smoke and carbon monoxide detectors;
- v. A hosted short-term rental may include use of the primary kitchen facilities, but may not include temporary or permanent cooking facilities in the rented room(s); and
- vi. The cumulative number of days per year that the primary dwelling unit or rooms in the primary dwelling unit may be rented as a short-term rental may not exceed 90.

- B. Discretionary Application and Registration – Alternatively, under this option, owners seeking hosted or un-hosted short-term rentals would apply for approval, much the way some second unit applications are made. The process could involve notice to the neighborhood, and the decision would be discretionary in order to provide the Planning Commission the opportunity to require conditions of approval to address potential site-specific impacts, such as additional vehicles on an already congested street, or the number of other properties in the immediate neighborhood that have been approved to have short-term rentals. Owners would agree to the same terms as above in the ministerial registration, but the Planning Commission or City Council could add other site specific requirements.

### **Potential Additional Regulations**

Should the Commission want to recommend that short-term rentals be permitted, and that additional regulations for short-term rentals should be required, it may want to consider the following options:

- A. Revocation Provisions – All registered short-term rentals would be subject to revocation provisions based on lack of compliance with registration requirements and performance standards.
- B. Penalties and Fines – Appropriate penalties and fines could be developed in order to enforce the regulations.
- C. License and Taxation – If approved, all hosted and un-hosted rentals would need to apply for and receive a business license as outlined in Chapter 10 of the Municipal Code, and pay a tax on the gross receipts of the rental(s) as outlined in Section 10.7. This would provide equity with owners of long-term rentals who are currently required to be licensed and taxed, and to help off-set the City’s costs to respond to neighbor complaints or other enforcement activities. Staff recommends short-term rentals be taxed the same way as other rentals: \$200 or gross receipts from the prior year x .01395, whichever is greater. This would include all un-hosted short-term rentals, hosted short-term rentals, and hosted long-term rentals (to be equitable).

- D. Regular Safety Inspections – Current regulations (Section 17.39) require that owners of Rented Rooms of more than 30 days submit a safety declaration or request an inspection by the Building Department. For short-term rentals the Commission could consider requiring that the primary dwelling units being rented be subject to regular inspections to make sure that rented spaces meet Building Code requirements for safety, such as adequate egress and working smoke and carbon monoxide detectors (few cities require this). A modest fee could be imposed for this service. Alternatively, property owners could be required to submit a self-certification form that lists the safety requirements. This is not currently required for un-hosted rentals, but working smoke and carbon monoxide detectors are required to pass inspection whenever a building permit is issued.
- E. Liability Insurance – The City could require residents to carry liability insurance or a surety bond, and show proof at the time of registration..
- F. Rules and Information – Some cities require hosts to post an operating license in a visible area inside the rental space, and/or provide all guests with an informational brochure.

As noted in the report provided to the Commission on October 12, 2015 (Exhibit x, page x), staff does not recommend the City institute a transient occupancy tax just for short term rentals.

#### CONCLUSION AND NEXT STEPS:

Short-term rentals are a fast-growing business, with advantages and disadvantages to property owners and the community, including the following:

- Short-term rentals provide customers/tenants a range of rental units at a price that is typically lower than that a hotel or B&B, and a convenient booking system desired by both host and tenant.
- Property owners benefit from being able to have another option to earn residential rental income.
- Short-term rentals pose potential noise and parking impacts on established neighborhoods, with associated concerns related to safety and enforcement.

The Commission may make one or a combination of the following recommendations:

1. To prohibit all short-term rentals;
2. To permit all short-term rentals;
3. To permit hosted short-term rentals and prohibit un-hosted short-term rentals;
4. To permit un-hosted short-term rentals and prohibit hosted short-term rentals;
5. To require no approval process for short-term rentals, replicating what is currently required for rented rooms;
6. To require an approval process for short-term rentals, which could be either:
  - a. Ministerial (processed by staff with no public hearing); or
  - b. Discretionary (a public hearing);
7. To require additional regulations, such as those for licensing, taxation, safety, and revocation; and

8. That staff provide the City Council regulations for short-term rentals under a new Chapter, such as 17D, particularly if the Commission wants to permit un-hosted short-term rentals.

The recommendations made by the Planning Commission will taken to the City Council for considerations.

ATTACHMENTS:

Exhibit 1	Pages 7 - 39	Proposed Code Amendments to Permit Short-Term Rentals
Exhibit 2	Pages 41 – 70	Proposed Code Amendments to Prohibit Short-Term Rentals
Exhibit 3	Pages 71 – 73	Planning Commission minutes (abridged) of October 12, 2015
Exhibit 4	Pages 75 - 124	October 12, 2015 report to Planning Commission regarding Short-Term Rentals
Exhibit 5	Pages 125 - 141	Public comments through October 12, 2015
Exhibit 6	Separate	Public comments since October 12, 2015

Chapter 17  
**REGULATIONS PRESCRIBING THE CHARACTER OF CONSTRUCTION**

§17.1	INTENT
§17.2	DEFINITIONS
§17.3	ESTABLISHMENT OF ZONES
§17.4	ZONING MAP
§17.5	ZONE A—USES
§17.6	ZONE B--USES
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§17.8	ZONE D--USES
§17.9	ZONE E--USES
§17.10	ZONE A--REGULATIONS
§17.11	ZONE B--REGULATIONS
§17.12	ZONE C--REGULATIONS
§17.13	ZONE D--REGULATIONS
§17.14	ZONE E—REGULATIONS
§17.15	ON-SITE IMPROVEMENTS
§17.16	PARKING REQUIREMENTS
§17.17	FENCES, WALLS, RETAINING WALLS
§17.18	LANDSCAPING
§17.19	SIGNS
§17.20	DESIGN REVIEW
§17.21	VARIANCES
§17.22	HOME EXPANSION AND CONSTRUCTION
§17.22A	REASONABLE ACCOMMODATION
§17.23	TERM OF APPROVAL
§17.24	CONDITIONAL USE PERMITS
§17.25	APPEALS
§17.26	REVIEW
§17.27	HEARINGS
§17.28	NOTICE OF HEARINGS
§17.29	FEES
§17.30	COMPLIANCE; CHANGES TO PLANS; REVOCATION
§17.31	GUARANTEES
§17.32	NONCONFORMING BUILDINGS AND USES
§17.33	CONFORMANCE, BUILDING PERMITS AND SUBDIVISION
§17.34	CONSTRUCTION ON CITY OR PUBLIC UTILITY PROPERTY
§17.35	CONFLICTING REGULATIONS
§17.36	AMENDMENTS TO ZONING ORDINANCE, PROCEDURE
§17.37	APPLICATION PROCEDURES
§17.38	INDEMNIFICATION AGREEMENT
§17.39	RENTED ROOMS <i>AND SHORT-TERM RENTALS</i>
§17.40	SECOND UNITS

SEC. 17.1     INTENT

The City of Piedmont consists primarily of unique single family residences set among mature trees and other vegetation. The residents of Piedmont believe it to be in the welfare of all residents to preserve the beauty and architectural heritage of the City's housing stock, the mature vegetation, and the tranquility and privacy which now exist. The residents also desire to reduce on-street parking and traffic in the neighborhood streets and to avoid overcrowding and its detrimental effects on City schools and other services and facilities. The residents of Piedmont also wish to promote improvements to single family residences without sacrificing the goals already mentioned. The regulations which follow are designed to implement these purposes. (Ord. No. 516 N.S., 4/90)

SEC. 17.2     DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the meanings listed:

17.2.1:         Accessory Use. "Accessory use" means a use which is appropriate, subordinate, incidental, and customarily or necessarily related to a lawfully existing principal use on the same lot or building site and does not alter the essential characteristics of such principal use as a whole and as related to other uses permitted in the same District. (Cf. Principal Use, Use) (Ord. No. 488 N.S., 10/87)

17.2.2A:        Adjacent. "Adjacent" shall refer to any lot wholly or partially contiguous with the subject property, generally including the properties on each side, the three lots most closely situated across the street from the subject property, and the three lots most closely situated at the rear of the subject property. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

- (a)     Adjacent Affected Property. "Adjacent affected property" shall refer to any lot wholly or partially contiguous with the subject property that is physically or visually adjacent to the portion or portions of the subject property that propose one or more exterior change(s) subject to design review. (Ord. 635 N.S. 1/03)

17.2.2B:        Affordable Unit. "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.) (Ord. No. 712 N.S., 12/13)

17.2.2C:        Apartment Unit "*Apartment Unit*" means an attached Dwelling Unit in a Multiple Dwelling that provides complete and independent living facilities for one or more persons.



17.2.3:        Applicant. "Applicant" is the person or entity or the representative of a person or entity who submits an application for any approval required by this chapter. An applicant need not possess legal title to the subject property, so long as the applicant has secured the written consent of the property owner and a copy of that consent is submitted with the application.

17.2.4:        Automatic Teller Machine. "Automatic Teller Machine" means a device for the primary purpose of receiving or dispensing cash, and providing other automated services related to banking. (Ord. 692 N.S 10/2010)

17.2.5:        Average. "Average" is the arithmetic mean determined by dividing the sum of the set of terms by the number of terms. For purposes of example only, the "average lot frontage" where there are six lots with total frontage of six hundred feet would be one hundred feet. (Ord. No. 488 N.S., 10/87)

17.2.6A:       Basement. "Basement" means that portion of a building between floor and ceiling which is partly or completely below grade. (Ord. No. 488 N.S., 10/87)

17.2.6B:       Bicycle Rack. "Bicycle Rack" is a physical device used to secure bicycles. (See Section 17.16.9.) (Ord. No. 712 N.S., 12/13)

17.2.7:        Building "Building" means a structure for the support, shelter, or enclosure of persons, animals, or chattels, and, when separated by division walls from the ground up and without openings, then each portion of such building shall be deemed a separate building. (Ord. No. 488 N.S., 10/87)

17.2.8:        Building Height. "Building Height" means the vertical distance 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.9A:       Business or Commerce. "Business" or "Commerce" means the purchase, sale, or other transaction involving the handling or disposition of any article, substance, service, interest or commodity for profit or livelihood, or the ownership or management of office buildings, offices, recreational, or amusement enterprises. (Ord. No. 488 N.S., 10/87)

17.2.9B:       Calendar day. "Calendar day" means each day of a week. When a due date falls on a weekend day, the effective date is the close of business on the following non-holiday business day. When a due date falls on an approved City holiday as published annually on a list of City holidays, the effective date is at the close of business on the following non-holiday business day. (Ord. No. 712 N.S., 12/13)

17.2.10:       Change in Actual Existing Use. "Change in Actual Existing Use" means the addition, withdrawal, or other modifications of:

- (a) the type or quality of service or product being marketed;
- (b) the time or place of delivery of such service or product;
- (c) the manner or method of delivery of such service or product;
- (d) terms of a lease; or
- (e) the number of personnel on the site,

where such addition, withdrawal, or other such modification changes the facts upon which were based the findings made by the City Council for the theretofore permitted use pursuant to Section 17.24 of the Piedmont City Code. (Ord. No. 488 N.S., 10/87)

17.2.11:        Children's Play Structure. "Children's play structure" means a structure installed in the ground which is intended for use by children at play.

17.2.12:        Church. "Church" means one or more contiguous lots used as follows:

- (a) At least one lot contains a building used for religious services.
- (b) The lot or lots and any buildings or other structures on the lot or lots may be used for purposes other than religious services which are reasonably related to the practice of a religion and maintenance of the property, including but not limited to religious and other education, parking, social functions, meetings, and residential quarters for person whose activities directly support such religious purposes. (Ord. No. 488 N.S., 10/87; Ord. No. 500 N.S., 7/88)

17.2.13:        Conditional Use. "Conditional Use" means a principal use for which a conditional use permit is required, to which conditions may be attached, and which may be issued or denied under the terms of this Chapter. (Ord. No. 488 N.S., 10/87) (Cf. Permitted Use, Use)

17.2.14:        Corner Lot. "Corner Lot" means a lot located at the intersection of two or more streets and with frontage on at least two of those streets. (Ord. No. 488 N.S., 10/87) (Cf. Interior Lot, Lot)

17.2.15:        Coverage. "Coverage" means the percentage of the lot area which may be covered. "Coverage" may refer either to all primary, accessory and secondary structures including the vertical projections thereof to the ground except eaves, sills, or cornices, or to hardscape surfaces, or to both, as may be specified in the context. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.16:        Deck. "Deck" means an expanse of wood or other material any point of the horizontal surface of which is greater than twelve inches (12") above the actual surface of the ground directly below the point of measurement. (Ord. No. 488 N.S., 10/87)

17.2.17A:     Director of Public Works: Director. "Director of Public Works" or "Director" means the City Director of Public Works or his or her designee. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.2.18:     Drive-In. "Drive-in" means a place of business laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their vehicles. (Ord. No. 488 N.S., 10/87)

17.2.19:     Drive-In Stacking. "Drive-in Stacking" means a permanently surfaced area on the same lot as the building served, available for the exclusive use of the patrons waiting in their vehicles for drive-in services. (Ord. No. 488 N.S., 10/87)

17.2.20:     Driveway. "Driveway" means an unobstructed, all-weather vehicular passage to a parking area, garage, or other structure or structures on a lot. A driveway may consist of pavement or a combination of pavement and vegetation. (Ord. No. 488 N.S., 10/87)

17.2.21:     Dwelling Unit. "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 and construction code requirements. *Dwelling Units include Single Family Dwellings, Second Units, and Apartment Units.* (Cf. "Multiple Family Dwelling, Single Family Dwelling) (Ord. No. 488 N.S., 10/87)

17.2.22:     Electronic Advertising and Information Device. "Electronic Advertising and Information Device" means a device or medium for communication that is internally or externally lighted, has static or moving images, sound or no sound, for the primary purpose of conveying information or advertisement for goods or services, located so as to be visible from any street, public walkway, parking lot, or other public place. Such devices include, but are not limited to, monitors and reader boards, and are subject to the provisions of Section 17.19, which regulates signs. Electronic Advertising Devices do not include Automatic Teller Machines. (Ord. 692 N.S 10/2010)

17.2.23A:     Eligible for Use as a Bedroom. "Eligible for use as a bedroom" means a room with certain features characteristic of bedrooms generally, which include but are not limited to the following: access to a full bathroom on the same floor or within half a floor, if the house has a split level; access to the bedroom through a common hallway or other common space such as a kitchen, living room and/or dining room; adequate privacy; meets minimum size requirements of the Uniform Building Code. A room eligible for use as a bedroom need not have a closet. (Ord. 662 N.S. 1/06)

17.2.23B:     Emergency Shelter. "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. (Health and Safety Code section 50801(e). (Ord. No. 712 N.S., 12/13)

17.2.24A:     Exterior Wall. "Exterior Wall" means any wall or element of a wall, or any member or group of members, which defines the exterior boundaries of the interior space of a building and which has a slope of sixty degrees (60E) or greater with the horizontal plane. (Ord. No. 488 N.S., 10/87)

17.2.24B:     Fair Housing Laws. "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. (Ord. No. 712 N.S., 12/13)

17.2.25:     Family. See "Single Family." (Ord. No. 488 N.S., 10/87)

17.2.26:     Fast Food Restaurant. "Fast Food Restaurant" means an establishment the principal business of which is the sale of food or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building, elsewhere on the restaurant premises (particularly the parking lot), or off the premises. "Fast Food Restaurant" does not include an establishment where all food served is consumed within the restaurant building, nor one such as a bakery or delicatessen, which primarily sells rather than serves food, although some food may be sold in a ready-to-consume state. (Ord. No. 488 N.S., 10/87)

17.2.27:     Fence. "Fence" means a vertical screen device used to provide privacy, visual or otherwise, or for containment. "Fence" includes but is not limited to railings, walls, and decorative elements such as lattice, trellises, and covered gates, provided that the decorative element is no wider than twenty-four inches (24") in the smallest plan dimension. A "fence" is usually but not necessarily free-standing or self-supporting. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.28:     Floor Area. "Floor area" of a building or buildings means the sum of the gross horizontal area of the several floors of such building, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, and includes:

- (a) Basement space being used for habitation or having window size, ventilation, access, ceiling height, heating and electrical service which meet the requirements of the Uniform Building Code.
- (b) Elevator shafts and stairwells at each floor;
- (c) Bay windows and window seats that project beyond the exterior wall of the residence, even if the bay window or window seat does not have an average ceiling height of seven feet, six inches (7'6"); (Ord. 662 N.S. 1/06)
- (d) Accessible attic floor space that meets the Building Code definition for ceiling height for habitable spaces, and has at least some finishes typical of habitation including lights, wall and/or ceiling surfaces, flooring, and/or plumbing. Such attics that do not have direct heat will still be counted toward floor area. Attic spaces that have exposed wall framing and/or do not have permanent access, cannot be used for habitation, and do not count toward floor area. 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; (Ord. 662 N.S. 1/06)

- (e) Enclosed porches and lanais; and (Ord. No. 488 N.S., 10/87)
- (f) High-volume spaces that exceed an average height of fifteen feet (15'), measured from finished floor to the outer roof, counted as two-stories. (Ord. 662 N.S. 1/06)

Interior spaces where window size, ventilation, access, ceiling height, heating, or electrical service is inadequate under the Uniform Building Code or is nonexistent shall not be included in this definition, but if such space is actually used for living, sleeping, eating or cooking, such space shall be included, subject to the interpretation of the Public Works Director. (Ord. No. 520 N.S., 9/90, Ord. 662 N.S. 1/06)

17.2.29:        Footprint. See "Coverage." (Ord. No. 488 N.S., 10/87)

17.2.30:        Front Lot Line. "Front Lot Line" means the lot line contiguous with the boundary of the public street identified by the mailing address established for such lot by the United States Postal Service; if there is no mailing address established for a lot or no frontage on such a public street, the following criteria shall govern:

- (a) For an interior lot, the front lot line shall be the lot line which abuts the public street.
- (b) For a corner lot, the front lot line shall be the shorter of the two lot lines abutting a street. Where both lines are equal, the front lot line shall be that lot line toward which the primary structure on the lot has its main entrance; if there is no primary structure on the lot, then the front lot line shall be that lot line through which driveway access occurs, or if neither of these conditions occurs, the front lot line shall be determined by the lot pattern in the block in which the lot is located; if such a determination is inconclusive the front lot line shall be that which is designated as such by the Director of Public Works.
- (c) For a through lot, the front lot line shall be that lot line toward which the primary structure on the lot has its main entrance, or if there is no primary structure on the lot, then the front lot line shall be that lot line through which driveway access occurs, or if neither of these conditions occurs, the front lot line shall be determined by the lot pattern in the block in which the lot is located; if such a determination is inconclusive the front lot line shall be that which is designated as such by the Director of Public Works.
- (d) If frontage is entirely on a private street, the lot line contiguous with the boundary of the private street shall be considered the front lot line. (Ord. No. 488 N.S., 10/87)

17.2.31:        Front Yard. "Front Yard" means a yard, extending across the full width of the lot, which is measured between the front lot line and the nearest point of the structure on that lot nearest the front lot line, including all eaves, sills, cornices, or other architectural projections. The "front yard" of a corner lot is the yard abutting the front lot line. (Ord. No. 488 N.S., 10/87)

17.2.32:        Frontage. "Frontage" means the length of a boundary 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 said street. The boundary line must be continuous and not interrupted. Frontage may occur along a front, side, or rear lot line. (Ord. No. 488 N.S., 10/87)

17.2.33:        Guest. "Guest" means a person who is an occasional visitor occupying a portion of the residential premises without payment or compensation. *A "Guest" does not include a Short-Term Rental Customer.* (Ord. No. 488 N.S., 10/87)

17.2.34:        Guest House. "Guest House" means a detached accessory structure that is used for habitation without payment or compensation. A Guest house may not be used as an independent Dwelling Unit or Second Unit. (Ord. 662 N.S. 1/06)

17.2.34A       Habitation. "Habitation" means regular and exclusive use of a space or structure for shelter or other residential purposes. (Ord. No. 703 N.S., 05/2012)

17.2.35:        Hardscape Surface. "Hardscape surface" means any non-landscaped surface where vegetation would not easily grow. "Hardscape surface" specifically includes, but is not limited to, all primary, accessory and secondary structures; paving materials such as concrete, asphalt, brick, stone, or gravel, or wood, including stepping stones or other similar walkways; swimming pools; and patios, decks, balconies, and terraces. "Hardscape surface" does not include building eaves, landscaping or furniture, statuary, or other individual articles used in conjunction with landscaping which individually do not cover more than ten (10) square feet and cumulatively do not cover more than one hundred (100) square feet. (Ord. 662 N.S. 1/06) (Ord. 648 N.S. 6/04)

17.2.36:        Hedge. "Hedge" means a screen or barrier made of living plants.

*17.2.36A:        Hosted Short-Term Rental. "Hosted Short-Term Rental" means a Short-Term Rental of a room or rooms in a Primary Dwelling Unit where the owner or long-term renter of the residence is present in the residence during the term of the Short-Term Rental.*

17.2.37A:       Improvement(s) "Improvement(s)" means any building, structure, landscaping, or other alteration of the natural or existing state of land. (Ord. No. 488 N.S., 10/87)

17.2.37B:       Individual with a Disability. "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). (Ord. No. 712 N.S., 12/13)

17.2.38:        Interior Bearing Wall. "Interior Bearing Wall" means any wall meeting either of the following classifications:

- (a) Any metal or wood stud wall which supports more than one hundred (100) pounds per lineal foot of superimposed load; or
- (b) Any masonry or concrete wall which supports more than two hundred (200) pounds per lineal foot superimposed load or any such wall supporting its own weight for more than one story. (Ord. No. 488 N.S., 10/87)

17.2.39:        Interior Lot. "Interior Lot" means any lot not defined as a corner lot or a through lot. (Cf. "Corner Lot," "Lot," "Through Lot") (Ord. No. 488 N.S., 10/87)

17.2.40:        Irrigation. "Irrigation" means any system or method of artificially supplying water to landscaping, including but not limited to underground sprinkler systems, drip irrigation, and hand watering. (Ord. No. 488 N.S., 10/87)

17.2.40A       Kitchen, Accessory. "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 in a pool house, guest house, domestic quarters or recreation room; or a wet-bar or outdoor kitchen. (Ord. No. 703 N.S., 05/2012)

17.2.40B       Kitchen, Primary. "Kitchen, Primary" means the main kitchen facilities within a single-family residence having permanent facilities for the purpose of food storage, preparation and cooking. (Ord. No. 703 N.S., 05/2012)

17.2.41:        Landscaping. "Landscaping" means the planting, irrigation, and maintenance of land with living plant materials. (Ord. No. 488 N.S., 10/87)

17.2.41A:       Long-Term Rental. *"Long-Term Rental" means the rental of a Single Family Dwelling, Second Unit, Apartment Unit or rooms in a residence for 30 or more consecutive days.*

17.2.42:        Lot. "Lot" means a parcel of land under one ownership used or capable of being used under the regulations of this chapter, and including both the building area and all required yards, parking and drive areas, and other open spaces. (Ord. 662 N.S. 1/06)

17.2.43A:       Lot-line. "Lot Line" means one of the boundary lines of a lot. Where the boundary line is in a right-of-way, the lot line shall be the line defining the edge of the right-of-way inside the legally-described parcel. (Cf. "Front Lot Line," "Side Lot Line," "Rear Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.43B: Mixed Use Commercial/Residential. “Mixed Use Commercial/Residential” means a development that combines commercial and residential uses and having both (a) ground floor retail, office or service commercial uses which will primarily serve City residents; and (b) a multiple dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. (Ord. No. 712 N.S., 12/13)

17.2.44: Mobile and Manufactured Home. “Mobile or Manufactured Home” means a single-family residence that is constructed, in whole or in part, off-site and transported to a foundation on a residential lot. (Ord. 662 N.S. 1/06)

17.2.45: Multiple Dwelling. "Multiple Dwelling" means a residential structure containing *two or more* ~~than one Apartment Units or~~ Dwelling Units, *each unit of which is and* designed to be occupied ~~by more than one family~~ independently of ~~each the~~ other *units* at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. Multiple Dwelling does not include a single-family dwelling with a second unit. (Cf. Dwelling Unit, Single Family Dwelling) (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.2.46: Nonconforming Use "Nonconforming Use" means a use, which was legally established, so as to be 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.47: Nonconforming Building. "Nonconforming Building" means a building or structure or portion thereof, which was legally established, designed and erected, or structurally altered so as to be consistent with the zoning in effect at the time of its establishment, design, erection, or alteration, but which does not conform to the regulations of the zone in which it is presently located. (Ord. No. 488 N.S., 10/87. Ord. 662 N.S. 1/06)

17.2.48: Non-Structural Decorative Element. “Non-Structural Decorative Element” means a minor component of the design of the exterior of a structure or property which is primarily ornamental, is portable, and does not bear significant weight. Examples include but are not limited to window boxes, potted plants, shutters, plaster medallions, and portable birdbaths, portable fountains, and portable children’s play equipment. (Ord. 662 N.S. 1/06)

17.2.49: Open Space. "Open Space" means an expanse of land which is essentially unimproved except for vegetation and paved walkways. (Ord. No. 488 N.S., 10/87)

17.2.50: Parking Space. "Parking Space" means a permanently surfaced area on the same lot as the building which it serves for the exclusive use of off-street parking of motor vehicles. (Ord. No. 488 N.S., 10/87)



17.2.51:        Permitted Use. "Permitted Use" means a principal use which is allowed as a matter of right in a particular zone, although other requirements may apply under this Code. (Cf. Conditional Use, Use) (Ord. No. 488 N.S., 10/87)

*17.2.51A:        Primary Dwelling Unit. "Primary Dwelling Unit" means a single-family residential structure on a single property with provisions for living, sleeping, eating, cooking, and sanitation facilities occupied and intended for one household. A "Primary Dwelling Unit" does not include a Second Unit, whether attached or detached, or Apartment Unit.*

17.2.52:        Principal Use. "Principal Use" means a use permitted, excluded, conditionally allowed, or allowed to continue as a nonconforming use by these regulations, as distinguished from an auxiliary or subordinate use permitted only when accessory to another use lawfully occupying the same lot or building site. (Cf. Accessory Use, Use) (Ord. No. 488 N.S., 10/87)

17.2.53:        Private School. "Private School" means an institution of learning supported in whole or in part from private funds, providing for the education of children who do not exceed the age of nineteen. (Ord. No. 488 N.S., 10/87)

17.2.54:        Private Street. "Private Street" shall mean any street, access way, or the like, lying in whole or in part within the City subdivision for which dedication and ownership is privately held and is utilized as access to a development.

17.2.55:        Public Street. "Public Street" means a vehicular access maintained by the City and located on real property either owned by the City or subject to an easement in favor of the City, and which has been accepted as a public street by the City. (Ord. No. 488 N.S., 10/87)

17.2.56:        Public Utility. "Public Utility" means any entity defined as a public utility in § 216a of the California Public Utilities Code or any successor statute. (Ord. No. 488 N.S., 10/87)

17.2.57:        Rear Lot Line. "Rear Lot Line" is the lot line most directly opposite the front lot line. (Cf. "Front Lot Line," "Lot Line," "Side Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.58A        Rear Yard. "Rear Yard" means a yard extending across the full width of the lot measured between the rear lot line and the nearest point of the structure on that lot nearest the rear lot line, including all eaves, sills, cornices, or architectural projections. (Ord. No. 488 N.S., 10/87)

~~17.2.59B~~58A: Reasonable Accommodation. "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; hardscape 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 which 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).) (Ord. No. 712 N.S., 12/13)

17.2.58A**B**: Rent. "Rent" means to enter into an agreement whereby the occupant(s) of a dwelling unit or rented room make a monetary payment or exchange of goods or services as consideration for the occupancy of the dwelling unit or rented room. (Ord. No. 703 N.S., 05/2012)

17.2.58B**C**: Rented room. "Rented room" means the renting of a room or any combination of rooms within an existing single-family dwelling where: (a) one or more rooms (including at least one bedroom eligible for use as a bedroom) is rented to a single lessee, under a single rental agreement, not for the entire dwelling; (b) for a minimum of 30 consecutive days; (c) with the common use of the primary kitchen facilities, and with no temporary or permanent cooking facilities in the rented room(s); (d) with either shared or separate bathroom; and (e) those occupying the bedroom(s) do not function as a single family with the residents of the single-family dwelling, as defined. A "**Rented Room**" does not include a **Second Unit or a Short-Term Rental**. (See PMC Section 17.39.) (Ord. No. 703 N.S., 05/2012)

17.2.59: Retaining Wall. "Retaining Wall" means a wall the major purpose of which is to contain earth and other natural materials. (Ord. No. 488 N.S., 10/87)

17.2.60: Rooming or Boarding House  
REVOKED: Ord. No. 703 N.S., 05/2012

17.2.60A: Second Unit "**Second Unit**" means an attached or detached subordinate Dwelling Unit that provides complete and independent living facilities for one or more persons, as more fully defined and regulated under Section 17.40.

17.2.61: Servant. "Servant" means a person performing domestic services upon the premises on which he or she resides, who may receive reasonable monetary compensation for such services in addition to the value of room and board. (Ord. No. 488 N.S., 10/87)

17.2.62: Servants' Quarters "Servants' Quarters" means living accommodations provided for servants. (Ord. No. 488 N.S., 10/87)

17.2.63: Setback. "Setback" means the minimum zone requirement for front, side, and rear yards. (Ord. No. 488 N.S., 10/87)

17.2.63A: Short-Term Rental. "**Short-Term Rental**" means the rental of a Primary Dwelling Unit or rooms in a Primary Dwelling Unit for fewer than 30 consecutive days. (See PMC Section 17.39.)

17.2.63B: Short-Term Rental Customer. *"Short-Term Rental Customer" means a person or persons renting a Primary Dwelling Unit or rooms in a Primary Dwelling Unit for fewer than 30 consecutive days.*

17.2.64: Side Lot Line. "Side Lot Line" means any lot line which is not defined as a front lot line or rear lot line. (Cf. "Front Lot Line," "Lot Line," "Rear Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.65: Side Yard. "Side Yard" means a yard extending the full length of the lot measured between the side lot line and the nearest point of the structure on that lot nearest the side lot line, including all eaves, sills, cornices, or architectural projections. (Ord. No. 488 N.S., 10/87)

17.2.66: Single Family. "Single 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06, Ord. No. 703 N.S., 05/2012) (Cf. Multiple Family)

17.2.67: Single Family Dwelling or Single Family Residence "Single Family Dwelling" or "Single Family Residence" means a *free-standing* residential structure containing one and only one *Primary Dwelling Unit*. *A "Single Family Dwelling" or "Single Family Residence" may also contain an attached Second Unit.* (Cf. Multiple-Family Dwelling) (Ord. No. 488 N.S., 10/87)

17.2.68: Street. "Street " means a public or private vehicular roadway, alley or similar passageway, not including passageways that are exclusively pedestrian. (Ord. 662 N.S. 1/06)

17.2.69: Street Side Yard. "Street Side Yard" means a side yard which abuts a street. (Cf. Front Yard, Rear Yard, Side Yard, Yard) (Ord. No. 488 N.S., 10/87)

17.2.70: Structural Change. "Structural Change" means any physical change in either an exterior wall, an interior bearing wall, a floor or a roof. (Ord. No. 488 N.S., 10/87)

17.2.71: Structure, Accessory. "Accessory Structure" means a detached subordinate, single-story structure or building on a lot, 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 a main building on the lot. "Accessory Structure" includes but is not limited to a private garage or carport containing space for no more than four automobiles, servants' quarters, swimming pools, pool houses, garden sheds, and guest houses, as defined in this Section, and

Second Dwelling Units approved in accordance with Chapter 17D. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.72:        Structure, Primary. "Primary Structure" means the building on a lot in which the principal use is conducted. In a residential zone, the "Primary Structure" is considered to be the main residence and includes anything that is twelve inches (12") or higher above existing or proposed grade, constructed or erected on or in the ground, or attached to something on the ground, including but not limited to buildings, decks, balconies, bay windows, cantilevered upper level projections, building eaves, and in-ground and above-ground swimming pools. A "primary structure" does not include accessory structures, secondary structures, underground facilities, or accessory buildings used as tool and storage sheds, playhouses and similar uses in accordance with Section 5.2.2 of the Piedmont Building Code, driveways, sidewalks, on-grade improvements, patios, parking spaces, fences, hand rails and retaining walls, temporary handicap structures and non-structural decorative elements. (Cf. Accessory Structure) (Ord. No. 488 N.S., 10/87; Ord. No. 547 N.S., 9/93; Ord. No. 579 N.S., 9/96, Ord. 648 N.S. 6/04, Ord. 662 N.S. 1/06)

17.2.73:        Structure, Secondary. "Secondary Structure" means a subordinate physical element that is twelve inches (12") or higher above existing or proposed grade, constructed or erected on or in the ground, or attached to something on the ground, which is intended to functionally or decoratively enhance a property. Secondary structures do not include structures that are used for habitation or the storage of vehicles, but are primarily used for recreation, decoration or are a utility feature. Secondary Structures include but are not limited to built-in fountains, ponds or other water features, barbecues and outdoor fireplaces, hot tubs and spas, children's play structures, dish antennas, arbors, trellises, gazebos, planter boxes, built-in outdoor furniture, and freestanding utility equipment such as backflow preventers, air conditioners and electrical boxes. (Ord. 662 N.S. 1/06)

17.2.74:        Supportive Housing; Transitional Housing. "Supportive Housing" and "Transitional Housing" have the meanings as set forth in Health and Safety Code sections 50675.14(b) and 50675.2(h), respectively. Where permitted, transitional and supportive housing will be considered a residential use subject only to the same permitting processes as other housing in the subject zone without undue special regulatory requirements. (Ord. No. 712 N.S., 12/13)

17.2.75:        Trellis. A permanent decorative form with components which may be vertical, horizontal, or both, made of latticework or other materials which may or may not be intended to support vegetation.

17.2.76:        Through Lot. "Through Lot" means a lot, both the front lot line and rear lot line of which have frontage on a street. (Cf. "Corner Lot," "Interior Lot," "Lot") (Ord. No. 488 N.S., 10/87)

17.2.77:        Underground Facility. "Underground facility" means a basement area used as non-habitable space such as, but not limited to, a garage, fallout shelter, wine cellar, or storage, and including all related footings, waterproofing and drainage systems. Underground

facilities are not considered to be structures if they are completely below-grade or no more than twelve inches (12”) above existing grade, but are considered to be hardscape surfaces, even if covered with landscaping. (Ord. 662 N.S. 1/06)

*17.2.77A: Un-hosted Short-Term Rental. "Un-hosted Short-Term Rental" means a Short-Term Rental of a Primary Dwelling Unit where the property owner or long-term renter is not present on the premises during the rental.*

17.2.78: Use. "Use" means the purpose for which a parcel or improvement is designed, arranged, or intended, or for which it is or may be occupied or maintained. (Cf. Accessory Use, Conditional Use, Permitted Use, Principal Use) (Ord. No. 488 N.S., 10/87)

17.2.79: View. "View" means an existing significant view involving more than the immediately surrounding properties, including, but not limited to, any of the following: city skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges. (Ord. 656 N.S. 8/05)

17.2.80: Yard. See "Front Yard," "Rear Yard," "Setback," "Side Yard." (Ord. 488 N.S., 10/87; Ord 656 N.S. 8/05)

### SEC. 17.3 ESTABLISHMENT OF ZONES

17.3.1: Purpose. It is the purpose of this Chapter to provide for specified zones and uses therein and to prescribe the character of construction within the City, in accordance with the City Charter. The zoning system of the City consists of two parts:

- (a) The City Charter, which contains the zoning policy and requirements for voter approval of zone classification changes.
- (b) Chapter 17 of the City Code. (Ord. No. 488 N.S., 10/87)

17.3.2: Intent, Establishment of Zones. In order to (1) maintain the City of Piedmont as primarily a single-family residential city, (2) to designate, regulate, and restrict the location and use of all buildings and land, (3) to promote the public interest, health, comfort, economy and convenience, and (4) to preserve the public peace, safety, morals, order, and the public welfare, the City of Piedmont is divided into five zones as follows:

- Zone A Single Family Residential Zone
- Zone B Public Facilities Zone
- Zone C Multiple Density Residential Zones
- Zone D Commercial Zone
- Zone E Single Family Residential Estate Zone

Within each of these zones, 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 as set forth in this Chapter and elsewhere in this Code. Within each of these zones, other regulations

regarding prescriptive standards as set forth in this Chapter and elsewhere in this Code may apply. (Ord. No. 488 N.S., 10/87)

SEC. 17.4     ZONING MAP

The zones referred to in Section 17.3.2 above are hereby established and described upon the Zoning Map of the City of Piedmont (hereinafter referred to as "Zoning Map"). The Zoning Map shall show by boundaries and designation the boundaries and classifications have been established by this Code and the Charter, and any amendments thereto. The City Clerk shall maintain the official copy of the Zoning Map. (Ord. No. 516 N.S., 5/90)

SEC. 17.5     ZONE A--USES

17.5.1:        Intent. Zone A is established to regulate and control development in appropriate areas of single-family residential development in harmony with the character of existing and proposed development in the neighborhood and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted. (Ord. No. 488 N.S., 10/87)

17.5.2:        Permitted Uses. The following principal uses are allowed as permitted uses in Zone A:

- (a) Single-family residences together with accessory structures located on the same lot or parcel of land.
- (b) Rented room, subject to Section 17.39.
- (c) Second unit, subject to Section 17.40.
- (d) Short-Term Rentals of Primary Dwelling Unit, subject to Section 17.39.*
- (de) Small or Large Family Day Care Home in accordance with Government Code sections 1597.43 - 1597.47. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)*

17.5.3:        Conditional Uses The following principal uses are allowed as conditional uses in Zone A: Church or private school previously existing as a conforming or nonconforming use, and a new private or public school associated with an existing church, subject to the provisions of the City Charter, this chapter and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

*17.5.4:        Prohibited Uses. The following principal uses are prohibited uses in Zone A:*

- (a) Short-Term Rentals of Apartment Units or Second Units.*

SEC. 17.6     ZONE B--USES

17.6.1:        Intent. Zone B is established to regulate and control development of public facilities which are compatible with the character of existing and proposed surrounding uses. (Ord. No. 488 N.S., 10/87)

17.6.2:        Permitted Uses. The following principal uses are allowed as permitted uses in Zone B:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2.
- (b) City Building, Veterans' Building, or other public agency building, and accessory structures located on the same lot or parcel, for use by governmental entities or other nonprofit entities.
- (c) Park.
- (d) Cemetery, public utility.
- (e) Emergency shelter, supportive housing or transitional housing. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.6.3:        Conditional Uses. The following principal use is allowed as conditional uses in Zone B:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.6.4:        Prohibited Uses. *The following principal uses are prohibited uses in Zone B:*

- (a) Short-Term Rentals of Apartment Units or Second Units.*

## SEC. 17.7    ZONE C--USES

17.7.1:        Intent. Zone C is established to regulate and control development in appropriate areas of multiple residential units at densities in harmony with the character of existing and proposed development in the neighborhood, and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted. (Ord. No. 488 N.S., 10/87)

17.7.2:        Permitted Uses. The following principal uses are allowed as permitted uses in Zone C:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2.
- (b) A Multiple Dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. When affordable housing is provided, the Planning Commission shall grant a density bonus in accordance with Government Code section 65915.
- (c) Multi-family residential projects that incorporate affordable units are eligible for a 20% reduction in Planning Application fees. (Ord. 662 N.S. 1/06, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.7.3:            Conditional Uses. The following principal use is allowed as conditional uses in Zone C:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06, Ord. No. 712 N.S., 12/13)

17.7.4:            Prohibited Uses. *The following principal uses are prohibited uses in Zone C:*

- (a) Short-Term Rentals of Apartment Units or Second Units.*

SEC. 17.8        ZONE D--USES

17.8.1:            Intent. Zone D is established to regulate and control commercial and Mixed-Use Commercial/Residential development in appropriate areas of the City, which will serve the residents of the City, consistent and in harmony with the character of existing and proposed development in the neighborhood and adjacent residential areas. Commercial uses which will serve the residents of the City are those uses which residents would be expected to use on a regular basis. They do not include uses which would be expected to draw the major portion of their clientele from outside the City of Piedmont and the surrounding area. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.8.2:            Permitted Uses. The following principal uses are allowed as permitted uses in Zone D:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2. (Ord. No. 712 N.S., 12/13)

17.8.3:            Conditional Uses. The following principal uses are allowed as conditional uses in Zone D:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code.



- (b) Retail, office, and service commercial uses of a type which will primarily serve City residents, as provided by City Council resolution from time to time.
- (c) Any structural change or change in actual existing use in any commercial building.
- (d) Mixed-Use Commercial/Residential development. When affordable housing is provided, the Planning Commission may grant a density bonus in accordance with Government Code section 65915. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

D: 17.8.4: Prohibited Uses. The following principal uses are prohibited uses in Zone

- (a) Any manufacturing, wholesaling, distributing, or industrial use.
- (b) Motor vehicle sales or service, except minor servicing.
- (c) Hotel or motel.
- (d) Fast food restaurant. (Ord. No. 488 N.S., 10/87)
- (e) *Short-Term Rentals of Apartment Units or Second Units.*

SEC. 17.9 ZONE E--USES

17.9.1 Intent: Zone E is established to regulate and control development in appropriate areas of a single family residential development in harmony with the character of existing development in the neighborhood, and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted.

17.9.2 Permitted Uses: The following principal uses are allowed as permitted uses in Zone E:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2. (Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.9.3 Conditional Uses: The following principal use is allowed as conditional uses in Zone E:

Church or private school, previously existing as a conforming or nonconforming use, subject to the provisions of the City Charter, this chapter and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

- E:*      17.9.4:      Prohibited Uses. *The following principal uses are prohibited uses in Zone*
- (a)      *Short-Term Rentals of Apartment Units or Second Units.*

**No amendments are proposed for Sections 17.10 through 17.28**

SEC. 17.39    RENTED ROOMS *AND SHORT-TERM RENTALS*

- §17.39.1        Intent
- §17.39.2        ~~General~~ *Rented Rooms*
- §17.39.3        *Short-Term Rentals*
- §17.39.34       Safety
- §17.39.45       Business license tax
- ~~§17.39.6~~       *Home Occupation*

17.39.1        Intent. In adopting this Section 17.39, it is the City's intent to allow limited renting of rooms *and Short-Term Rentals* in existing homes while still maintaining the single-family character of neighborhoods and not exacerbating parking problems. (Ord. No. 703 N.S., 05/2012)

17.39.2        ~~General~~ *Rented Rooms.* The owner of a **Single Family Dwelling** unit in any zoning district is permitted to rent one or more bedrooms in the *Primary Dwelling Unit*, when the circumstances fit the definition of a **Rented Room** at Section 17.2.58~~BC~~:

Rented **R**oom means the renting of a room or any combination of rooms within an existing **Single Family Dwelling** where:

- (a) one or more rooms, including at least one bedroom eligible for use as a bedroom, is rented to a single lessee under a single rental agreement, not for the entire dwelling;
- (b) for a minimum of 30 consecutive days;
- (c) with the common use of the primary kitchen facilities, and with no temporary or permanent cooking facilities in the rented room(s);
- (d) with either shared or separate bathroom; and
- (e) those occupying the bedroom(s) do not function as a single family with the residents of the single family dwelling unit, as defined. (Ord. No. 703 N.S., 05/2012)

17.39.3        *Short-Term Rentals.* *The owner of a Single Family Dwelling in any zoning district is permitted to rent the Primary Dwelling Unit, or one or more bedrooms in the Primary Dwelling Unit, when the circumstances fit the definition of a Short-Term Rental 17.2.63A:*

*Short-Term Rental means the rental of a Primary Dwelling Unit or rooms in a Primary Dwelling Unit for fewer than 30 consecutive days.*

(a)    *Hosted Short-Term Rentals*

- (i)    *Hosted Short-Term Rental means a Short-Term Rental of a room or rooms in a Primary Dwelling Unit where the owner or long-term renter of the residence is present in the Dwelling Unit during the term of the Short-Term Rental.*

(ii) *A Hosted Short-Term Rental may include use of the primary kitchen facilities, but may not include temporary or permanent cooking facilities in the rented room(s).*

(b) *Un-hosted Short-Term Rentals*

(i) *Un-hosted Short-Term Rental means a Short Term Rental of a Primary Dwelling Unit where the property owner is not present on the premises during the rental.*

(ii) *Un-hosted Short-Term Rental typically includes the use of the entire Dwelling Unit, including the primary kitchen.*

(c) *Limitations*

(i) *The cumulative number of days per calendar year that a Primary Dwelling Unit or rooms in a Primary Dwelling Unit may be rented as a Short-Term Rental may not exceed 90.*

(ii) *At any singular point in time, no more than one Short-Term Rental tenancy may occur in an individual Primary Dwelling Unit.*

17.39.34 Safety. The property owner is responsible for assuring that the rented rooms *and/or Primary Dwelling Unit* meet building codes. The property owner must either (at the owner's discretion):

(a) Request that the City inspect the property to assure that the ~~primary residence~~ *Primary Dwelling Unit* and the rented rooms meet **Building Codes requirements, including habitability: and that rooms rented for sleeping purposes** 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 City, to be kept in the property file at the City. (Ord. No. 703 N.S., 05/2012)

17.39.45. Business license tax. A person renting a room *or operating a Short-Term Rental* is considered to have rental property and shall pay an annual business license tax under City Code Chapter 10. (Ord. No. 703 N.S., 05/2012)

17.39.6 Home Occupation. *As a use that is clearly incidental and secondary to the use of the Primary Dwelling Unit for dwelling purposes, the renting of rooms or the Primary Dwelling Unit as either a Long-Term Rental or a Short-Term Rental is not a Home Occupation as outlined in Chapter 17B of this Code.*

SEC. 17.40    SECOND UNITS

§17.40.1	Purpose and intent
§17.40.2	Definitions
§17.40.3	Legal second units; Non-conforming second units; Requirements for rented second units; Units that are not legal second units.
§17.40.4	Permit requirement
§17.40.5	Second unit permit application and procedures
§17.40.6	Development standards
§17.40.7	Variance or exception

17.40.1        Purpose and intent.

The State Legislature has declared that second units are a valuable form of housing in California. Second 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 second 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 second units. By enacting this Section 17.40, the City Council intends to:

- (a) establish the requirements for second units in the City, consistent with California Government Code section 65852.2;
- (b) encourage the use of existing second units and the construction of new second units, consistent with this section;
- (c) help achieve the goals and policies of the City of Piedmont 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 second units in the City. (Ord. No. 703 N.S., 05/2012)

17.40.2        Definitions.

In this Section 17.40, the following definitions apply, in addition to the definitions set forth in Section 17.2:

- (a) Affordable housing definitions:
  - (i) Affordable Rent Level means that the second 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 second units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted second 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 second unit shall be included in the affordable rent level. For rent-restricted second units where utilities are separately metered and billed, and where the second 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)

- (ii) Gross Household Income means the total monies earned or received by all members of a household 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.
- (iii) Household means those persons who collectively occupy a housing unit. A household shall include any child or dependent, as defined in Section 152 of the Internal Revenue Code, who is under the age of 18 or who is under the age of 24 and is a full-time student.
- (iv) Household Size means the number of persons in a household.
- (v) 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.)
- (vi) 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.)

- (vii) 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)
- (viii) 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.)
- (b) Primary unit means a principal, permitted single-family dwelling.
- (c) Second unit means an attached or detached dwelling unit that provides complete and independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, bathing and sanitation on the same parcel as a primary unit. A second unit is an accessory use to a primary unit. It has an accessory kitchen and a separate, exterior entrance. (See Section 17.40.3 for types of second units.) (Ord. No. 703 N.S., 05/2012)

17.40.3 Legal second units; Non-conforming second units; Requirements for rented second units; Units that are not legal second units.

- (a) Legal second units. The following types of second units exist legally in the City. Each may be used as a dwelling unit, and maybe rented (subject to business tax for rental property):
  - (i) Second unit permit. A second unit permitted under a second unit permit is a legally existing second unit. (This includes a second unit approved subject to a variance and a second unit approved subject to exceptions and rent-restrictions, both under Section 17.40.7.) 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.
  - (ii) 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 legally existing second unit.
  - (iii) Exempt second unit. If a second unit was established before 1930, and the City has confirmed the exempt status in writing, the second unit is a legally existing second unit.
  - (iv) Government Code second unit. Between January 19, 1994 and July 1, 2003, the City approved conditional use permits for certain second units under the then requirements of Government Code section 65852.2 (b). If

the City approved a second unit during this period of time, the second unit is a legally existing second unit.

- (v) 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 second unit (and the temporary nature now recognized as permanent).
  
- (b) Legal, non-conforming second units. A legal second unit that does not conform to the current development standards in Section 17.40.6 is a legal, non-conforming unit. It may not be modified or expanded except in compliance with Section 17.32.
  
- (c) Requirements for legal second units that are rented. If a legal second unit is rented to a tenant, these additional requirements apply:
  - (i) Business tax. A second unit that is rented is subject to an annual business tax for rental property, under City Code Chapter 10.
  
  - (ii) Rent restrictions. A second unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See Section 17.40.7.c.)
  
  - (iii) Rental term. A second unit may not be rented as a Short-Term Rental.*
  
- (d) Units which are not legal second units. The following types of units are not legal second units. They may not be used for independent living or rented apart from the primary unit. The owner of one of these units, if it qualifies, may apply to the City for a second unit permit under Section 17.40.4.
  - (i) An unintended second unit. An unintended second unit means a living space which meets the definition of a second unit, but which is not approved for (or being used for) habitation as an independent dwelling. It includes a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.
  
  - (ii) Unapproved exempt second unit. A living unit which might qualify as an exempt second unit under section 17.40.3.a.3 above, for which the owner has not (yet) obtained City approval.
  
  - (iii) Rented room. A rented room(s), permitted under Section 17.39, is not a legal second unit.
  
  - (iv) Other. Any other living unit which is not a primary unit and not a legal second unit under subsection 17.40.3.a, above. (Ord. No. 703 N.S., 05/2012)



17.40.4      Permit requirement.

- (a)    Second unit permit. A second unit permit is required for a second unit that is not currently a legal second unit, under Section 17.40.3 a. A second unit is allowed on any parcel in the City with a primary unit, subject to the issuance of the second unit permit. No second unit permit is required for an unintended second unit not used as a dwelling unit.
- (b)    Building permit. A building permit (or other verification of compliance by building official) is also required, except for an exempt unit. (Ord. No. 703 N.S., 05/2012)

17.40.5      Second Unit Permit Application and Procedures.

- (a)    Types of second unit permits. A property owner may seek approval of a second unit permit (or exempt second unit) for any of these four types:
  - (i)    Second unit meets all development standards: Director approval. If the proposed second unit meets all of the development standard in Section 17.40.6, the Director shall approve the application, without discretionary review (except for design review), public notice or a public hearing. (See Section 17.40.5.b.)
  - (ii)    Second unit requires variance: Planning Commission review. If the proposed second unit requires one or more variances from the development standards in Section 17.40.6 (other than off-street parking for the second unit or unit size), the application is referred to the Planning Commission for a decision on the variance. (See Section 17.40.7.a.)
  - (iii)    Second unit requires exception to parking and/or unit size requirements: Planning Commission review. If the proposed second unit requires an exception to off-street parking for that unit or unit size requirements, or both, the application is referred to the Planning Commission for a decision on the exception. If approved, the second unit will be rent-restricted for 10 years. (See Section 17.40.7.c.)
  - (iv)    Pre-existing exempt second unit: Planning Commission review. If the proposed second unit was established before 1930 it may be an exempt second unit. The property owner may apply for approval of the second unit based on sufficient evidence (such as inspection by City staff to verify pre-1930 improvements, rental records, City or County records, written or verbal testimony). An exempt second unit is not subject to the development standards in Section 17.40.6. (See Sections 17.40.3.a.3 and 17.40.5.b) (Ord. 703 N.S., 05/2012)
- (b)    Application and procedures.

- (i) Application. An owner may apply for a second unit permit (or other City approval) by submitting a complete application to the Director on a form provided by the City.
- (ii) Application fee. The owner shall pay an application fee in the amount established by City Council resolution.
- (iii) Reviewing body.
  - a) Director, if the proposed second unit meets all of the development standards in Section 17.40.6.
  - b) Planning Commission, if:
    - the proposed second unit requires either a variance or an exception or both, under Section 17.40.7; or
    - the proposed approval is for an exempt unit established before 1930, under Section 17.40.5.a.4 above.
- (iv) Public hearing. If the proposed second unit requires either a variance or an exception, under Section 17.40.7, the matter will be considered by the Planning Commission at a noticed public hearing, consistent with Sections 17.27 and 17.28.
- (v) Decision and conditions. The reviewing body (either the Director or the Planning Commission, as the case may be) shall render its decision in writing and shall state the reasons for approval or denial.
  - a) If the application does not require a variance or exception, and the proposed second unit meets all of the development standards in Section 17.40.6, the Director shall approve the application, without discretionary review (except for design review), notice or public hearing.
  - b) If the application requires either a variance or exception, the reviewing body may only approve the application if it meets the requirements of Section 17.40.7. The Planning Commission may impose reasonable conditions of approval.
  - c) If the application is for a pre-existing second unit under Section 17.40.5.a.4, the Planning Commission may approve the application based on the reliability of the evidence. The Commission may impose reasonable conditions of approval.
- (vi) Appeal. A decision of the Director or the Planning Commission may be appealed within ten days, in accordance with Section 17.25. However, for

a second unit permit without variance or exception, the notice of the appeal shall not be given except to the owner (or other appellant), and the grounds for appeal are limited to whether or not the application meets the development standards in Section 17.40.6, or a condition of approval. (Ord. No. 703 N.S., 05/2012)

17.40.6      Development standards.

A second unit shall comply with all of the following development standards, unless a variance (to standards other than unit size or parking) or an exception (to unit size, parking or floor area ratio) is granted under Section 17.40.7.

- (a) Size. The second unit shall not exceed 700 square feet.
- (b) Floor area ratio. The total floor area of habitable structures on the lot with an existing primary residence shall comply with the floor area ratio requirements of this Chapter for the zone in which the property is located. If a new primary residence and a new second unit are proposed on a lot, an exception is possible pursuant to Section 17.40.7.b.
- (c) Lot coverage. The lot on which the second unit is located must comply with the lot coverage requirements of this Chapter for the zone in which it is located.
- (d) Setback. For new construction, the dimensions of the front, side and rear yards of the lot must conform to the setback requirements of this Chapter 17 the zone in which it is located.
- (e) Off-street parking. The lot on which the proposed second unit is located must contain the required number of covered, non-tandem parking spaces for both the primary and the second units, as set forth in Section 17.16.1. If the primary unit does not have the required number of spaces, a variance is required. If the primary unit has the required number of spaces, but the proposed second unit does not, an exception is required. See Section 17.40.7.)
- (f) Residential Design Review Guidelines. The design of the proposed second unit and its required parking shall meet the design criteria in the City's Residential Design Review Guidelines and related policies approved by the City Council (including the Story Pole Policy). The architectural style, architectural elements, exterior materials, and color of the second unit shall be consistent with that of the primary unit. As provided in Section 17.20.4(a)(i), a second unit application that proposes only interior remodeling of an existing building and does not propose to change the exterior form of the building is exempt from the design review requirement.

- (g) Owner occupancy. Except for an exempt second unit, the owner of a second unit must occupy either the primary unit or the second unit, if both units are used for habitation. The owner shall record with the County Recorder a declaration of restrictions, in a form provided by the City.
- (h) Limit of one second unit. There may be no more than one second unit on a parcel. No subdivision of land is authorized that would result in a second 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.
- (i) Pre-existing second unit. A pre-existing second unit (under Section 17.40.3.d.4) that is not an exempt second unit and was not previously approved must also meet these requirements when the owner applies for the second unit permit:
  - (i) Zoning. The second unit must obtain a second unit permit.
  - (ii) Building. The second unit must have been constructed with building permits in conformance with Chapter 5 in effect at the time of construction. If the owner is not able to provide proof of building permits, the Building Official shall make a thorough inspection of the unit to determine compliance with the current Building Code. (Ord. No. 703 N.S., 05/2012)

17.40.7      Variance or exception

The City may approve a variance, exception, or both, to the development standards.

- (a) Variance. The Planning Commission may approve a variance to any development standard in Section 17.40.6.b through e, except for parking for the second unit. A variance is also required if the primary unit does not contain the required number of parking spaces pursuant to Section 17.16.1. The decision will be based on the required variance procedures and findings in Section 17.21.
- (b) Exception to floor area ratio for new primary residence and second unit. If a property owner proposes a new primary residence and a second unit, the Planning Commission may approve a floor area ratio exemption without rent restriction as follows: the square footage of the second unit will not count toward the total floor area ratio for the property up to 700 square feet or 10% of the lot size, which ever is less.
- (c) Parking or Unit Size Exception. The Planning Commission may approve an exception to the unit size or parking requirement for the second unit, or both. The decision will be based on the requirements and findings of this section. If an exception is granted, the second unit will be subject to all the terms of section 17.40.7.c.3 below, including rent-restrictions.

- (i) Exception to unit size. The Planning Commission may approve a second unit permit with an exception to the maximum unit size of 700 square feet, as follows:

IF THE LOT SIZE:	THE SECOND UNIT MAY BE:	WITH RENT RESTRICTION FOR LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR VERY LOW INCOME HOUSEHOLD
is less than the minimum for the zoning district:	only located within an existing building, without expansion of the existing building envelope.	up to 850 sq.ft.	up to 1,000 sq.ft.
equals or exceeds the minimum for the zoning district:	within existing building, an expansion, or a detached unit	up to 850 sq.ft.	up to 1,000 sq.ft

The Planning Commission may approve a second unit permit with an exception to the unit size only if the application complies with the other development standards of Section 17.40.6 (or also obtains a variance) and if the Planning Commission makes the following findings:

- a) The proposed second unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood.
- b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed second unit size without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(ii) Exception to parking. The Planning Commission may grant an exception to the parking requirements for the proposed second unit as follows:

WITH RENT RESTRICTION FOR LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR VERY LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR AN EXTREMELY LOW INCOME HOUSEHOLD
<ul style="list-style-type: none"> <li>• 1 parking space for the second unit, regardless of the number of second unit bedrooms; and/or</li> <li>• an off-street parking space of 7 1/2 x 16 feet; and/or</li> <li>• off-street, uncovered parking if uncovered parking space is permanently screened from public view.</li> </ul>	<ul style="list-style-type: none"> <li>• allow on-street parking, regardless of the number of second unit bedrooms.</li> </ul>	<ul style="list-style-type: none"> <li>• allow on-street parking if the unit is 300 sq. ft. or less; or</li> <li>• allow on-street parking if the proposed unit is on a property that is already non-conforming as to structure coverage, hardscape coverage or floor area ratio, or requires two or more variances from the development standards of Section 17.40.6.</li> </ul>

The Planning Commission may approve a second unit permit with an exception to the parking requirements for that unit only if the proposed second unit complies with the criteria and standards of Section 17.20.9 (or the owner obtains a variance) and if the Planning Commission makes the following findings:

- a) In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services; and
- b) The exception will not negatively impact traffic safety or emergency vehicle access to residences, or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets.

(iii) Second unit permit with a unit size or parking exception: Additional requirements. If a second unit permit with an exception is approved, it shall be subject to the following additional requirements.

- a) Rent restriction.
  - i. Declaration of rent restrictions. The second unit permit with an 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 shall 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 shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

- ii. Affordable rent certification. An owner who has executed a Declaration shall submit to the City a Second 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 second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City.
  
- b) Separate dwelling unit access. A second unit permit with an exception is designed for a second unit that is in a dwelling or portion of a dwelling designed for, or occupied exclusively by, persons living as one household. The owner is required to provide access to the rent-restricted second unit from the exterior. There may be no direct access between the primary unit and the second unit, and there must be a permanently constructed barrier to interior access. (Ord. 703 N.S., 05/12)

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Chapter 17  
**REGULATIONS PRESCRIBING THE CHARACTER OF CONSTRUCTION**

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§17.40	SECOND UNITS

SEC. 17.1     INTENT

The City of Piedmont consists primarily of unique single family residences set among mature trees and other vegetation. The residents of Piedmont believe it to be in the welfare of all residents to preserve the beauty and architectural heritage of the City's housing stock, the mature vegetation, and the tranquility and privacy which now exist. The residents also desire to reduce on-street parking and traffic in the neighborhood streets and to avoid overcrowding and its detrimental effects on City schools and other services and facilities. The residents of Piedmont also wish to promote improvements to single family residences without sacrificing the goals already mentioned. The regulations which follow are designed to implement these purposes. (Ord. No. 516 N.S., 4/90)

SEC. 17.2     DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the meanings listed:

17.2.1:         Accessory Use. "Accessory use" means a use which is appropriate, subordinate, incidental, and customarily or necessarily related to a lawfully existing principal use on the same lot or building site and does not alter the essential characteristics of such principal use as a whole and as related to other uses permitted in the same District. (Cf. Principal Use, Use) (Ord. No. 488 N.S., 10/87)

17.2.2A:        Adjacent. "Adjacent" shall refer to any lot wholly or partially contiguous with the subject property, generally including the properties on each side, the three lots most closely situated across the street from the subject property, and the three lots most closely situated at the rear of the subject property. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

- (a)     Adjacent Affected Property. "Adjacent affected property" shall refer to any lot wholly or partially contiguous with the subject property that is physically or visually adjacent to the portion or portions of the subject property that propose one or more exterior change(s) subject to design review. (Ord. 635 N.S. 1/03)

17.2.2B:        Affordable Unit. "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.) (Ord. No. 712 N.S., 12/13)

17.2.2C:        Apartment Unit "*Apartment Unit*" means an attached Dwelling Unit in a Multiple Dwelling that provides complete and independent living facilities for one or more persons.

17.2.3:        Applicant. "Applicant" is the person or entity or the representative of a person or entity who submits an application for any approval required by this chapter. An applicant need not possess legal title to the subject property, so long as the applicant has secured the written consent of the property owner and a copy of that consent is submitted with the application.

17.2.4:        Automatic Teller Machine. "Automatic Teller Machine" means a device for the primary purpose of receiving or dispensing cash, and providing other automated services related to banking. (Ord. 692 N.S 10/2010)

17.2.5:        Average. "Average" is the arithmetic mean determined by dividing the sum of the set of terms by the number of terms. For purposes of example only, the "average lot frontage" where there are six lots with total frontage of six hundred feet would be one hundred feet. (Ord. No. 488 N.S., 10/87)

17.2.6A:       Basement. "Basement" means that portion of a building between floor and ceiling which is partly or completely below grade. (Ord. No. 488 N.S., 10/87)

17.2.6B:       Bicycle Rack. "Bicycle Rack" is a physical device used to secure bicycles. (See Section 17.16.9.) (Ord. No. 712 N.S., 12/13)

17.2.7:        Building "Building" means a structure for the support, shelter, or enclosure of persons, animals, or chattels, and, when separated by division walls from the ground up and without openings, then each portion of such building shall be deemed a separate building. (Ord. No. 488 N.S., 10/87)

17.2.8:        Building Height. "Building Height" means the vertical distance 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.9A:       Business or Commerce. "Business" or "Commerce" means the purchase, sale, or other transaction involving the handling or disposition of any article, substance, service, interest or commodity for profit or livelihood, or the ownership or management of office buildings, offices, recreational, or amusement enterprises. (Ord. No. 488 N.S., 10/87)

17.2.9B:       Calendar day. "Calendar day" means each day of a week. When a due date falls on a weekend day, the effective date is the close of business on the following non-holiday business day. When a due date falls on an approved City holiday as published annually on a list of City holidays, the effective date is at the close of business on the following non-holiday business day. (Ord. No. 712 N.S., 12/13)

17.2.10:       Change in Actual Existing Use. "Change in Actual Existing Use" means the addition, withdrawal, or other modifications of:

- (a) the type or quality of service or product being marketed;
- (b) the time or place of delivery of such service or product;
- (c) the manner or method of delivery of such service or product;
- (d) terms of a lease; or
- (e) the number of personnel on the site,

where such addition, withdrawal, or other such modification changes the facts upon which were based the findings made by the City Council for the theretofore permitted use pursuant to Section 17.24 of the Piedmont City Code. (Ord. No. 488 N.S., 10/87)

17.2.11:        Children's Play Structure. "Children's play structure" means a structure installed in the ground which is intended for use by children at play.

17.2.12:        Church. "Church" means one or more contiguous lots used as follows:

- (a) At least one lot contains a building used for religious services.
- (b) The lot or lots and any buildings or other structures on the lot or lots may be used for purposes other than religious services which are reasonably related to the practice of a religion and maintenance of the property, including but not limited to religious and other education, parking, social functions, meetings, and residential quarters for person whose activities directly support such religious purposes. (Ord. No. 488 N.S., 10/87; Ord. No. 500 N.S., 7/88)

17.2.13:        Conditional Use. "Conditional Use" means a principal use for which a conditional use permit is required, to which conditions may be attached, and which may be issued or denied under the terms of this Chapter. (Ord. No. 488 N.S., 10/87) (Cf. Permitted Use, Use)

17.2.14:        Corner Lot. "Corner Lot" means a lot located at the intersection of two or more streets and with frontage on at least two of those streets. (Ord. No. 488 N.S., 10/87) (Cf. Interior Lot, Lot)

17.2.15:        Coverage. "Coverage" means the percentage of the lot area which may be covered. "Coverage" may refer either to all primary, accessory and secondary structures including the vertical projections thereof to the ground except eaves, sills, or cornices, or to hardscape surfaces, or to both, as may be specified in the context. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.16:        Deck. "Deck" means an expanse of wood or other material any point of the horizontal surface of which is greater than twelve inches (12") above the actual surface of the ground directly below the point of measurement. (Ord. No. 488 N.S., 10/87)

17.2.17A: Director of Public Works: Director. "Director of Public Works" or "Director" means the City Director of Public Works or his or her designee. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.2.18: Drive-In. "Drive-in" means a place of business laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their vehicles. (Ord. No. 488 N.S., 10/87)

17.2.19: Drive-In Stacking. "Drive-in Stacking" means a permanently surfaced area on the same lot as the building served, available for the exclusive use of the patrons waiting in their vehicles for drive-in services. (Ord. No. 488 N.S., 10/87)

17.2.20: Driveway. "Driveway" means an unobstructed, all-weather vehicular passage to a parking area, garage, or other structure or structures on a lot. A driveway may consist of pavement or a combination of pavement and vegetation. (Ord. No. 488 N.S., 10/87)

17.2.21: Dwelling Unit. "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 and construction code requirements. *Dwelling Units include Single Family Dwellings, Second Units, and Apartment Units.* (Cf. "Multiple Family Dwelling, Single Family Dwelling") (Ord. No. 488 N.S., 10/87)

17.2.22: Electronic Advertising and Information Device. "Electronic Advertising and Information Device" means a device or medium for communication that is internally or externally lighted, has static or moving images, sound or no sound, for the primary purpose of conveying information or advertisement for goods or services, located so as to be visible from any street, public walkway, parking lot, or other public place. Such devices include, but are not limited to, monitors and reader boards, and are subject to the provisions of Section 17.19, which regulates signs. Electronic Advertising Devices do not include Automatic Teller Machines. (Ord. 692 N.S 10/2010)

17.2.23A: Eligible for Use as a Bedroom. "Eligible for use as a bedroom" means a room with certain features characteristic of bedrooms generally, which include but are not limited to the following: access to a full bathroom on the same floor or within half a floor, if the house has a split level; access to the bedroom through a common hallway or other common space such as a kitchen, living room and/or dining room; adequate privacy; meets minimum size requirements of the Uniform Building Code. A room eligible for use as a bedroom need not have a closet. (Ord. 662 N.S. 1/06)

17.2.23B: Emergency Shelter. "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. (Health and Safety Code section 50801(e). (Ord. No. 712 N.S., 12/13)

17.2.24A:     Exterior Wall. "Exterior Wall" means any wall or element of a wall, or any member or group of members, which defines the exterior boundaries of the interior space of a building and which has a slope of sixty degrees (60E) or greater with the horizontal plane. (Ord. No. 488 N.S., 10/87)

17.2.24B:     Fair Housing Laws. "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. (Ord. No. 712 N.S., 12/13)

17.2.25:     Family. See "Single Family." (Ord. No. 488 N.S., 10/87)

17.2.26:     Fast Food Restaurant. "Fast Food Restaurant" means an establishment the principal business of which is the sale of food or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building, elsewhere on the restaurant premises (particularly the parking lot), or off the premises. "Fast Food Restaurant" does not include an establishment where all food served is consumed within the restaurant building, nor one such as a bakery or delicatessen, which primarily sells rather than serves food, although some food may be sold in a ready-to-consume state. (Ord. No. 488 N.S., 10/87)

17.2.27:     Fence. "Fence" means a vertical screen device used to provide privacy, visual or otherwise, or for containment. "Fence" includes but is not limited to railings, walls, and decorative elements such as lattice, trellises, and covered gates, provided that the decorative element is no wider than twenty-four inches (24") in the smallest plan dimension. A "fence" is usually but not necessarily free-standing or self-supporting. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.28:     Floor Area. "Floor area" of a building or buildings means the sum of the gross horizontal area of the several floors of such building, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, and includes:

- (a) Basement space being used for habitation or having window size, ventilation, access, ceiling height, heating and electrical service which meet the requirements of the Uniform Building Code.
- (b) Elevator shafts and stairwells at each floor;
- (c) Bay windows and window seats that project beyond the exterior wall of the residence, even if the bay window or window seat does not have an average ceiling height of seven feet, six inches (7'6"); (Ord. 662 N.S. 1/06)
- (d) Accessible attic floor space that meets the Building Code definition for ceiling height for habitable spaces, and has at least some finishes typical of habitation including lights, wall and/or ceiling surfaces, flooring, and/or plumbing. Such attics that do not have direct heat will still be counted toward floor area. Attic spaces that have exposed wall framing and/or do not have permanent access, cannot be used for habitation, and do not count toward floor area. 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; (Ord. 662 N.S. 1/06)

- (e) Enclosed porches and lanais; and (Ord. No. 488 N.S., 10/87)
- (f) High-volume spaces that exceed an average height of fifteen feet (15'), measured from finished floor to the outer roof, counted as two-stories. (Ord. 662 N.S. 1/06)

Interior spaces where window size, ventilation, access, ceiling height, heating, or electrical service is inadequate under the Uniform Building Code or is nonexistent shall not be included in this definition, but if such space is actually used for living, sleeping, eating or cooking, such space shall be included, subject to the interpretation of the Public Works Director. (Ord. No. 520 N.S., 9/90, Ord. 662 N.S. 1/06)

17.2.29:        Footprint. See "Coverage." (Ord. No. 488 N.S., 10/87)

17.2.30:        Front Lot Line. "Front Lot Line" means the lot line contiguous with the boundary of the public street identified by the mailing address established for such lot by the United States Postal Service; if there is no mailing address established for a lot or no frontage on such a public street, the following criteria shall govern:

- (a) For an interior lot, the front lot line shall be the lot line which abuts the public street.
- (b) For a corner lot, the front lot line shall be the shorter of the two lot lines abutting a street. Where both lines are equal, the front lot line shall be that lot line toward which the primary structure on the lot has its main entrance; if there is no primary structure on the lot, then the front lot line shall be that lot line through which driveway access occurs, or if neither of these conditions occurs, the front lot line shall be determined by the lot pattern in the block in which the lot is located; if such a determination is inconclusive the front lot line shall be that which is designated as such by the Director of Public Works.
- (c) For a through lot, the front lot line shall be that lot line toward which the primary structure on the lot has its main entrance, or if there is no primary structure on the lot, then the front lot line shall be that lot line through which driveway access occurs, or if neither of these conditions occurs, the front lot line shall be determined by the lot pattern in the block in which the lot is located; if such a determination is inconclusive the front lot line shall be that which is designated as such by the Director of Public Works.
- (d) If frontage is entirely on a private street, the lot line contiguous with the boundary of the private street shall be considered the front lot line. (Ord. No. 488 N.S., 10/87)

17.2.31:        Front Yard. "Front Yard" means a yard, extending across the full width of the lot, which is measured between the front lot line and the nearest point of the structure on that lot nearest the front lot line, including all eaves, sills, cornices, or other architectural projections. The "front yard" of a corner lot is the yard abutting the front lot line. (Ord. No. 488 N.S., 10/87)

17.2.32:        Frontage. "Frontage" means the length of a boundary 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 said street. The boundary line must be continuous and not interrupted. Frontage may occur along a front, side, or rear lot line. (Ord. No. 488 N.S., 10/87)

17.2.33:        Guest. "Guest" means a person who is an occasional visitor occupying a portion of the residential premises without payment or compensation. (Ord. No. 488 N.S., 10/87)

17.2.34:        Guest House. "Guest House" means a detached accessory structure that is used for habitation without payment or compensation. A Guest house may not be used as an independent Dwelling *Unit* or Second *Unit*. (Ord. 662 N.S. 1/06)

17.2.34A       Habitation. "Habitation" means regular and exclusive use of a space or structure for shelter or other residential purposes. (Ord. No. 703 N.S., 05/2012)

17.2.35:        Hardscape Surface. "Hardscape surface" means any non-landscaped surface where vegetation would not easily grow. "Hardscape surface" specifically includes, but is not limited to, all primary, accessory and secondary structures; paving materials such as concrete, asphalt, brick, stone, or gravel, or wood, including stepping stones or other similar walkways; swimming pools; and patios, decks, balconies, and terraces. "Hardscape surface" does not include building eaves, landscaping or furniture, statuary, or other individual articles used in conjunction with landscaping which individually do not cover more than ten (10) square feet and cumulatively do not cover more than one hundred (100) square feet. (Ord. 662 N.S. 1/06) (Ord. 648 N.S. 6/04)

17.2.36:        Hedge. "Hedge" means a screen or barrier made of living plants.

17.2.37A:       Improvement(s) "Improvement(s)" means any building, structure, landscaping, or other alteration of the natural or existing state of land. (Ord. No. 488 N.S., 10/87)

17.2.37B:       Hosted Short-Term Rental. *"Hosted Short-Term Rental" means a Short-Term Rental of a room or rooms in a Dwelling Unit where the owner or long-term renter of the residence is present in the residence during the term of the Short-Term Rental.*

17.2.37B:       Individual with a Disability. "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). (Ord. No. 712 N.S., 12/13)

17.2.38:        Interior Bearing Wall. "Interior Bearing Wall" means any wall meeting either of the following classifications:

- (a) Any metal or wood stud wall which supports more than one hundred (100) pounds per lineal foot of superimposed load; or
- (b) Any masonry or concrete wall which supports more than two hundred (200) pounds per lineal foot superimposed load or any such wall supporting its own weight for more than one story. (Ord. No. 488 N.S., 10/87)

17.2.39:        Interior Lot. "Interior Lot" means any lot not defined as a corner lot or a through lot. (Cf. "Corner Lot," "Lot," "Through Lot") (Ord. No. 488 N.S., 10/87)

17.2.40:        Irrigation. "Irrigation" means any system or method of artificially supplying water to landscaping, including but not limited to underground sprinkler systems, drip irrigation, and hand watering. (Ord. No. 488 N.S., 10/87)

17.2.40A        Kitchen, Accessory. "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 in a pool house, guest house, domestic quarters or recreation room; or a wet-bar or outdoor kitchen. (Ord. No. 703 N.S., 05/2012)

17.2.40B        Kitchen, Primary. "Kitchen, Primary" means the main kitchen facilities within a single-family residence having permanent facilities for the purpose of food storage, preparation and cooking. (Ord. No. 703 N.S., 05/2012)

17.2.41:        Landscaping. "Landscaping" means the planting, irrigation, and maintenance of land with living plant materials. (Ord. No. 488 N.S., 10/87)

17.2.41A:        Long-Term Rental. *"Long-Term Rental" means the rental of a Single Family Dwelling, Second Unit, Apartment Unit or rooms in a residence for 30 or more consecutive days.*

17.2.42:        Lot. "Lot" means a parcel of land under one ownership used or capable of being used under the regulations of this chapter, and including both the building area and all required yards, parking and drive areas, and other open spaces. (Ord. 662 N.S. 1/06)

17.2.43A:        Lot-line. "Lot Line" means one of the boundary lines of a lot. Where the boundary line is in a right-of-way, the lot line shall be the line defining the edge of the right-of-way inside the legally-described parcel. (Cf. "Front Lot Line," "Side Lot Line," "Rear Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.43B: Mixed Use Commercial/Residential. “Mixed Use Commercial/Residential” means a development that combines commercial and residential uses and having both (a) ground floor retail, office or service commercial uses which will primarily serve City residents; and (b) a multiple dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. (Ord. No. 712 N.S., 12/13)

17.2.44: Mobile and Manufactured Home. “Mobile or Manufactured Home” means a single-family residence that is constructed, in whole or in part, off-site and transported to a foundation on a residential lot. (Ord. 662 N.S. 1/06)

17.2.45: Multiple Dwelling. "Multiple Dwelling" means a residential structure containing *two or more* ~~than one Apartment Units or~~ Dwelling Units, *each unit of which is and* designed to be occupied ~~by more than one family~~ independently of ~~each the~~ other *units* at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. Multiple Dwelling does not include a single-family dwelling with a second unit. (Cf. Dwelling Unit, Single Family Dwelling) (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.2.46: Nonconforming Use. "Nonconforming Use" means a use, which was legally established, so as to be 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.47: Nonconforming Building. "Nonconforming Building" means a building or structure or portion thereof, which was legally established, designed and erected, or structurally altered so as to be consistent with the zoning in effect at the time of its establishment, design, erection, or alteration, but which does not conform to the regulations of the zone in which it is presently located. (Ord. No. 488 N.S., 10/87. Ord. 662 N.S. 1/06)

17.2.48: Non-Structural Decorative Element. “Non-Structural Decorative Element” means a minor component of the design of the exterior of a structure or property which is primarily ornamental, is portable, and does not bear significant weight. Examples include but are not limited to window boxes, potted plants, shutters, plaster medallions, and portable birdbaths, portable fountains, and portable children’s play equipment. (Ord. 662 N.S. 1/06)

17.2.49: Open Space. "Open Space" means an expanse of land which is essentially unimproved except for vegetation and paved walkways. (Ord. No. 488 N.S., 10/87)

17.2.50: Parking Space. "Parking Space" means a permanently surfaced area on the same lot as the building which it serves for the exclusive use of off-street parking of motor vehicles. (Ord. No. 488 N.S., 10/87)

17.2.51: Permitted Use. "Permitted Use" means a principal use which is allowed as a matter of right in a particular zone, although other requirements may apply under this Code. (Cf. Conditional Use, Use) (Ord. No. 488 N.S., 10/87)

17.2.52:        Principal Use. "Principal Use" means a use permitted, excluded, conditionally allowed, or allowed to continue as a nonconforming use by these regulations, as distinguished from an auxiliary or subordinate use permitted only when accessory to another use lawfully occupying the same lot or building site. (Cf. Accessory Use, Use) (Ord. No. 488 N.S., 10/87)

17.2.53:        Private School. "Private School" means an institution of learning supported in whole or in part from private funds, providing for the education of children who do not exceed the age of nineteen. (Ord. No. 488 N.S., 10/87)

17.2.54:        Private Street. "Private Street" shall mean any street, access way, or the like, lying in whole or in part within the City subdivision for which dedication and ownership is privately held and is utilized as access to a development.

17.2.55:        Public Street. "Public Street" means a vehicular access maintained by the City and located on real property either owned by the City or subject to an easement in favor of the City, and which has been accepted as a public street by the City. (Ord. No. 488 N.S., 10/87)

17.2.56:        Public Utility. "Public Utility" means any entity defined as a public utility in § 216a of the California Public Utilities Code or any successor statute. (Ord. No. 488 N.S., 10/87)

17.2.57:        Rear Lot Line. "Rear Lot Line" is the lot line most directly opposite the front lot line. (Cf. "Front Lot Line," "Lot Line," "Side Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.58A:       Rear Yard. "Rear Yard" means a yard extending across the full width of the lot measured between the rear lot line and the nearest point of the structure on that lot nearest the rear lot line, including all eaves, sills, cornices, or architectural projections. (Ord. No. 488 N.S., 10/87)

17.2.59B58A: Reasonable Accommodation. "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; hardscape 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 which 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(1); 42 U.S.C. § 3604(f)(3)(B); 28 C.F.R. § 35.150 (a)(3).) (Ord. No. 712 N.S., 12/13)

17.2.58A:B:    Rent. "Rent" means to enter into an agreement whereby the occupant(s) of a dwelling unit or rented room make a monetary payment or exchange of goods or services as

consideration for the occupancy of the dwelling unit or rented room. (Ord. No. 703 N.S., 05/2012)

17.2.58B.C: Rented room. "Rented room" means the renting of a room or any combination of rooms within an existing single-family dwelling where: (a) one or more rooms (including at least one bedroom eligible for use as a bedroom) is rented to a single lessee, under a single rental agreement, not for the entire dwelling; (b) for a minimum of 30 consecutive days; (c) with the common use of the primary kitchen facilities, and with no temporary or permanent cooking facilities in the rented room(s); (d) with either shared or separate bathroom; and (e) those occupying the bedroom(s) do not function as a single family with the residents of the single-family dwelling, as defined. A "*Rented Room*" does not include a *Second Unit or a Short-Term Rental*. (See PMC Section 17.39.) (Ord. No. 703 N.S., 05/2012)

17.2.59: Retaining Wall. "Retaining Wall" means a wall the major purpose of which is to contain earth and other natural materials. (Ord. No. 488 N.S., 10/87)

17.2.60: Rooming or Boarding House  
REVOKED: Ord. No. 703 N.S., 05/2012

17.2.60A: Second Unit "*Second Unit*" means an attached or detached subordinate Dwelling Unit that provides complete and independent living facilities for one or more persons, as more fully defined and regulated under Section 17.40.

17.2.61: Servant. "Servant" means a person performing domestic services upon the premises on which he or she resides, who may receive reasonable monetary compensation for such services in addition to the value of room and board. (Ord. No. 488 N.S., 10/87)

17.2.62: Servants' Quarters "Servants' Quarters" means living accommodations provided for servants. (Ord. No. 488 N.S., 10/87)

17.2.63: Setback. "Setback" means the minimum zone requirement for front, side, and rear yards. (Ord. No. 488 N.S., 10/87)

17.2.63A: Short-Term Rental. "*Short-Term Rental*" means the rental of a Dwelling Unit or rooms in a Dwelling Unit for fewer than 30 consecutive days. (See PMC Section 17.39.)

17.2.64: Side Lot Line. "Side Lot Line" means any lot line which is not defined as a front lot line or rear lot line. (Cf. "Front Lot Line," "Lot Line," "Rear Lot Line") (Ord. No. 488 N.S., 10/87)

17.2.65: Side Yard. "Side Yard" means a yard extending the full length of the lot measured between the side lot line and the nearest point of the structure on that lot nearest the side lot line, including all eaves, sills, cornices, or architectural projections. (Ord. No. 488 N.S., 10/87)

17.2.66:        Single Family. "Single 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. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06, Ord. No. 703 N.S., 05/2012) (Cf. Multiple Family)

17.2.67:        Single Family Dwelling or Single Family Residence "Single Family Dwelling" or "Single Family Residence" means a *free-standing* residential structure containing one and only one Dwelling Unit. *A "Single Family Dwelling" or "Single Family Residence" may also contain an attached Second Unit.* (Cf. Multiple-Family Dwelling) (Ord. No. 488 N.S., 10/87)

17.2.68:        Street. "Street " means a public or private vehicular roadway, alley or similar passageway, not including passageways that are exclusively pedestrian. (Ord. 662 N.S. 1/06)

17.2.69:        Street Side Yard. "Street Side Yard" means a side yard which abuts a street. (Cf. Front Yard, Rear Yard, Side Yard, Yard) (Ord. No. 488 N.S., 10/87)

17.2.70:        Structural Change. "Structural Change" means any physical change in either an exterior wall, an interior bearing wall, a floor or a roof. (Ord. No. 488 N.S., 10/87)

17.2.71:        Structure, Accessory. "Accessory Structure" means a detached subordinate, single-story structure or building on a lot, 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 a main building on the lot. "Accessory Structure" includes but is not limited to a private garage or carport containing space for no more than four automobiles, servants' quarters, swimming pools, pool houses, garden sheds, and guest houses, as defined in this Section, and Second Dwelling Units approved in accordance with Chapter 17D. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.2.72:        Structure, Primary. "Primary Structure" means the building on a lot in which the principal use is conducted. In a residential zone, the "Primary Structure" is considered to be the main residence and includes anything that is twelve inches (12") or higher above existing or proposed grade, constructed or erected on or in the ground, or attached to something on the ground, including but not limited to buildings, decks, balconies, bay windows, cantilevered upper level projections, building eaves, and in-ground and above-ground swimming pools. A "primary structure" does not include accessory structures, secondary structures, underground facilities, or accessory buildings used as tool and storage sheds, playhouses and similar uses in accordance with Section 5.2.2 of the Piedmont Building Code, driveways, sidewalks, on-grade improvements, patios, parking spaces, fences, hand rails and retaining walls, temporary handicap structures and non-structural decorative elements. (Cf. Accessory Structure)

(Ord. No. 488 N.S., 10/87; Ord. No. 547 N.S., 9/93; Ord. No. 579 N.S., 9/96, Ord. 648 N.S. 6/04, Ord. 662 N.S. 1/06)

17.2.73:        Structure, Secondary. "Secondary Structure" means a subordinate physical element that is twelve inches (12") or higher above existing or proposed grade, constructed or erected on or in the ground, or attached to something on the ground, which is intended to functionally or decoratively enhance a property. Secondary structures do not include structures that are used for habitation or the storage of vehicles, but are primarily used for recreation, decoration or are a utility feature. Secondary Structures include but are not limited to built-in fountains, ponds or other water features, barbeques and outdoor fireplaces, hot tubs and spas, children's play structures, dish antennas, arbors, trellises, gazebos, planter boxes, built-in outdoor furniture, and freestanding utility equipment such as backflow preventers, air conditioners and electrical boxes. (Ord. 662 N.S. 1/06)

17.2.74:        Supportive Housing; Transitional Housing. "Supportive Housing" and "Transitional Housing" have the meanings as set forth in Health and Safety Code sections 50675.14(b) and 50675.2(h), respectively. Where permitted, transitional and supportive housing will be considered a residential use subject only to the same permitting processes as other housing in the subject zone without undue special regulatory requirements. (Ord. No. 712 N.S., 12/13)

17.2.75:        Trellis. A permanent decorative form with components which may be vertical, horizontal, or both, made of latticework or other materials which may or may not be intended to support vegetation.

17.2.76:        Through Lot. "Through Lot" means a lot, both the front lot line and rear lot line of which have frontage on a street. (Cf. "Corner Lot," "Interior Lot," "Lot") (Ord. No. 488 N.S., 10/87)

17.2.77:        Underground Facility. "Underground facility" means a basement area used as non-habitable space such as, but not limited to, a garage, fallout shelter, wine cellar, or storage, and including all related footings, waterproofing and drainage systems. Underground facilities are not considered to be structures if they are completely below-grade or no more than twelve inches (12") above existing grade, but are considered to be hardscape surfaces, even if covered with landscaping. (Ord. 662 N.S. 1/06)

17.2.77A:        Un-hosted Short-Term Rental. *"Un-hosted Short-Term Rental" means a Short Term Rental of a Dwelling Unit where the property owner or long-term renter is not present on the premises during the rental.*

17.2.78:        Use. "Use" means the purpose for which a parcel or improvement is designed, arranged, or intended, or for which it is or may be occupied or maintained. (Cf. Accessory Use, Conditional Use, Permitted Use, Principal Use) (Ord. No. 488 N.S., 10/87)

17.2.79:        View. "View" means an existing significant view involving more than the immediately surrounding properties, including, but not limited to, any of the following: city

skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges. (Ord. 656 N.S. 8/05)

17.2.80: Yard. See "Front Yard," "Rear Yard," "Setback," "Side Yard." (Ord. 488 N.S., 10/87; Ord 656 N.S. 8/05)

SEC. 17.3 ESTABLISHMENT OF ZONES

17.3.1: Purpose. It is the purpose of this Chapter to provide for specified zones and uses therein and to prescribe the character of construction within the City, in accordance with the City Charter. The zoning system of the City consists of two parts:

- (a) The City Charter, which contains the zoning policy and requirements for voter approval of zone classification changes.
- (b) Chapter 17 of the City Code. (Ord. No. 488 N.S., 10/87)

17.3.2: Intent, Establishment of Zones. In order to (1) maintain the City of Piedmont as primarily a single-family residential city, (2) to designate, regulate, and restrict the location and use of all buildings and land, (3) to promote the public interest, health, comfort, economy and convenience, and (4) to preserve the public peace, safety, morals, order, and the public welfare, the City of Piedmont is divided into five zones as follows:

- Zone A Single Family Residential Zone
- Zone B Public Facilities Zone
- Zone C Multiple Density Residential Zones
- Zone D Commercial Zone
- Zone E Single Family Residential Estate Zone

Within each of these zones, 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 as set forth in this Chapter and elsewhere in this Code. Within each of these zones, other regulations regarding prescriptive standards as set forth in this Chapter and elsewhere in this Code may apply. (Ord. No. 488 N.S., 10/87)

SEC. 17.4 ZONING MAP

The zones referred to in Section 17.3.2 above are hereby established and described upon the Zoning Map of the City of Piedmont (hereinafter referred to as "Zoning Map"). The Zoning Map shall show by boundaries and designation the boundaries and classifications have been established by this Code and the Charter, and any amendments thereto. The City Clerk shall maintain the official copy of the Zoning Map. (Ord. No. 516 N.S., 5/90)

SEC. 17.5 ZONE A--USES

17.5.1:            Intent. Zone A is established to regulate and control development in appropriate areas of single-family residential development in harmony with the character of existing and proposed development in the neighborhood and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted. (Ord. No. 488 N.S., 10/87)

17.5.2:            Permitted Uses. The following principal uses are allowed as permitted uses in Zone A:

- (a)    Single-family residences together with accessory structures located on the same lot or parcel of land.
- (b)    Rented room, subject to Section 17.39.
- (c)    Second unit, subject to Section 17.40.
- (d)    Small or Large Family Day Care Home in accordance with Government Code sections 1597.43 - 1597.47. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.5.3:            Conditional Uses The following principal uses are allowed as conditional uses in Zone A: Church or private school previously existing as a conforming or nonconforming use, and a new private or public school associated with an existing church, subject to the provisions of the City Charter, this chapter and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06)

17.5.4:            Prohibited Uses. *The following principal uses are prohibited uses in Zone A:*

- (a)    *Short-Term Rentals of all Dwelling Units, including Hosted and Un-hosted.*

SEC. 17.6        ZONE B--USES

17.6.1:            Intent. Zone B is established to regulate and control development of public facilities which are compatible with the character of existing and proposed surrounding uses. (Ord. No. 488 N.S., 10/87)

17.6.2:            Permitted Uses. The following principal uses are allowed as permitted uses in Zone B:

- (a)    A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2.
- (b)    City Building, Veterans' Building, or other public agency building, and accessory structures located on the same lot or parcel, for use by governmental entities or other nonprofit entities.



- (c) Park.
- (d) Cemetery, public utility.
- (e) Emergency shelter, supportive housing or transitional housing. (Ord. No. 488 N.S., 10/87, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.6.3:            Conditional Uses. The following principal use is allowed as conditional uses in Zone B:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

*17.6.4:            Prohibited Uses. The following principal uses are prohibited uses in Zone B:*

- (a)    Short-Term Rentals of all Dwelling Units, including Hosted and Un-hosted.*

#### SEC. 17.7    ZONE C--USES

17.7.1:            Intent. Zone C is established to regulate and control development in appropriate areas of multiple residential units at densities in harmony with the character of existing and proposed development in the neighborhood, and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted. (Ord. No. 488 N.S., 10/87)

17.7.2:            Permitted Uses. The following principal uses are allowed as permitted uses in Zone C:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2.
- (b) A Multiple Dwelling at a minimum density of one dwelling unit per each 3,600 square feet of lot area, but not exceeding one dwelling unit per each 2,000 square feet of lot area. When affordable housing is provided, the Planning Commission shall grant a density bonus in accordance with Government Code section 65915.
- (c) Multi-family residential projects that incorporate affordable units are eligible for a 20% reduction in Planning Application fees. (Ord. 662 N.S. 1/06, Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.7.3:            Conditional Uses. The following principal use is allowed as conditional uses in Zone C:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. 662 N.S. 1/06, Ord. No. 712 N.S., 12/13)

*17.7.4: Prohibited Uses. The following principal uses are prohibited uses in Zone C:*

- (a) Short-Term Rentals of all Dwelling Units, including Hosted and Un-hosted.*

SEC. 17.8 ZONE D--USES

17.8.1: Intent. Zone D is established to regulate and control commercial and Mixed-Use Commercial/Residential development in appropriate areas of the City, which will serve the residents of the City, consistent and in harmony with the character of existing and proposed development in the neighborhood and adjacent residential areas. Commercial uses which will serve the residents of the City are those uses which residents would be expected to use on a regular basis. They do not include uses which would be expected to draw the major portion of their clientele from outside the City of Piedmont and the surrounding area. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.8.2: Permitted Uses. The following principal uses are allowed as permitted uses in Zone D:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2. (Ord. No. 712 N.S., 12/13)

17.8.3: Conditional Uses. The following principal uses are allowed as conditional uses in Zone D:

- (a) Church or private school, subject to the provisions of the City Charter, this, and other sections of the City Code.
- (b) Retail, office, and service commercial uses of a type which will primarily serve City residents, as provided by City Council resolution from time to time.
- (c) Any structural change or change in actual existing use in any commercial building.
- (d) Mixed-Use Commercial/Residential development. When affordable housing is provided, the Planning Commission may grant a density bonus in accordance with Government Code section 65915. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.8.4: Prohibited Uses. The following principal uses are prohibited uses in Zone D:

- (a) Any manufacturing, wholesaling, distributing, or industrial use.
- (b) Motor vehicle sales or service, except minor servicing.
- (c) Hotel or motel.
- (d) Fast food restaurant. (Ord. No. 488 N.S., 10/87)
- (e) *Short-Term Rentals of all Dwelling Units, including Hosted and Un-hosted..*

SEC. 17.9 ZONE E--USES

17.9.1 Intent: Zone E is established to regulate and control development in appropriate areas of a single family residential development in harmony with the character of existing development in the neighborhood, and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted.

17.9.2 Permitted Uses: The following principal uses are allowed as permitted uses in Zone E:

- (a) A single-family residence, accessory structures and associated uses, all as set forth in Section 17.5.2. (Ord. No. 703 N.S., 05/12, Ord. No. 712 N.S., 12/13)

17.9.3 Conditional Uses: The following principal use is allowed as conditional uses in Zone E:

Church or private school, previously existing as a conforming or nonconforming use, subject to the provisions of the City Charter, this chapter and other sections of the City Code. (Ord. No. 488 N.S., 10/87, Ord. No. 712 N.S., 12/13)

17.9.4: *Prohibited Uses. The following principal uses are prohibited uses in Zone E:*

- (a) *Short-Term Rentals of Apartment Units or Second Units.*

**No amendments are proposed for Sections 17.10 through 17.39**

SEC. 17.40    SECOND UNITS

§17.40.1	Purpose and intent
§17.40.2	Definitions
§17.40.3	Legal second units; Non-conforming second units; Requirements for rented second units; Units that are not legal second units.
§17.40.4	Permit requirement
§17.40.5	Second unit permit application and procedures
§17.40.6	Development standards
§17.40.7	Variance or exception

17.40.1        Purpose and intent.

The State Legislature has declared that second units are a valuable form of housing in California. Second 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 second 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 second units. By enacting this Section 17.40, the City Council intends to:

- (a) establish the requirements for second units in the City, consistent with California Government Code section 65852.2;
- (b) encourage the use of existing second units and the construction of new second units, consistent with this section;
- (c) help achieve the goals and policies of the City of Piedmont 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 second units in the City. (Ord. No. 703 N.S., 05/2012)

17.40.2        Definitions.

In this Section 17.40, the following definitions apply, in addition to the definitions set forth in Section 17.2:

- (a) Affordable housing definitions:
  - (i) Affordable Rent Level means that the second 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 second units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted second 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 second unit shall be included in the affordable rent level. For rent-restricted second units where utilities are separately metered and billed, and where the second 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)

- (ii) Gross Household Income means the total monies earned or received by all members of a household 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.
- (iii) Household means those persons who collectively occupy a housing unit. A household shall include any child or dependent, as defined in Section 152 of the Internal Revenue Code, who is under the age of 18 or who is under the age of 24 and is a full-time student.
- (iv) Household Size means the number of persons in a household.
- (v) 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.)
- (vi) 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.)

- (vii) 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)
- (viii) 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.)
- (b) Primary unit means a principal, permitted single-family dwelling.
- (c) Second unit means an attached or detached dwelling unit that provides complete and independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, bathing and sanitation on the same parcel as a primary unit. A second unit is an accessory use to a primary unit. It has an accessory kitchen and a separate, exterior entrance. (See Section 17.40.3 for types of second units.) (Ord. No. 703 N.S., 05/2012)

17.40.3 Legal second units; Non-conforming second units; Requirements for rented second units; Units that are not legal second units.

- (a) Legal second units. The following types of second units exist legally in the City. Each may be used as a dwelling unit, and maybe rented (subject to business tax for rental property):
  - (i) Second unit permit. A second unit permitted under a second unit permit is a legally existing second unit. (This includes a second unit approved subject to a variance and a second unit approved subject to exceptions and rent-restrictions, both under Section 17.40.7.) 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.
  - (ii) 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 legally existing second unit.
  - (iii) Exempt second unit. If a second unit was established before 1930, and the City has confirmed the exempt status in writing, the second unit is a legally existing second unit.
  - (iv) Government Code second unit. Between January 19, 1994 and July 1, 2003, the City approved conditional use permits for certain second units

under the then requirements of Government Code section 65852.2 (b). If the City approved a second unit during this period of time, the second unit is a legally existing second unit.

- (v) 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 second unit (and the temporary nature now recognized as permanent).
  
- (b) Legal, non-conforming second units. A legal second unit that does not conform to the current development standards in Section 17.40.6 is a legal, non-conforming unit. It may not be modified or expanded except in compliance with Section 17.32.
  
- (c) Requirements for legal second units that are rented. If a legal second unit is rented to a tenant, these additional requirements apply:
  - (i) Business tax. A second unit that is rented is subject to an annual business tax for rental property, under City Code Chapter 10.
  
  - (ii) Rent restrictions. A second unit that has rent restrictions under the conditions of approval and recorded declaration(s) must be rented in accordance with those limitations. (See Section 17.40.7.c.)
  
- (d) Units which are not legal second units. The following types of units are not legal second units. They may not be used for independent living or rented apart from the primary unit. The owner of one of these units, if it qualifies, may apply to the City for a second unit permit under Section 17.40.4.
  - (i) An unintended second unit. An unintended second unit means a living space which meets the definition of a second unit, but which is not approved for (or being used for) habitation as an independent dwelling. It includes a guest cottage, pool house, or rent-free unit for an au pair, domestic employee or family member.
  
  - (ii) Unapproved exempt second unit. A living unit which might qualify as an exempt second unit under section 17.40.3.a.3 above, for which the owner has not (yet) obtained City approval.
  
  - (iii) Rented room. A rented room(s), permitted under Section 17.39, is not a legal second unit.
  
  - (iv) Other. Any other living unit which is not a primary unit and not a legal second unit under subsection 17.40.3.a, above. (Ord. No. 703 N.S., 05/2012)

17.40.4      Permit requirement.

- (a)    Second unit permit. A second unit permit is required for a second unit that is not currently a legal second unit, under Section 17.40.3 a. A second unit is allowed on any parcel in the City with a primary unit, subject to the issuance of the second unit permit. No second unit permit is required for an unintended second unit not used as a dwelling unit.
- (b)    Building permit. A building permit (or other verification of compliance by building official) is also required, except for an exempt unit. (Ord. No. 703 N.S., 05/2012)

17.40.5      Second Unit Permit Application and Procedures.

- (a)    Types of second unit permits. A property owner may seek approval of a second unit permit (or exempt second unit) for any of these four types:
  - (i)    Second unit meets all development standards: Director approval. If the proposed second unit meets all of the development standard in Section 17.40.6, the Director shall approve the application, without discretionary review (except for design review), public notice or a public hearing. (See Section 17.40.5.b.)
  - (ii)    Second unit requires variance: Planning Commission review. If the proposed second unit requires one or more variances from the development standards in Section 17.40.6 (other than off-street parking for the second unit or unit size), the application is referred to the Planning Commission for a decision on the variance. (See Section 17.40.7.a.)
  - (iii)    Second unit requires exception to parking and/or unit size requirements: Planning Commission review. If the proposed second unit requires an exception to off-street parking for that unit or unit size requirements, or both, the application is referred to the Planning Commission for a decision on the exception. If approved, the second unit will be rent-restricted for 10 years. (See Section 17.40.7.c.)
  - (iv)    Pre-existing exempt second unit: Planning Commission review. If the proposed second unit was established before 1930 it may be an exempt second unit. The property owner may apply for approval of the second unit based on sufficient evidence (such as inspection by City staff to verify pre-1930 improvements, rental records, City or County records, written or verbal testimony). An exempt second unit is not subject to the development standards in Section 17.40.6. (See Sections 17.40.3.a.3 and 17.40.5.b) (Ord. 703 N.S., 05/2012)



- (b) Application and procedures.
- (i) Application. An owner may apply for a second unit permit (or other City approval) by submitting a complete application to the Director on a form provided by the City.
- (ii) Application fee. The owner shall pay an application fee in the amount established by City Council resolution.
- (iii) Reviewing body.
- a) Director, if the proposed second unit meets all of the development standards in Section 17.40.6.
- b) Planning Commission, if:
- the proposed second unit requires either a variance or an exception or both, under Section 17.40.7; or
  - the proposed approval is for an exempt unit established before 1930, under Section 17.40.5.a.4 above.
- (iv) Public hearing. If the proposed second unit requires either a variance or an exception, under Section 17.40.7, the matter will be considered by the Planning Commission at a noticed public hearing, consistent with Sections 17.27 and 17.28.
- (v) Decision and conditions. The reviewing body (either the Director or the Planning Commission, as the case may be) shall render its decision in writing and shall state the reasons for approval or denial.
- a) If the application does not require a variance or exception, and the proposed second unit meets all of the development standards in Section 17.40.6, the Director shall approve the application, without discretionary review (except for design review), notice or public hearing.
- b) If the application requires either a variance or exception, the reviewing body may only approve the application if it meets the requirements of Section 17.40.7. The Planning Commission may impose reasonable conditions of approval.
- c) If the application is for a pre-existing second unit under Section 17.40.5.a.4, the Planning Commission may approve the application based on the reliability of the evidence. The Commission may impose reasonable conditions of approval.

- (vi) Appeal. A decision of the Director or the Planning Commission may be appealed within ten days, in accordance with Section 17.25. However, for a second unit permit without variance or exception, the notice of the appeal shall not be given except to the owner (or other appellant), and the grounds for appeal are limited to whether or not the application meets the development standards in Section 17.40.6, or a condition of approval. (Ord. No. 703 N.S., 05/2012)

17.40.6      Development standards.

A second unit shall comply with all of the following development standards, unless a variance (to standards other than unit size or parking) or an exception (to unit size, parking or floor area ratio) is granted under Section 17.40.7.

- (a) Size. The second unit shall not exceed 700 square feet.
- (b) Floor area ratio. The total floor area of habitable structures on the lot with an existing primary residence shall comply with the floor area ratio requirements of this Chapter for the zone in which the property is located. If a new primary residence and a new second unit are proposed on a lot, an exception is possible pursuant to Section 17.40.7.b.
- (c) Lot coverage. The lot on which the second unit is located must comply with the lot coverage requirements of this Chapter for the zone in which it is located.
- (d) Setback. For new construction, the dimensions of the front, side and rear yards of the lot must conform to the setback requirements of this Chapter 17 the zone in which it is located.
- (e) Off-street parking. The lot on which the proposed second unit is located must contain the required number of covered, non-tandem parking spaces for both the primary and the second units, as set forth in Section 17.16.1. If the primary unit does not have the required number of spaces, a variance is required. If the primary unit has the required number of spaces, but the proposed second unit does not, an exception is required. See Section 17.40.7.)
- (f) Residential Design Review Guidelines. The design of the proposed second unit and its required parking shall meet the design criteria in the City's Residential Design Review Guidelines and related policies approved by the City Council (including the Story Pole Policy). The architectural style, architectural elements, exterior materials, and color of the second unit shall be consistent with that of the primary unit. As provided in Section 17.20.4(a)(i), a second unit application that proposes only interior remodeling of an existing building and does not propose to change the exterior form of the building is exempt from the design review requirement.

- (g) Owner occupancy. Except for an exempt second unit, the owner of a second unit must occupy either the primary unit or the second unit, if both units are used for habitation. The owner shall record with the County Recorder a declaration of restrictions, in a form provided by the City.
- (h) Limit of one second unit. There may be no more than one second unit on a parcel. No subdivision of land is authorized that would result in a second 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.
- (i) Pre-existing second unit. A pre-existing second unit (under Section 17.40.3.d.4) that is not an exempt second unit and was not previously approved must also meet these requirements when the owner applies for the second unit permit:
  - (i) Zoning. The second unit must obtain a second unit permit.
  - (ii) Building. The second unit must have been constructed with building permits in conformance with Chapter 5 in effect at the time of construction. If the owner is not able to provide proof of building permits, the Building Official shall make a thorough inspection of the unit to determine compliance with the current Building Code. (Ord. No. 703 N.S., 05/2012)

17.40.7      Variance or exception

The City may approve a variance, exception, or both, to the development standards.

- (a) Variance. The Planning Commission may approve a variance to any development standard in Section 17.40.6.b through e, except for parking for the second unit. A variance is also required if the primary unit does not contain the required number of parking spaces pursuant to Section 17.16.1. The decision will be based on the required variance procedures and findings in Section 17.21.
- (b) Exception to floor area ratio for new primary residence and second unit. If a property owner proposes a new primary residence and a second unit, the Planning Commission may approve a floor area ratio exemption without rent restriction as follows: the square footage of the second unit will not count toward the total floor area ratio for the property up to 700 square feet or 10% of the lot size, which ever is less.
- (c) Parking or Unit Size Exception. The Planning Commission may approve an exception to the unit size or parking requirement for the second unit, or both. The decision will be based on the requirements and findings of this section. If an exception is granted, the second unit will be subject to all the terms of section 17.40.7.c.3 below, including rent-restrictions.

- (i) Exception to unit size. The Planning Commission may approve a second unit permit with an exception to the maximum unit size of 700 square feet, as follows:

IF THE LOT SIZE:	THE SECOND UNIT MAY BE:	WITH RENT RESTRICTION FOR LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR VERY LOW INCOME HOUSEHOLD
is less than the minimum for the zoning district:	only located within an existing building, without expansion of the existing building envelope.	up to 850 sq.ft.	up to 1,000 sq.ft.
equals or exceeds the minimum for the zoning district:	within existing building, an expansion, or a detached unit	up to 850 sq.ft.	up to 1,000 sq.ft

The Planning Commission may approve a second unit permit with an exception to the unit size only if the application complies with the other development standards of Section 17.40.6 (or also obtains a variance) and if the Planning Commission makes the following findings:

- a) The proposed second unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood.
- b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed second unit size without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(ii) Exception to parking. The Planning Commission may grant an exception to the parking requirements for the proposed second unit as follows:

WITH RENT RESTRICTION FOR LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR VERY LOW INCOME HOUSEHOLD	WITH RENT RESTRICTION FOR AN EXTREMELY LOW INCOME HOUSEHOLD
<ul style="list-style-type: none"> <li>• 1 parking space for the second unit, regardless of the number of second unit bedrooms; and/or</li> <li>• an off-street parking space of 7 1/2 x 16 feet; and/or</li> <li>• off-street, uncovered parking if uncovered parking space is permanently screened from public view.</li> </ul>	<ul style="list-style-type: none"> <li>• allow on-street parking, regardless of the number of second unit bedrooms.</li> </ul>	<ul style="list-style-type: none"> <li>• allow on-street parking if the unit is 300 sq. ft. or less; or</li> <li>• allow on-street parking if the proposed unit is on a property that is already non-conforming as to structure coverage, hardscape coverage or floor area ratio, or requires two or more variances from the development standards of Section 17.40.6.</li> </ul>

The Planning Commission may approve a second unit permit with an exception to the parking requirements for that unit only if the proposed second unit complies with the criteria and standards of Section 17.20.9 (or the owner obtains a variance) and if the Planning Commission makes the following findings:

- a) In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services; and
- b) The exception will not negatively impact traffic safety or emergency vehicle access to residences, or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets.

(iii) Second unit permit with a unit size or parking exception: Additional requirements. If a second unit permit with an exception is approved, it shall be subject to the following additional requirements.

- a) Rent restriction.
  - i. Declaration of rent restrictions. The second unit permit with an 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 shall 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 shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

- ii. Affordable rent certification. An owner who has executed a Declaration shall submit to the City a Second 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 second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City.
- b) Separate dwelling unit access. A second unit permit with an exception is designed for a second unit that is in a dwelling or portion of a dwelling designed for, or occupied exclusively by, persons living as one household. The owner is required to provide access to the rent-restricted second unit from the exterior. There may be no direct access between the primary unit and the second unit, and there must be a permanently constructed barrier to interior access. (Ord. 703 N.S., 05/12)

**ABRIDGED**

**PIEDMONT PLANNING COMMISSION**

Regular Meeting Minutes for Monday, October 12, 2015

A Regular Session of the Piedmont Planning Commission was held October 12, 2015, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on September 28, 2015.

**CALL TO ORDER**

Chairman Theophilos called the meeting to order at 5:05 p.m.

**ROLL CALL**

Present: Commissioners Susan Ode, Tony Theophilos and Tom Zhang; and Alternate Commissioner Eric Behrens

Absent: Commissioner Philip Chase (excused)

Staff: Planning Director Kate Black, Senior Planner Kevin Jackson, Assistant Planners Jennifer Gavin and Emily Alvarez, and Planning Technician Sunny Chao

Council Liaison: Councilmember Tim Rood

**VICE CHAIR PRO TEM**

**Resolution 25-PL-15**

RESOLVED, that the Planning Commission elects Commissioner Susan Ode as the Vice Chair pro Tem for this meeting.

Moved by Behrens, Seconded by Theophilos

Ayes: Behrens, Ode, Theophilos, Zhang

Noes: None

Recused: None

Absent: Chase

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Short Term Rentals**

Planning Director Black explained that this is the fourth hearing in a series of Planning Commission and City Council hearings addressing the topic of short term rentals. The Planning Commission first addressed the issue in September of 2014, and the City Council addressed the issue in March and September of 2015. Planning Director Black reported that at the September 21, 2015, City Council meeting, the Council directed Staff to a) prohibit short term rentals of second units and apartments, finding that such rentals would severely jeopardize Piedmont's ability to meet the affordable housing requirements of the City's Housing Element, and b) not regulate home swaps. She also reported that the Council referred several matters to the Planning Commission for its recommendation. The questions asked of the Commission include:

1. Should the City permit hosted short term rentals?
2. Should the City permit un-hosted short term rentals?
3. If yes, should there be limitations on the maximum number of days/night for either hosted or un-hosted short term rentals?
4. Should the application process be ministerial or discretionary?
5. Does the City want to require a safety certification?
6. Should the City allow long-term tenants to provide hosted short term rentals?

7. Are there other performance standards that should be required, such as insurance?

Planning Director Black explained that, following this meeting, Staff will draft code language to incorporate the requests from the Council and the recommendations of the Commission.

**Correspondence** was received from: Dan Phillips, Alicia Gruber Kalamas and James Kalamas, Jane Klein, and Danny Friedman.

**Public testimony** was received from:

Rick Schiller, Jane Klein, Venus French, and Alice all expressed their support for short term rentals. They argued that short term rentals—especially hosted short term rentals—benefit the community by providing safe and accessible lodging for family and friends, and by providing income and companionship for hosts. The speakers discussed a variety of topics, including the level of commitment required of a host, rental limitations, ways to address neighbor concerns, host insurance, and rental taxes. Ms. Klein noted that limiting hosted short term rentals to 90 days will make hosts seek long term renters to bridge the gap, which will not address the neighbors concerns about noise and parking. The speakers answered numerous questions posed by the Commission.

Alicia Kalamas discussed her opposition to short term rentals, especially un-hosted short term rentals, citing concerns over impacts to the Housing Element; unwanted congestion, traffic and noise; and an unnecessary burden on civil servants. She expressed her concern that a focus on homes as business ventures is a threat to the hometown feel of Piedmont. Ms. Kalamas responded to questions from the Commission about the impact that short term rentals have on the real estate market.

In response to questions from the Commission, Planning Director Black explained why some cities limit short term rentals to a maximum of 90 days per year. She also discussed how cities can collect a transient occupancy tax, business license fee, and/or application fee for short term rentals; and she discussed the home occupation permit process.

In response to a request from the Commission, Councilmember Rood expressed his personal opinion that neither hosted nor un-hosted short term rentals should be allowed in Piedmont, given the scarcity of rental property in Piedmont and the impacts that short term rentals have on the neighbors. He reported that the Council as a whole was opposed to allowing short term rentals of second units and apartments, but that the majority of the Council was in favor of allowing hosted short term rentals with appropriate regulations.

The Commissioners discussed the topic of short term rentals at length and were in unanimous agreement that un-hosted short term rentals should be prohibited in Piedmont. The Commissioners were less certain and more divided in their opinions of hosted short term rentals. Commissioner Zhang expressed his opinion that hosted short term rentals should be allowed without limitations. Commissioners Behrens and Ode were against all short term rentals, due to their impact on the character of the community. While adamantly opposed to un-hosted short term rentals, Chairman Theophilos expressed his willingness to consider hosted short term rentals with limitations. Commissioner Behrens suggested that the City allow residents to indicate their position on short term



rentals by voting on a transient occupancy tax ballot measure. The Commission decided to continue the discussion to a future meeting, so that all Commissioners have a chance to evaluate the issues. Senior Planner Jackson suggested that Staff return to the Commission with specific code language that the Commission can review.

**ADJOURNMENT**

There being no further business, Chairman Theophilos adjourned the meeting at 9:21 p.m.

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City of Piedmont  
CALIFORNIA



## MEMORANDUM

DATE: October 12, 2015  
TO: Planning Commission  
FROM: Kate Black, Planning Director  
SUBJECT: Consideration of Short Term Rentals

### AGENDA ITEM NUMBER 12

#### RECOMMENDATION:

Open the public hearing, take testimony from members of the public and provide comments and/or direction to staff on specific issues related to short term rentals on which the City Council is seeking a Commission recommendation. Staff will return at a future hearing with modifications to the Municipal Code to implement decisions already made by the City Council as well as the Commission's recommendations.

#### INTRODUCTION:

This meeting is the fourth in a series to consider the topic of short term rentals (STRs), and how the City may choose to address them. Prior meetings include:

September 8, 2014 Planning Commission Hearing. One member of the public addressed the Commission and 5 written comments were received expressing a range of opinions (but mostly expressing concerns about short term rentals). The Commission expressed concern about how short term rentals could adversely affect the City's most affordable housing in second units. The meeting minutes are attached as Exhibit H, page 43.

March 16, 2015 City Council Hearing. Fourteen members of the public addressed the Council, and 12 written comments were received, representing a wide range of opinions on the advantages and disadvantages of short term rentals. The Council continued the discussion to the meeting of September 21, 2015 in order to receive more comments from the Piedmont community, and directed staff to return and report back with information on several specific topics. The meeting minutes are attached as Exhibit I, page 45.

September 21<sup>st</sup> City Council Hearing. Five members of the public addressed the Council, and 5 written comments were received, again representing a wide range of opinions on the advantages and disadvantages of short term rentals. The City Council indicated unanimous support of staff's recommendation to prohibit short term rentals in second units and apartments. They also unanimously stated they did not wish to regulate home-swaps. However, the Council referred other matters back to the Planning Commission for a recommendation, which are the subject of this report. The meeting minutes are attached as Exhibit J, page 48.

Much of the information in the background section below was provided to the City Council at the September 21<sup>st</sup> meeting, and is being provided to the Planning Commission to provide an informational update since the September 8, 2014 Commission meeting, in preparation of the Commission's recommendation to the Council.

## BACKGROUND:

### **Short Term Rental ABCs**

During the past year the number of jurisdictions that have begun to address short term rentals has grown considerably, and several terms of art have emerged that help define uses and activities. To provide clarity on definitions, and for members of the public who are new to this topic, the following are a few definitions and concepts to facilitate the discussion.

### Definitions

- “Short Term Rentals” (STRs) are typically defined by most jurisdictions as rentals of private property for 30 or fewer days (although a few cities have different time frames).
- “Hosts” are people who are interested in leasing their residence, second unit, or rooms in their residence.
- “Guests” are tenants or visitors who wish to rent a residence, second unit, or rooms in a residence.
- “Hosting Platforms” (sometimes known as listing services) are companies that provide listings of properties with different amenities in specific locations to potential guests. A hosting platform may be a local rental agency or internet service<sup>1</sup>. The recent growth in STRs is largely due to internet-based hosting platforms. These platforms typically collect a fee from the property owner to provide the platform for the listing<sup>2</sup> and some assess a fee from the renter<sup>3</sup>.
- “Hosted Rentals” are those where a portion of a property (typically a bedroom or second unit) is rented and the host is present during the rental. Some communities refer to this type of rental as a “homeshare”, but this term has long been used in planning terminology to refer to a longer term shared use of a residential property by one or more owner or an owner and a tenant, who share common facilities, such as the kitchen.
- “Vacation Rentals” (sometimes known as unhosted rentals) are those where the guests rent an entire residence or property and the host is not present during the rental.

### Current Piedmont Regulations

- Vacation Rentals of an Entire House - property owners who wish to rent their entire house may currently do so for any amount of time.
- Hosted Rentals of an Existing Approved Second Unit<sup>4</sup> - property owners who wish to rent their second unit may currently do so for any amount of time.

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<sup>1</sup> Airbnb, Flipkey, Craigslist, HomeAway, Roomorama, Stopsleepgo, TravelMob, BedyCasa, ZenRentals, WaytoStay, Interhome, Windu (and there are more).

<sup>2</sup> Typically around 3% per booking.

<sup>3</sup> Typically ranging from 5% to 10% per booking, although some of the older platforms, such as VRBO, do not charge a fee to the guest.

<sup>4</sup> Units that are not rent-restricted include Exempt units, Government Code units, Temporary units, Conditional Use Permit units, and Second Unit Permit units.

- Hosted Rentals of a Rent-Restricted Second Unit<sup>5</sup> - property owners with a legally approved rent-restricted second unit may currently rent it for any amount of time, but only to persons who meet the income eligibility criteria under the City's Code, and only for the maximum amount of rent permitted<sup>6</sup>.
- Vacation Rentals of an Apartment: Property owners who wish to rent one or more apartments in one of Piedmont's multi-family buildings may currently do so for any amount of time.
- Hosted Rentals of a Rooms in a Residence: Piedmont residents wishing to rent out a room in their house for fewer than 30 days may not currently do so<sup>7</sup>.
- Rental Tax – Any legal rental, whether for one year or one day, is subject to Piedmont's rental tax.

## ACTIVITIES SINCE THE SEPTEMBER 8, 2014 PLANNING COMMISSION MEETING

### **Municipal Regulations**

Since the Commission's consideration of this topic in September of last year, a significant number of cities have undertaken their own consideration of how to address short term rentals. Attached as Exhibit A, page 14 is a chart that reflects the changing landscape of how jurisdictions are looking at short term rentals. Most of the cities selected for comparison are small- to medium-sized cities with large areas of single family residential neighborhoods, and a number of them are characterized by high value properties. Despite those similarities, these different cities have arrived at a wide range in solutions, from a complete prohibition, to allowance in all zones and dwelling types. For comparison purposes, the chart is broken down into different groups:

- Cities that specifically permit and regulate short term rentals;
- Cities with ordinances in process;
- Cities that prohibit short term rentals; and
- Cities that permit short term rentals through a lack of specific short term rental regulations (either intentionally or unintentionally).

As you can see, a number of cities are struggling to determine if and how they might wish to permit and regulate STRs, and based on discussions with colleagues, it is expected that there will be more cities in the next year that will begin the discussions. Not surprisingly, the issues the jurisdictions are struggling with are the same as those discussed by Piedmont's Commission and Council. Some cities have determined that prohibitions of some or all of the unit types is appropriate for their community, but jurisdictions that think they might allow STRs in some fashion are struggling with the following issues:

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<sup>5</sup> Rent-restricted units are limited by the maximum amount of income a tenant may possess, and a maximum amount of rent a property owner may charge, as a percentage of Alameda County median income.

<sup>6</sup> From a practical standpoint, due to the rental limits placed on the units, the hosts would not be able to charge more than \$27-\$35 per night for most rent-restricted units, well below what most hosts have been charging, and the hosts would have to ensure that all guests meet the income eligibility limits, which is unrealistic and unenforceable.

<sup>7</sup> Section 17.39.2 of the Municipal Code

- How to regulate to ensure the least amount of disruption to nearby neighbors;
- How to tax – and ensure collection of the taxes;
- How to address safety, indemnification, and notification; and
- How to enforce compliance.

At the conclusion of the research, which included multiple conversations with colleagues in other cities throughout the state, it appears that Piedmont has comparatively few known short term rentals, and few complaints. Piedmont does not have the tourist draw of beaches, shopping or entertainment venues the cities with the largest problems have. In fact, based on reading reviews left by people who have rented Airbnb listings in Piedmont, they tend to be in town for local social events such as weddings and anniversaries, or regional events at UC Berkeley.

### **Hosting Platform Changes**

Some of the hosting platforms – specifically Airbnb – have started showing signs of being willing to adapt to some of the consequences of their own successes, including tax collection and insurance to cover problems. While the IRS requires all of the companies to provide a W-9 form to the hosts, Airbnb has begun collecting the transient occupancy tax for some of the larger cities, starting with the City of Portland, Oregon. Other large cities have followed suit, including Chicago, Washington DC, Amsterdam, and as of July 15<sup>th</sup>, San Diego<sup>8</sup>. Airbnb has generally been less willing to collect taxes for smaller cities, but the mid-size City of Berkeley reports they are currently in discussion with them to collect their transient occupancy tax.

Some companies have started to provide extra services such as insurance or “satisfaction guarantees” to address problems experienced by hosts. For example, listers on Homeaway.com can now purchase a \$59 policy for up to \$5,000 in damages, resulting from a San Francisco apartment that was trashed by guests<sup>9</sup>.

### **SB 593**

Shortly after the March Council meeting, California State Senators Mike McGuire (D-Healdsburg) and co-author Mark Leno (D-San Francisco) sponsored amendments to Senate Bill 593 that would provide California jurisdictions – especially small cities with limited resources -- additional tools to address short term rentals. The bill as most recently amended is provided as Exhibit B, page 21.

Disclosures - The bill would allow local jurisdictions to adopt ordinances requiring hosting platforms to provide quarterly disclosures of the address of each short term rental listing, the number of overnight stays, and the amount paid for the rental. This information will significantly assist cities with the collection of transient occupancy taxes and business license fees, and will provide specific data that can be used for enforcement activities.

Fines/Penalties - The bill would also allow jurisdictions to adopt ordinances to fine hosting platforms that failed to provide the quarterly report.

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<sup>8</sup> “Airbnb to Collect San Diego Tourist Taxes” Jonathan Horn, San Diego Tribune, July 1, 2015

<sup>9</sup> Kayleigh Kulp, “How to Safely Make Money on Short-Term Rentals”, FoxBiz.com, September 15, 2011

Collection of Transient Occupancy Taxes (TOTs) - The bill would allow jurisdictions to require the hosting platform to collect and remit the TOT to the jurisdiction.

Compliance with Local Laws and Other Requirements - The bill states that the hosting platforms “shall not facilitate the occupancy” of units if it would violate local ordinances or laws. It also requires hosts to disclose information about insurance to the hosting platform.

Although the bill has passed through committee, and has been amended during several readings, it did not receive enough votes to pass the Senate on June 10, 2015, and will be reintroduced on January 1<sup>st</sup>, 2016. As can be expected, the disclosure requirements, collection of taxes, and compliance with local regulations are not activities welcomed in the business models of many of the hosting platforms. For example, Airbnb has hired a lobbying company<sup>10</sup>, and launched resistance efforts that are expected to increase, such as frequent television ads and mailers aimed against San Francisco’s Proposition F, which would change the limit on the maximum number of STR rental nights from 90 to 75, and would prohibit STRs in second units.

In October, the City of West Hollywood is expected to draft a resolution of support for SB 593 that California jurisdictions can adopt to counteract the lobbying efforts of the hosting platforms as the bill is reintroduced next year. Within a very limited timeframe, they asked cities to send initial letters in support of the legislation. Attached as Exhibit C, page 24, is an initial letter from City staff.

SPECIFIC ISSUES RAISED AT THE MARCH COUNCIL MEETING:

At the March Council meeting, the Council directed staff to return with information on the following topics.

**Taxation V. Fees**

One of the most difficult issues related to short term rentals is taxation, and the anticipated revenue can be significant. Most cities obtain tax revenue the same way they do with conventional lodging uses (hotels/motels and B&Bs), through a transient occupancy tax (TOT). Some are a flat fee, but most are based on a percentage of the value of the rent collected, which typically ranges from 9% - 15%. It is estimated that San Francisco will collect about \$11 million annually through its 14.5% hotel tax<sup>11</sup>. Piedmont has never had a transient occupancy tax because the City has no inns, hotels, or B&B facilities.

One of the reasons large cities are demanding that hosting platforms such as Airbnb collect the transient occupancy taxes, is due to very low compliance on the part of hosts. Most of these cities entered into specific tax collection agreements with Airbnb, to accommodate each city’s

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<sup>10</sup> Airbnb hired a lobbying company. Jeremy B. White, “Girding for a California Fight, Airbnb Retains Lobbying Firm”, Sacramento Bee, December 13, 2014

<sup>11</sup> “Amid Protest, SF Mayor Signs Into Law Airbnb Legislation”. [sfexaminer.com](http://sfexaminer.com), December 4, 2014

different tax and reporting requests (monthly or quarterly). The League of California Cities shied away from developing a state-wide model ordinance for that reason.

In addition, almost all cities assess a business license tax on the business of renting real property, which, like Piedmont's, is a flat fee or percentage of the rent collected, whichever is greater. The current business license tax applicable to rentals in Piedmont is \$200 or gross receipts from the prior year x .01395, whichever is greater. Property owners are required to provide tax receipts, lease agreements, or the Federal Form 1040 as proof of rent collected.

As directed by the Council in March, the City Attorney has provided the following information concerning taxes and fees. Some cities that have adopted ordinances requiring hosts to obtain a permit to operate a STR impose permit fees to cover the costs of issuing the permit and monitoring compliance with the applicable regulations. The amount of these fees can vary greatly depending on the extent of the STR regulations.

Section 1 of Article 13C of the California Constitution provides that any charge imposed by a local government is a tax unless it falls within one of the seven listed exceptions. One of those exceptions is that a charge imposed to recover the "reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits" is not a tax. Taxes are required to be approved by a vote of the electorate, but regulatory fees do not need to be approved by the voters. Thus, a new TOT would have to be approved by a majority vote, as would an increase to the existing business license tax. But adopting a new regulatory fee applicable to STRs would not have to be approved by the voters. Due to the costs and risks associated with holding an election, a regulatory fee would be easier to establish than a TOT or an increase to the business license tax applicable to residential rentals. On the other hand, revenues from a TOT or business license tax imposed on STRs can be used in any manner the City sees fit and the amount of the tax does not need to reflect the City's costs associated with regulating STRs. In other words, imposing a tax on STRs could result in positive fiscal impacts for the City, while imposing a regulatory fee on STRs will only ensure that the City's regulatory costs are covered and there is no negative fiscal impact on the City.

### **Home Swaps**

Home swap listing services provide a way for people who wish to travel to post a listing of their home, and look for a home they are willing to swap in a specific location<sup>12</sup>. If both owners are interested in swapping during a specific time frame, the arrangement is made. There is typically an annual fee of about \$150. Piedmont currently has no regulations limiting or controlling home swaps, and most cities that regulate STRs do not regulate home swaps.

### **Crimes Resulting from Short Term Rentals**

As indicated in Attachment D, page 26, Police Chief Rikki Goede reports that there have been no calls or complaints reported to the Police related to short term rentals. Without strong evidence supporting prohibition or regulation due to crime impacts, if the Council wishes to prohibit or regulate short term rentals, it is recommended that the findings for prohibition or regulation be based on other impacts to the community and General Plan.

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<sup>12</sup> Homeexchange.com, Guesttogo.com, homeling-usa.org are a few of the companies



### **Results of Letters to Property Owners**

As directed by the Council in March, staff sent letters to property owners who had listed their properties on the Airbnb website, with the following results.

Vacation Rentals in Residences and Second Units - On April 17, 2015, the City sent out a letter to 7 of the known owners who had listed their residence or second unit using the Airbnb listing platform, but who had not paid a rental tax (Exhibit E, page 28). Of the 7 letters sent, 3 owners responded and paid their owed tax and the penalty, 3 owners responded that they did not rent their residence as a short term rental, and therefore did not owe a tax, and 1 owner has not responded. Their emailed responses are attached (with names and addresses deleted) in Exhibit E, page 30.

Hosted Rentals - On May 6th, a second letter was sent to 6 property owners who listed rooms in their residence available for short term rentals, advising them that renting a portion of their house for fewer than 30 days is not currently legal (Exhibit E, page 33). Only 3 responses were received back, all indicating that they did not actually rent to anyone. Their emailed responses are attached (with names and addresses deleted) in Exhibit E, page 35. The other owners have not responded. An additional owner had been contacted prior to May 6<sup>th</sup>.

### **Effect on Housing Element**

The Housing Element has numerous policies and programs aimed at encouraging new rental units, especially second units that are more affordable<sup>13</sup>. But the policies and programs under Goal 2 – Housing Conservation are particularly relevant to short term rentals, especially Policy 2.8 – Conservation of Rental Housing Opportunities which states:

*“Conserve rental housing opportunities by monitoring and limiting the use of existing or potential rental properties, such as second units and rooms in shared homes, for short-term stays.”*

The Housing Element also has policies aimed at encouraging room sharing opportunities<sup>14</sup> for Piedmont residents as a means of providing another affordable form of housing, and a way for residents, often widowed seniors, to supplement their income, especially Policy 3.7 – Room Rentals which states:

*“Continue to allow the renting of rooms in private homes to provide housing opportunities for single people. Recognize the potential for rented rooms to meet the housing needs of single low income, very low income, and extremely low income Piedmont residents.”*

At the September Council hearing, the Council expressed significant concerns about the effect of short term rentals on the City’s housing supply, especially the City’s most affordable units: second units and apartments. The City has worked hard at meeting our Regional Housing Needs Assessment by protecting apartments from becoming condominiums and by permitting second units and room rentals (for more than 30 days) as a way of providing lower cost housing while

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<sup>13</sup> Policies 1.1 through 1.9, Program 1.C; Policies 3.1 through 3.6, Programs 3.A through 3.E

<sup>14</sup> Policy 3.7

maintaining Piedmont's single-family character, without the need for the up-zoning required in other communities. Our success with our second unit program created good will with the State in our most recent Housing Element update, avoiding some of the new restrictions and obligations other jurisdictions are being required to adopt. It should be noted that we do not get affordable housing credit for long term room rentals, and there are not very many known long-term room rentals in town.

Unfortunately, each house, apartment, second unit or room rental that is rented for short periods to different people – typically visitors – is a dwelling that is not providing needed housing to people who wish to reside in and create ties with the community. The Council stated their concern that the loss of Piedmont's only long term affordable housing could jeopardize our Housing Element update in the next cycle.

### **Performance Standards and Inspections and Enforcement**

Almost all of the communities that permit short term rentals have established performance standards. These include the following options:

- Unit approval or registration requirements;
- Limitations on the number of days that can be rented (90 days is typical)
- Owner liability insurance;
- Adopted “good neighbor” rules;
- Posting of the rules and registration information at the rental premises and/or on the city's website; and
- Safety inspections (rarely required)

Many of the cities that have adopted performance standards do so to make it easier for staff to collect the revenue and enforce regulations aimed at reducing impacts on neighboring properties. All of the jurisdictions, like Piedmont, report that many hosts operate their short term rentals “under the radar”. However, unlike most communities, it is relatively easy for Piedmont staff to identify illegal short term rentals because we have relatively few of them, we have active neighbors who report unpermitted activity, and matching an advertised rental with a specific property is generally not difficult for staff.

### **COUNCIL DECISIONS TO DATE:**

At the September 21, 2015 Council meeting, the Council expressed their intent to adopt amendments to the Municipal Code to implement the following matters. Staff will return to the Planning Commission with specific Code language to address these matters in addition to other recommendations the Commission wishes to forward to the Council.

**Rent-Restricted Second Units - Prohibit.** In conformance with Housing Element Policy 2.8, “Conservation of Rental Housing Opportunities”, the Council directed staff to amend the Code to prohibit short term rentals in rent-restricted second units. These units (currently 18) are Piedmont's only housing technically counted as affordable by the State, and losing them as long-term affordable housing could jeopardize our Housing Element compliance.

**All Second Units - Prohibit.** In conformance with Housing Element Policy 2.8, “Conservation of Rental Housing Opportunities”, the Council directed staff to amend the Code to prohibit short term rentals in all second units. There are currently 110 approved second units, not counting rent restricted units. It should be noted that many owners do not choose to use their second units as secondary independent living facilities, and instead use them as guest quarters or a home office, so it is believed that the number of rented units is far fewer. While these units are not technically regulated as affordable per State standards, they are recognized as Piedmont’s second-most affordable source of housing. Losing them as long-term housing would mean that people who don’t meet the low- and very-low income eligibility standards, but who cannot afford to rent a house in Piedmont, will lose an important source of housing.

**Apartments - Prohibit.** Piedmont has 66 apartments: 51 in nine buildings with 4 – 9 units, and 15 in five 3-unit buildings (most of which are single-family properties that were converted many years ago). Staff believes that none of these buildings are owner-occupied. In conformance with Housing Element Policy 2.8, Conservation of Rental Housing Opportunities, the Council directed staff to amend the Code to prohibit short-term rentals in apartments. Apartments tend to have compact shared common spaces, where the disruptions of short-term use are more pronounced. Cities with lots of apartments report significant complaints from long-term apartment residents. Moreover, like the unrestricted second units, these apartments are part of a limited supply of affordable housing in Piedmont.

**Home Swaps – Do Not Regulate.** Home swaps are an exchange of time in a property, and while such an exchange has financial value, it would be difficult to value from a rental tax standpoint. Since the host family is being replaced by the guest family, there should not be impacts from additional traffic and parking. Moreover, there have been no complaints made to the Planning Department, and staff believes these swaps are infrequent in Piedmont. Should home swaps increase or otherwise become disruptive to a neighborhood, regulations could be considered at that time. The Council stated that they did not wish to regulate such home swaps.

MATTERS FOR COMMISSION RECOMMENDATION:

Having made the above-referenced decisions, the Council is seeking the Commission’s recommendations on hosted rentals of rooms in a house and unhosted vacation rentals of an entire house. If the Commission makes a recommendation that these rentals be permitted, the Council is also seeking the Commission’s recommendations on performance standards and regulations.

**Hosted Rentals.** Currently, renting a room for fewer than 30 days is the only existing prohibition under the Code. The purpose behind allowing Piedmont residents to rent a room (without cooking facilities) in their residence for more than 30 days was to provide Piedmont residents, who are often seniors on fixed incomes, a source of income (and perhaps companionship) so they could stay in their residence.

Relating to short term rentals of rooms, the presence of the owner during these hosted rentals would logically reduce problems with noise, parking and other disruptions. Surprisingly, there appear to be an equal number of complaints from Piedmont neighbors for this type of rental as

there are for vacation rentals of an entire property. Staff believes that it is due to the frequent or constant comings and goings of serial short term renters.

In accordance with Housing Element Policy 3.7, staff believes long term room rentals are a form of affordable housing in Piedmont. However, staff is aware that short term room rentals provide another income option to Piedmonters struggling to stay in Piedmont: residents who need a steady stream of income, will likely opt for long term tenants, but those who want to supplement their income but do not want to share their residence (or kitchen) with guests year round will have another option with short term guests.

If the Commission believes hosted rentals should be allowed, staff recommends the Commission consider requiring performance standards, and a limit of a certain number of times or days per year to reduce impacts to neighbors. Most cities limit such rentals to 90 days per year, which is approximately one week per month.

**Vacation Rentals of Single Family Residences (unhosted rentals).** Piedmont residents have always been able to rent their residences for short or long term tenancies. Additionally, several Piedmont residents have indicated that they want to be able to rent their residence for occasional short terms while they are away on vacation or travelling on business. The strongest complaints have not occurred from this latter type of rental, but have occurred from the residences in town that have had a stream of serial short term guests. Neighbors have mentioned disruptions from noise and parking, but primarily that they miss the feeling of safety and neighborhood stability of long term tenants.

If the Commission believes vacation rentals should be allowed, staff recommends the Commission consider requiring performance standards, and a limit of a certain number of times or days per year to reduce impacts to neighbors. Most cities limit such rentals to 90 days per year, which is approximately one week per month. A limit such as this would still allow Piedmont families to rent their house during the summer while they are away, or for Piedmonters who travel on business, to rent their house about a week a month.

#### RESTRICTIONS AND PERFORMANCE STANDARDS FOR CONSIDERATION:

The following are restrictions and performance standards required by other communities which could be used individually or in combination for Commission consideration:

##### **Ministerial Registration**

Under this option, owners seeking vacation or hosted rentals would simply register with the City. A form would be prepared, and a processing fee would be assessed. Like the issuance of a building permit, this decision would be ministerial: the approval would be granted if certain objective performance standards are met. As part of the registration, the owner would sign that he/she agrees to the following:

- Owner's contact information would be provided to the City should the Police Department need to contact owners to address a problem during a rental. Additionally, this contact information could be posted to the City's website (as is required in some jurisdictions), or

- provided directly to neighbors.
- Long term tenants would be prohibited from subletting for short term rentals (but owners could do so;
  - Only one tenancy could occur at a time (hosted rental owners could not rent different rooms to different tenants at the same time);
  - A statement that the space subject to rental meets Building Code requirements for safety, such as adequate egress and working smoke and carbon monoxide detectors;

### **Discretionary Application and Registration**

Alternatively, under this option, owners seeking vacation or hosted rentals would apply for approval, much the way some second unit applications are made. The process could involve notice to the neighborhood, and the decision would be discretionary, providing the Planning Commission the opportunity to require conditions of approval to address potential site-specific impacts, such as additional vehicles on an already congested street, or the number of other properties in the immediate neighborhood that have been approved to have short term rentals. As indicated in the attached map (Exhibit F, page 38), almost all of the Airbnb rental locations listed prior to March were in the western half of the city. Owners would agree to the same terms as above in the ministerial registration, but the Planning Commission or City Council could add other site specific requirements.

### **Revocation Provisions**

All registered STRs would be subject to revocation provisions based on lack of compliance with registration requirements and performance standards.

### **Penalties and Fines**

Appropriate penalties and fines could be developed in order to enforce the regulations.

### **Taxation**

If approved, all vacation and hosted rentals would pay a city rental tax in order to provide equity to owners of long-term rentals who are already taxed, and to help off-set the City's costs to respond to neighbor complaints or other enforcement activities. Staff recommends short term rentals be taxed the same way as other rentals: \$200 or gross receipts from the prior year x .01395, whichever is greater. This would include all vacation rentals and both short and long term hosted rentals (to be equitable).

Staff does not recommend the City institute a transient occupancy tax just for short term rentals. As mentioned above, adopting a TOT would require a majority vote of the people to approve the tax. Moreover, the tax would not generate a significant amount of revenue for the City due to the relatively low numbers of STRs in the City and the fact that there are no other transient occupancy uses in the City, such as hotels, that would be subject to the tax. Thus, it is staff's assessment that the costs of putting a TOT on the ballot outweigh the minimal revenues that would be generated.

### **Regular Safety Inspections**

Owners of registered units could be subject to regular inspections to make sure that rented spaces meet Building Code requirements for safety, such as adequate egress and working smoke and

carbon monoxide detectors (few cities require this). A modest fee would be determined. Alternatively, property owners could be required to submit a self-certification form that lists the requirements. This is not currently required for vacation rentals, but working smoke and carbon monoxide detectors are required to pass inspection whenever a building permit is issued. Rented Rooms of more than 30 days are currently required to submit a safety declaration or request an inspection by the Building Department.

### **Liability Insurance**

The City could require residents to carry liability insurance or a surety bond, and show proof at the time of registration, such as shown in Exhibit G, page 41.

### **Rules and Information**

Some cities require hosts to post an operating license in a visible area inside the rental space, and/or provide all guests with an informational brochure. Attached as Exhibit G, page 39, is an example.

### **CONCLUSION AND NEXT STEPS:**

Short-term rentals are a very fast-growing business, with advantages and disadvantages. They provide a range of rental units at a price that is typically lower than a hotel or B&B, and a convenient booking system desired by both host and guest. Property owners benefit from being able to have another option to earn residential rental income. However, these rentals pose potential noise and parking impacts on established neighborhoods, with associated concerns related to safety and enforcement.

The Council has clearly indicated their intention to prohibit short term rentals in all second units and apartments, and to not regulate home-swaps. They are seeking a Commission recommendation on the following:

1. Does the City want to permit hosted short term rentals?
2. Does the City want to permit un-hosted vacation rentals of houses?
3. If either of the above is permitted, does the Commission recommend any restrictions and/or performance measures including:
  - A. A limit on the number of short term rental days/nights per year?
  - B. An approval Process (involving notice to neighbors) that is:
    - i. ministerial through staff, or
    - ii. discretionary through the Planning Commission?
  - C. A safety certification (smoke and carbon monoxide detectors):
    - i. self certification by owner, or
    - ii. inspection by the Building Department?
  - D. Allowing long-term tenants to provide hosted short term rentals?
  - E. Any other requirements, such as insurance?

The Commission is asked to provide direction on these matters, and staff will return with specific modifications to the Municipal Code to address both the Council's September 21<sup>st</sup> directions as well as the Commission's recommendations.

ATTACHMENTS:

Exhibit A	p. 14	STR Comparison Chart of Residential Cities
Exhibit B	p. 21	SB 593
Exhibit C	p. 24	Letter from Staff Concerning SB 593
Exhibit D	p. 26	Memo from Police Chief Concerning STRs
Exhibit E	p. 27	Letters to Piedmont Residents and Responses
	p. 28	City Rental Tax Letter to Owners with Vacation Rentals
	p. 30	City Rental Tax Letter Responses
	p. 33	City Letter to Owners with Illegal Hosted Rentals
	p. 35	Illegal Hosted Rental Responses
Exhibit F	p. 38	Map of Short Term Listings by Area in Piedmont
Exhibit G	p. 39	Examples of Informational Brochures
Exhibit H	p. 43	September 8, 2014 Planning Commission Meeting Minutes (Abridged)
Exhibit I	p. 45	March 16, 2015 City Council Meeting Minutes (Abridged)
Exhibit J	p. 48	September 21, 2015 City Council Meeting Minutes (Abridged)
Exhibit K	Separate	Public Comments

## COMPARISON CHART OF SMALL/MEDIUM CITIES WITH SINGLE FAMILY RESIDENTIAL NEIGHBORHOODS

CITIES THAT PERMIT AND REGULATE SHORT TERM RENTALS IN SOME OR ALL RESIDENTIAL PROPERTIES										
CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Dana Point §5.33 2013 Pop 34,062	> 2 < 30	Yes	No	Yes	Yes	Yes	TOT 10% Collected quarterly	\$150 annual	Yes	Ministerial permit required by Community Development Director; \$1m liability (can be waived); indemnification agreement; revocation & penalties; must have 2 off-street parking spaces; no weddings or parties; ads must list City registration #; must post regulations at site; no signs
Goleta §5.08 2-17-15 Pop 30,525	< 30	Yes	Yes	Yes	Yes	Yes	Biz Lic \$126 + TOT \$2/night	\$75	No	Required: nuisance plan and contact info (posted to City website); Transient Occupancy Registration proof; \$1,500 compliance bond; proof of notice to neighbors w/in 200 feet'. Limit max # of occupants; max # of vehicles must = # of on-site parking spaces; extensive performance standards
Malibu §3.24 Pop 12,861	< 30	Yes	Yes	Yes	Yes	Yes	TOT 12%		No	Minimally regulated: must register with Tax Administrator and post registration # on premises; "operator" = owner or tenant; penalties and fines if TOT is not paid
Palm Springs §5.25 4-14-15 Pop 42,281	< 28	Yes	Yes	Yes	Yes	Yes	Biz Lic \$28 TOT \$25	\$225	No	Only owner may rent and must sign agreement; must have local contact; Good Neighbor Brochure; must respond to complaints w/in 45 minutes; fines and penalties; revocation provisions

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections



**CITIES THAT PERMIT AND REGULATE SHORT TERM RENTALS IN SOME OR ALL RESIDENTIAL PROPERTIES (continued)**

CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
San Luis Obispo §17.08.140 4-7-15 Pop 46,377	< 30	Yes	No	Yes	Yes	No	Biz Lic \$70+ TOT 10%	\$305	No	Permit hosted only defined as “homestays” which can be approved by the Community Development Director through an administrative permit. Unhosted units are classified as “vacation rentals” and are prohibited. Also require additional parking, compliance with building and fire codes, sets maximum of four guests; requires owner contact information; performance standards required
Santa Monica Ch 6.20 5-12-15 Pop 92,472	< 30	See notes	See notes	See notes	Yes	No	Biz Lic \$76 TOT 14%	No	No	Vacation Rentals (unhosted STRs) are prohibited and Home-Share Rentals (hosted STRs) are permitted and regulated, no matter what the unit type is; require hosting platform to provide quarterly reports with address and # nights rented, \$ paid, name of operators; and if hosting platform collects taxes, remittance of the TOT; no Planning or Building review required
St. Helena §17.134 2-12 Pop 5,947	< 30	Yes	No	No	Yes	Yes	12% receipts	\$1,075	Yes, each year	If < 30% of neighbors object = Planning Director review; if > 30% object = PC; 2 year renewal; maximum of 25 permits allowed at any time (waiting list of 25 currently); local contact person required; must have 2 on-site parking spaces for guests; discuss with neighbors w/in 300'; no tenants may rent; neighbors provided with contact info; parties allowed up to 20 people; quiet 10 pm - 7 am
Sausalito §10.44.020 7-26-12 Pop 7,099	< 30	Yes	Yes	Yes	Yes	Yes	Biz Lic \$36+ TOT 12%	284	No*	Ministerial; designate local contact person; 1 rental per each 7 day period; on-site parking or on-street parking permit; must post regulations in unit; unpermitted rentals subject to fines \$100 1 <sup>st</sup> , \$200 2 <sup>nd</sup> \$500 each addtn'l day; no signs on or off-site; performance standards *must not have had code violations;
29 Palms §19.54 2004 Pop 25,768	< 30	No	No	n/a	Yes	No	TOT 9%	\$146	?	Prohibited in single-family zones - B&Bs are permitted in the multifamily, commercial and rural zone through Conditional Use Permit; CUP can be revoked; must be 1,000' or more from 2 existing B&Bs; Small B&B: No more than 2 bedrooms; 1 on-site space per bedroom; no cooking facilities in brms; lot must meet min lot size; SUs may not be rented

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections

**CITIES THAT PROHIBIT SHORT TERM RENTALS**

CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Aliso Viejo Ch 15 3-18-15 Pop 50,175	< 30	No	No	No	No	No	n/a	n/a	n/a	Per Council action, all rentals (including hotels, B&Bs and STRs) are prohibited in all residential zones.
Carmel §17.08.060 2004 (amend) Pop 3,842	n/a	No	No	No	No	No	n/a	n/a	n/a	All short term rentals in non-commercial, residential zones are prohibited; The prohibition of short term rentals was upheld in 1991 by the California Supreme Court
Coronado §86.78 Pop 23,511	< 25	No	No	No	No	No	No	n/a	n/a	Transient rentals prohibited except in one multi-family area where they are permitted as “transient lodging houses”, similar to boarding houses.
Imperial Beach §19.04.692 Pop 27,063	< 30	No	No	No	No	No	No	n/a	n/a	STRs are prohibited in all residential zones, and only permitted in commercial zones and mixed use zones
Jackson Hole WY Article 6 Pop 10,135	< 30	No	No	No	No	No	n/a	n/a	n/a	Short Term Rentals are prohibited except in certain “grandfathered” developments approved for such prior to 1994.

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections

**CITIES THAT PROHIBIT SHORT TERM RENTALS (continued)**

CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Saratoga §15.09 3-24-25 Pop 30,907	< 30	No	No	No	No	No	n/a	n/a	n/a	CC recently considered code changes, but decided to enforce existing prohibition: interpretation that this is a business/hotel use in residential zone; enacted code citation process for people violating existing prohibition.
Sedona AZ Pop 10,131	< 30	No	No	No	No	No	n/a	n/a	n/a	STRs have been prohibited in all residential zones since 1995. On 1-22-08, the City Council enacted an ordinance that expanded the enforcement mechanism related to STRs. The prohibition survived two court challenges: 2010 County Superior Court which found that the STR ordinance was not in violation of State Private Property Protection Act; 2013 AZ Court of Appeals vacated appeal of property owner who was advertising a STR.

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections

**CITIES WITH SHORT TERM RENTAL ORDINANCES IN PROCESS\***

\*Regulations shown are current proposals

CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Berkeley Pop 105,422	< 14	Yes	Yes*	Yes	Yes	Yes	Biz Lic \$70+ \$10 /1,000 TOT 13%	No	No	Per 6-23-15 Council consideration, Council referred discussion to committees. Currently: vacation rental units up to 90 days; hosted unlimited # days; \$500k liability insurance; must notify abutting residences; local contact designated; enforcement fee assessed as % of rents; no performance standards; no fee or registration intended to incentivize compliance *owner must be present in main unit
El Cerrito Pop 24,316	< 30	No	No	No	Yes	No		??	??	Currently permit owner occupied B&Bs through CUPs; other STRs are prohibited. Planning Commission held study session 6-17-15; staff will return with possible changes in next few months
Laguna Beach §25.23 1999 Pop 23,250	< 30*	Yes*	Yes*	Yes*	Yes *	Yes *	Biz. Lic. + TOT 10%	\$275  \$650 appeal	No*	*Per 6-16-15 Council action, a freeze in the issuance of any new permits for short term rentals was extended. Since 1999, Administrative Use Permit through Community Development Director were required; disapprove if neighbor concern can't be addressed; enforcement by complaint – issue citations; Number of guests limited per permit; local management company or person contact for complaints
Manhattan Beach Ch 6.24 6-16-15	< 30	No	No	No	No	No	TOT 10%	n/a	n/a	City Council approved code amendments prohibiting commercial and transient uses in Residential Zones; 58 operators of short-term rentals licensed prior to April 30, 2015 may continue to operate for the remainder of 2015. Short-term vacation rentals are currently regulated under Business Licenses
Petaluma 7-20-15 (1st reading) Pop 59,440	< 30	Yes	Yes	Yes	Yes	Yes	Biz Lic \$45+ .16/100 TOT 12%	\$300	No	Ministerial unless special pkg exception needed, then CUP; pkg per code; 100' notice after permit issuance; annual renewal; manager must respond in 1 hour; rules provided to guests; max occupancy 2/brm+2 (incl hosts); hosted units = no limit on # of days; unhosted units = max 90 days/year; mediation and revocation process; food may be included; performance standards; permit # on all ads

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections

**CITIES WITH SHORT TERM RENTAL ORDINANCES IN PROCESS (continued)**

CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Santa Barbara Pop 90,412	< 30	No	No	No	??	No	??	??	??	Per Council action 7/23/15, continue existing prohibition of STRs, but research and consider permitting “home-sharing” (hosted units where owners rent rooms while present); continue enforcement but research other enforcement actions
Tiburon §16.40.040 Pop 9,179	< 30	Yes	?	?	Yes	Yes	Biz Lic \$100 TOT ?	??	??	Previously permitted “Seasonal Rentals” of unhosted units, hosted rentals not codified, so unintentionally permitted. On 5-16-15 Council voted 3-2 to prohibit; Planning Commission disagreed and made comments on possible ways to permit with limitations. Council again voted 3-2 to prohibit 8-19-15. 2 <sup>nd</sup> reading sched 10-1-15
West Hollywood Pop 35,288	< 30	No	No	No	No	No	??	??	??	Share Economy Task Force convened: in process of revising Code to prohibit. Per Council action 7/20/15, continue to prohibit, but research possibility of allowing STRs during special City and regional events: Halloween, Pride, and Academy Awards. 8/3/15 2 <sup>nd</sup> CC reading tie; 8/17/15 continued; scheduled for 9/21/15.

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections

CITIES WITHOUT SPECIFIC REGULATIONS (INTENTIONALLY OR UNINTENTIONALLY PERMITTING STRS)										
CITY	DEF	HSE	SU	APT	HR	VR	TAX	FEE	INSP	NOTES / SPECIFIC CHARACTERISTICS & REGULATIONS
Albany Pop 19,192							Biz Lic \$200			No Regulations – Require Business License
Belvedere Pop 2,122										No regulations
Los Altos Pop 30,010							Biz Lic \$76+ \$5/ea			“Housing Unit, Transient” defined as < 30 days, but not regulated
Los Altos Hills Pop 8,334							No			No Regulations
Moraga Pop 16,771										No regulations
Orinda Pop 18,681							No			No regulations, but will be addressing soon
Palo Alto Pop 66,642										3-9-15 Council decided not to regulate
Ross Pop 2,464										2-12-15 Council considered whether to adopt regulations – decided no

*The information in these charts was assembled from a variety of sources. It is intended to provide abbreviated information. In some cases information was not readily available on city websites, and due to the vacation season, staff was not always available to answer questions. Additionally, some of the data may have changed, such as population counts, and code provisions, etc.*

ABBREVIATIONS KEY: DEF = definition of number of days; HSE = house; SU = second unit; APT = apartment; VR = vacation rental; HR = homestay rental; INSP = inspections



*California*  
LEGISLATIVE INFORMATION

**SB-593 Residential units for tourist or transient use: transient residential hosting platforms.** (2015-2016)

**SECTION 1.** Article 12 (commencing with Section 53170) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

**Article 12. Thriving Communities and Sharing Economy Act**

**53170.** (a) This article shall be known, and may be cited, as the Thriving Communities and Sharing Economy Act.

(b) The Legislature finds and declares that transient residential hosting platforms are doing business in California by facilitating the occupancy of property located in California.

**53171.** For purposes of this article:

(a) (1) "Transient residential hosting platform" means a person or entity that facilitates the rental of a residential unit offered for occupancy for tourist or transient use for compensation to the offeror of that unit, and the transient residential hosting platform derives revenues, including booking fees, subscription charges, or advertising revenues. "Facilitate" includes, but is not limited to, the act of allowing the offeror of the residential unit to offer or advertise the residential unit on the Internet Web site provided or maintained by the operator.

(2) "Transient residential hosting platform" does not include anyone licensed to practice real estate as defined in Section 10130 of the Business and Professions Code.

(b) "Offeror" means the owner, lessee, or other person or entity with the legal right to occupy or authorize the occupancy of a residential unit.

(c) "Residential unit" means a dwelling unit in a private residence, including a single-family residence, an apartment or other leased premises, a residential condominium unit, or any other residential real estate improvement. "Residential unit" does not include individual guest rooms in a hotel, inn, or similar transient lodging establishment operated by an innkeeper, as defined in subdivision (a) of Section 1865 of the Civil Code.

(d) "Tourist or transient use" means 30 days or fewer.

(e) "Operator" includes any corporation, partnership, or individual that provides or maintains a transient residential hosting platform.

**53172.** All of the following shall apply only within the jurisdiction of a city, county, or city and county that adopts an ordinance applying this section within its jurisdiction:

(a) A transient residential hosting platform shall report quarterly to the city, county, or city and county all of the following information:

(1) The address of each residential unit that was occupied for tourist or transient use during that quarterly period.

(2) The total number of nights that the residential unit was occupied for tourist or transient use.

(3) The amounts paid for the occupancy of that residential unit for tourist or transient use.

(b) A city, county, or city and county may, by ordinance, establish a fine or penalty on a transient residential hosting platform that fails to provide a report required pursuant to this section not to exceed the amount of one thousand dollars (\$1,000) for the first failure, two thousand dollars (\$2,000) for the second failure, and five thousand dollars (\$5,000) for a third or subsequent failure, to be imposed after the city, county, or city and county has provided written notice to the operator of the failure, has given the transient residential hosting platform an opportunity to provide the report within 30 days of receiving the written notice, and the transient residential hosting platform failed to provide the report within that period.

(c) Any civil fines or penalties shall be paid to the city, county, or city and county that established the fine or penalty.

(d) (1) Notwithstanding any other law, including the California Public Records Act, as set forth in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, the information in the report required pursuant to this subdivision is confidential and shall not be disclosed.

(2) The city, county, or city and county receiving the report shall use the information in the report solely for the administration of transient occupancy tax and zoning.

(e) The city, county, or city and county may require a transient residential hosting platform to collect the transient occupancy tax imposed by that local agency, and to remit that tax to that agency. The authority granted by this subdivision is in addition to any other provision of state or local law that authorizes a city, county, or city and county to require a transient residential hosting platform or any other person or entity to collect and remit transient occupancy tax.

**53173.** (a) A transient residential hosting platform shall not facilitate the occupancy of a residential unit offered for occupancy for tourist or transient use if the occupancy will violate any ordinance, regulation, or law of the city, county, or city and county, in which that residential unit is located, that has applied Section 53172 within its jurisdiction.

(b) A city, county, or city and county that has applied Section 53172 within its jurisdiction may, by ordinance, establish a civil fine or penalty on an operator of a transient residential hosting platform that knowingly violates this section not to exceed the amount of one thousand dollars (\$1,000) per day for the first violation, two thousand dollars (\$2,000) per day for a second violation, and five thousand dollars (\$5,000) per day for a third or subsequent violation to be imposed after the city, county, or city and county has provided written notice to the operator of a transient residential hosting platform of the failure to abide by the respective ordinance, has given the operator of the transient residential hosting platform an opportunity to correct the violation within 30 days of receiving the written notice, and the operator of the transient residential hosting platform failed to correct the violation within that period.

(c) Any civil fines or penalties shall be paid to the city, county, or city and county that established the fine or penalty.

**53174.** An operator of a transient residential hosting platform shall disclose the following in the transient residential hosting platform agreement with an offeror:

(a) That an offeror should review his or her home or renter's insurance policy to ensure that there is appropriate insurance coverage in the event that a person sustains an injury or loss on the offeror's property, a person damages or causes loss to an offeror's personal or real property, or a claim or lawsuit is made against the offeror or otherwise arises out of activities related to the transient residential hosting platform.

(b) If the operator of the transient residential hosting platform provides insurance coverage, that the insurance coverage is provided and the limits of liability. If the insurance provided by the operator of the transient residential hosting platform is excess, secondary, or contingent upon an offeror's home or rental insurance, the operator of the transient residential hosting platform shall explicitly explain to the offeror when the offeror's insurance is primary or first in line to cover liabilities arising out of the activities relating to the transient residential hosting platform.

**53175.** Nothing in this article shall be construed to preempt a city, county, or city and county law regulating operators of transient residential hosting platforms.

**SEC. 2.** The Legislature finds and declares that Section 1 of this act, which adds Section 53172 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Where a city, county, or city and county adopts an ordinance applying Section 53172 of the Government Code within its jurisdiction, in order to ensure that the information disclosed to local public agencies in the reports required by Section 53172 of the Government Code is not used for purposes other than the limited public purposes specified in that section, it is necessary to limit the disclosure of those reports.

**SEC. 3.** The Legislature finds and declares that Section 1 of this act, which adds Section 53172 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of



*the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:*

*If a city, county, or city and county adopts an ordinance applying Section 53172 of the Government Code within its jurisdiction, limiting disclosure of a record obtained by the local public agency for purposes of tax and zoning administration furthers the purposes of Section 3 of Article I of the California Constitution by appropriately balancing the interest in public disclosure with ensuring that this information is not used for improper purposes.*

CITY OF PIEDMONT  
CALIFORNIA

July 30, 2015

Stephany Aguilar, President  
League of California Cities  
1400 K Street  
Sacramento, CA 95814

**RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING SB 593 (MCGUIRE) AND CONTINUED LOCAL FLEXIBILITY FOR CITIES AS THEY ADDRESS NEIGHBORHOOD AND FISCAL IMPACTS OF TEMPORARY RENTALS OF RESIDENTIAL UNITS FOR TOURIST OR TRANSIENT USES**

Dear President Aguilar:

The City of Piedmont supports the proposed resolution related to the Sharing Economy and concurs in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 2, 2015.

The resolution reaffirms and acknowledges local efforts to effectively regulate land use impacts and collect applicable taxes from transient residential rentals as part of the emerging “shared economy”.

The short-term rental of residential houses, rooms, condominiums, and apartments present numerous challenges within neighborhoods and to adjacent property owners. They may create additional noise, traffic, parking, privacy and public safety issues, subvert local rent-control laws, decrease available housing stock and in some cases turn residential neighborhoods into de-facto hotel rows.

Where the temporary rental of residential units is allowed by local regulation, the associated transient occupancy tax (TOT) should also be collected. These units are in direct competition with hotels, motels and other accommodations where guests pay the local transient occupancy tax, so all such uses should be subject to the same tax. The revenues generated support local streets, roads, fire, police, lifeguards, trash pick-up, park maintenance and other local public services which directly affect local quality of life and the attraction of the community for a visitor.

The City of Piedmont believes SB 593, as referenced in the proposed resolution, acknowledges existing local authority in this area and provides the necessary data for local jurisdictions to enforce their regulations regarding short-term residential rentals and

a helpful regulatory framework that local governments may choose in lieu of exercising their existing authority.

For these reasons, the City of Piedmont supports the Resolution.

Sincerely,



Paul Benoit  
City Administrator  
City of Piedmont

cc: Meg Desmond, League of California Cities, [mdesmond@cacities.org](mailto:mdesmond@cacities.org)  
John Leonard, City of West Hollywood, [jleonard@weho.org](mailto:jleonard@weho.org)



## Piedmont Police Department

To: Kate Black, Planning Director  
From: Rikki Goede, Chief of Police  
Date: August 31, 2015  
Re: Police Response Related to Airbnb's

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The topic of Air Bed and Breakfasts (Airbnb's) was discussed at a recent City Council meeting, and the council raised a question as to police response and criminal activity specifically associated to this activity. The Piedmont Police Department has not responded to any calls for service specifically related to Airbnb activity. I also contacted several of the police chiefs in Alameda County to inquire if they have had any police issues related to this activity. Pleasanton reported responding to a very small number of party calls, however, none of the other cities contacted reported any criminal activity or other police responses specifically related to Airbnb activity.

**LETTERS TO PIEDMONT RESIDENTS AND RESPONSES**

City Rental Tax Letter to Owners of Vacation Rentals  
City Rental Tax Letter Responses

City Letter to Owners with Illegal Homeshare Rentals  
Illegal Homeshare Rental Responses

CITY OF PIEDMONT  
CALIFORNIA

April 17, 2015

Mr. & Mrs. ]  
Ave.  
Piedmont, CA 94611

RE: Possible Short Term Rental of Residence at ] .

Dear Mr. & Mrs. ]

It has been brought to the City's attention that you may have rented your residence in 2014 as a short term rental. Short term rentals are considered to be those that are fewer than 30 days.

You may be unaware that under Chapter 10 of the Piedmont Municipal Code, operating a business in Piedmont, including the rental of a property for any amount of time, is subject to a business tax. This includes short term rentals. From City records it appears that you have not paid this tax for income received in 2014. Attached is a Rental Tax Form – Income from Calendar Year 2014, which will help you calculate the amount of tax due.

Unfortunately because the annual deadline (March 1<sup>st</sup>) has passed for payment of rental tax, a penalty will apply. If your payment is mailed on before May 1, 2015, the penalty will be an additional 50% of the tax amount due. If the form is mailed on or after May 2, 2015, the penalty is an additional 100% of the tax due. Please complete this form and return it to the City Clerk's Office as soon as possible. Unfortunately, the City Code does not allow for these penalties to be waived.

If you did not conduct any rental activity in 2014 and have only conducted short term rentals in 2015, the tax for revenue earned in 2015 will be due no later than February 15, 2016. Please fill out and return the enclosed Intent to Rent letter to the City Clerk's Office. In the section where the names of renters are to be listed, please write short term rental.

If you didn't rent your home in 2014 and don't plan to in 2015, please reply in writing to the City Clerk's office to let us know of this.

The City Council discussed the topic of regulation of short term rentals at a City Council public hearing on March 16<sup>th</sup>. At that meeting, the Council directed staff to contact homeowners who may be conducting short terms rentals legally regarding payment of the rental tax.

Under current law, there are certain regulations you should be aware of with regard to short term rentals. Currently, un-hosted short term rentals of an entire residence (where you do not reside at the property during the rental) are permitted; but hosted rentals (the rental of one or more rooms in your residence while you are there) are not permitted for fewer than 30 days.


The Council is considering possible changes to the City code or regulations to address this relatively new type of use in Piedmont. You may watch the Council's March 16th discussion by logging on the City's website at [www.ci.piedmont.ca.us](http://www.ci.piedmont.ca.us): on the right hand side of the homepage under the "City Council" heading, click on the "Online Video" link, then scroll down under the "Sections on this Page" heading, click on the "City Council" link, then on the "March 16, 2015" heading, click on the "Video" link, and scroll down to Agenda #6 and start watching! The staff report for this meeting is available on the Staff Reports section of the City Council's page at <http://www.ci.piedmont.ca.us/citycouncil>

The development of regulations regarding short term rentals is being handled by Planning Director Kate Black. If you have questions about regulation of short term rentals, and/or would like to receive e-mailed notices of future meetings on the subject, please contact Planning Director Kate Black, who will add you to the list of Piedmont residents who have asked to be informed about or participate in future discussions. You may call her at 510-420-3063 or email her at [kblack@ci.piedmont.ca.us](mailto:kblack@ci.piedmont.ca.us).

If you have questions about the Rental Tax, please contact City Clerk John Tulloch at [jtulloch@ci.piedmont.ca.us](mailto:jtulloch@ci.piedmont.ca.us) or via phone at (510) 420-3041.

Sincerely,

CITY OF PIEDMONT



John O. Tulloch  
City Clerk



Kate Black  
Planning Director

Enclosures: Rental Tax Brochure  
Rental Tax Form – Income from Calendar Year 2014  
Intent to Rent Letter

**RECEIVED**

APR 27 2015

CITY CLERK  
CITY OF PIEDMONT

Piedmont, CA 94611

24 April, 2015

City of Piedmont, California  
120 Vista Avenue  
Piedmont, CA 94611

RE: Possible Short Term Rental of Residence at

Dear John O. Tulloch and Kate Black,

We recently received a letter from the City of Piedmont regarding our property possibly being used as a short-term rental in 2014. We are aware of the City of Piedmont's business tax code, however, our property located at has not been rented out for short or long term in 2014 and we have no plans to rent it out in 2015.

Should any of this change, we will definitely file the appropriate tax form as needed. Please confirm receipt of this letter.

Thank you!

Warmest regards,



**John Tulloch**

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**From:****Sent:** Wednesday, April 22, 2015 19:58**To:** jtulloch@ci.piedmont.ca.us**Cc:** kblack@ci.piedmont.ca.us**Subject:** short-term rentals,

Hi John,

Thanks for explaining the city's policy on short-term rentals to me on the phone a couple of days ago. I'm following up, per your suggestion, with this email.

We didn't rent our place during 2014 so we don't owe any taxes.

We might try to rent it in 2015, but, frankly, the \$200 minimum makes it pretty unlikely. If you're taking any feedback about the city's short-term rental policies, here's ours: scrap the high minimum tax. While we'd like to make a few hundred dollars here and there to help defray the cost of family travel, it would hardly be worth the trouble if most of it just got turned over to the taxman.

Anyway, thanks again for filling me in. Please let me know if you have any questions or comments.

Best,

RECEIVED

MAY 14 2015

CITY CLERK  
CITY OF PIEDMONT

To: Kate Black - Planning director

This is to inform you that we  
at \_\_\_\_\_ have never rented  
our home or any part of our home for  
~~short~~ short term or long term rental.

PIEDMONT, CA 94611

CITY OF PIEDMONT  
CALIFORNIA

May 6, 2015

and

Piedmont, CA 94610

RE: Possible Short Term Rental of Residence at

Dear \_\_\_\_\_

It has been brought to the City's attention that you may have rented a portion of your residence in 2014 or this year as a short term rental. Short term rentals are considered to be those that are fewer than 30 days.

Under current law, there are certain regulations you should be aware of with regard to short term rentals. Currently, the rental of one or more rooms in your residence is not permitted for fewer than 30 days. It appears that you may have rented a portion of your residence for fewer than 30 days. If you didn't rent your home in 2014 and thus far in 2015, please reply in writing to me to let me know.

The City Council discussed the topic of regulation of short term rentals at a City Council public hearing on March 16<sup>th</sup>. At that meeting, the Council directed staff to contact homeowners who may be renting a portion of their residence in violation of Section 17.39 of the Municipal Code.

The Council is considering possible changes to the City code or regulations to address this relatively new type of rental in Piedmont. You may watch the Council's March 16th discussion by logging on the City's website at [www.ci.piedmont.ca.us](http://www.ci.piedmont.ca.us): on the right hand side of the homepage under the "City Council" heading, click on the "Online Video" link, then scroll down under the "Sections on this Page" heading, click on the "City Council" link, then on the "March 16, 2015" heading, click on the "Video" link, and scroll down to Agenda #6 and start watching. The staff report for this meeting is available on the Staff Reports section of the City Council's page at <http://www.ci.piedmont.ca.us/citycouncil>

If you have questions about current regulations of short term rentals, and/or would like to receive e-mailed notices of future meetings on the subject, please contact me and I will be happy to answer your questions and add you to the list of Piedmont residents who have asked to be informed about or participate in future discussions. My direct extension is 510-420-3063 and my email address is [kblack@ci.piedmont.ca.us](mailto:kblack@ci.piedmont.ca.us).

Thank you in advance for your cooperation.

Sincerely,

CITY OF PIEDMONT

A handwritten signature in black ink, appearing to read "Kate Black", followed by a horizontal line extending to the right.

**Kate Black**  
**Planning Director**

**Kate Black**

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**From:** [redacted]@comcast.net]  
**Sent:** Sunday, May 10, 2015 3:07 PM  
**To:** kblack@ci.piedmont.ca.us  
**Subject:** Re: assumed short term rental

Hi Karen,

I did list my extra room on Airbnb briefly, but took it off in conjunction with getting emails from proponents, hearing about the city meeting which I did not attend, and Section 17.39 of the Municipal Code. I took it off before then. It would have been too much work, anyway.

Thus, there was no short term rental or any kind of rental in 2014 in my home.

Sincerely,

**Kate Black**

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**From:** [redacted]@gmail.com]  
**Sent:** Saturday, May 09, 2015 2:47 PM  
**To:** kblack@ci.piedmont.ca.us;†  
**Subject:** Re: notice or short term rental

Kate,

This probably came up because I posted our place on airbnb. I did so because I was interviewing for a job there. We have no intention of renting out our place.

For what it's worth, we have no problem with our neighbors doing short term rentals.

On Sat, May 9, 2015 at 1:36 PM -0700, " [redacted] <[redacted]@gmail.com> wrote:

Dear Kate,

We received your notification mailed on May 6th, re: notification of short term re  
We are full time residents of our house and have never rented it out to anyone in  
We have naturally had my parents and my husband's family as guests - and obviously  
I am not sure where this misunderstanding is coming from and would appreciate if y

Sincerely,

Sent from my iPhone

**Kate Black**

---

**From:** @aol.com  
**Sent:** Sunday, May 10, 2015 10:30 AM  
**To:** kblack@ci.piedmont.ca.us  
**Subject:** responding to notice of rental

Hi Kate -

Received your notice.

Nope. I have housed a few young students mostly friends of friends and there is no charge for lodging yet they contribute monetarily for food.

I thought I'd sign up for AirBnb, but as soon as I made a profile I received a booking, yet it was actually not legit. It was a way for a woman to notify me that the City was not for this type of arrangements since she does it, so I deleted my listing...too much of a hassle that I didn't want to get engaged in.

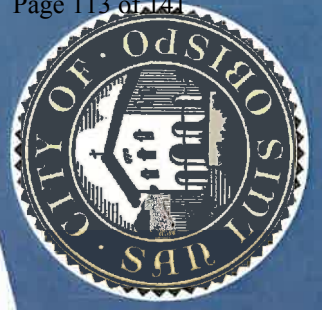
That's it.

You need anything else?

Best regards,







# HOMESTAY HOW-TO

A Quick Guide





## WHAT IS HOMESTAY?

A homestay is an owner-occupied dwelling unit where bedrooms are provided for compensation for fewer than thirty consecutive days with a maximum of four adult overnight guests. Vacation rentals, which involve the rental of a non owner-occupied dwelling, are not allowed.

### WHAT'S REQUIRED?

- ✓ **Homestay permit**  
Applications are available at the Community Development Department office located at 919 Palm Street.
- ✓ **Owner occupancy**  
Verification the homestay is occurring at the property owner's primary residence.
- ✓ **Number of guests**  
Overnight guests are limited to no more than four adults.
- ✓ **Responsible party**  
A responsible party must be designated if the property owner is not available during a homestay rental.
- ✓ **Neighbor notification**  
Contact information for the property owner and responsible party must be provided to adjacent neighbors.
- ✓ **Parking**  
One on-site parking space in addition to their required residential.

## HOW TO GET A PERMIT?

**1** Pick up an application packet at the Community Development Department office located at 919 Palm Street.

**2** Submit your completed application packet to the Community Development Department office and remember to bring:

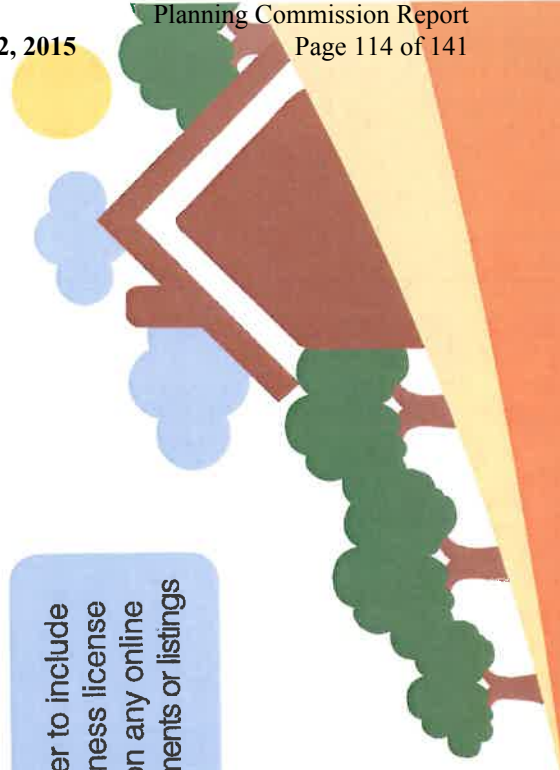
- A copy of your tax bill indicating the homeowner's exemption at the subject property or other documentation
- Site plan
- Application fee of \$305.00
- Business license fee (varies)

**3** Allow 3-4 weeks for processing

**4** Receive approval letter for your homestay rental (business license will follow separately)

**5** Start hosting\*

\* Remember to include your business license number on any online advertisements or listings







City of Goleta  
**Nuisance Response Plan (Exhibit A)**  
130 Cremona Drive, Suite B • Goleta, CA 93117  
Phone: (805) 961-7500 • Fax (805) 685-2635 • Email: [businesslicense@cityofgoleta.org](mailto:businesslicense@cityofgoleta.org)

In accordance with Goleta Municipal Code Sec. 5.08.060 the following nuisance response plan is submitted. A letter has been mailed to the occupant and/or owner of properties located within a 200-foot radius of the vacation rental advising of its use. A copy of this Nuisance Response Plan will be placed on the City's website for public access.

IF APPLICABLE, SHORT TERM VACATION RENTAL # \_\_\_\_\_  NEW RENTAL  AMENDMENT OF NUISANCE RESPONSE PLAN

1	PROPERTY ADDRESS	CITY	STATE	ZIP CODE
---	------------------	------	-------	----------

2	OWNER NAME (IF MORE THAN TWO, USE AN ADDITIONAL SHEET OF PAPER)	3	PHONE
---	---	---	-------

4	MAILING ADDRESS	CITY	STATE	ZIP CODE
---	-----------------	------	-------	----------

5	OPTIONAL SECOND OWNER NAME	6	PHONE
---	----------------------------	---	-------

7	MAILING ADDRESS	CITY	STATE	ZIP CODE
---	-----------------	------	-------	----------

**NUISANCE COMPLAINT CONTACTS:**

The following person(s) will be available by telephone, and will be responsible for promptly responding to a nuisance complaint arising out of the occupancy of the short term rentals by tenants, their visitors and/or guests. A return telephone call to a complainant within thirty (30) minutes of the initial complaint shall be deemed "prompt."  
No more than a total of THREE persons can be designated and only ONE can be designated during any particular period of time.  
THERE MUST BE A DESIGNATED CONTACT PERSON 24 HOURS PER DAY, 7 DAYS PER WEEK. BELOW IS THE CONTACT INFORMATION FOR THE DAYS AND TIMES OF EACH DAY.

**CONTACT NO. 1**

8	DAY/TIME DESIGNATION	<input type="checkbox"/> 24 HOURS PER DAY, 7 DAYS PER WEEK OR:					
	SU	M	TU	W	TH	F	SA
9	CONTACT NAME						
10	CONTACT ADDRESS				CITY	STATE	ZIP CODE
11	PHONE 1			12	PHONE 2		

**CONTACT NO. 2**

13	DAY/TIME DESIGNATION	<input type="checkbox"/> 24 HOURS PER DAY, 7 DAYS PER WEEK OR:					
	SU	M	TU	W	TH	F	SA
14	CONTACT NAME						
15	CONTACT ADDRESS				CITY	STATE	ZIP CODE
16	PHONE 1			17	PHONE 2		

**CONTACT NO. 3**

18	DAY/TIME DESIGNATION	<input type="checkbox"/> 24 HOURS PER DAY, 7 DAYS PER WEEK OR:					
	SU	M	TU	W	TH	F	SA
19	CONTACT NAME						
20	CONTACT ADDRESS				CITY	STATE	ZIP CODE
21	PHONE 1			22	PHONE 2		

BOND NO. \_\_\_\_\_

**SURETY BOND**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ as Principal, and the undersigned, as corporate Surety, are held and firmly bound unto the City of Goleta, State of California, as Obligee, in the sum of One Thousand, Five Hundred Dollars (\$1,500.00) for which sum we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

The CONDITION of the above obligation is such that:

WHEREAS, the Principal is the owner of real property located at \_\_\_\_\_ (address) which is subject to City of Goleta Code ("GMC"), Short-Term Vacation Rentals Ordinance, Chapter 5.08 et seq.; and

WHEREAS, the Principal is legally obligated to provide this surety bond issued by a surety licensed to do business in the State of California carrying and A.M. Best Financial Strength Rating of at least "A-" and naming the City of Goleta as a bond obligee to accompany the permit application to rent the described property as a short-term vacation rental; and

WHEREAS, the Principal, as a condition to issuance of a permit to rent said property as a short-term vacation rental is required, pursuant to GMC Section 5.08.100, to execute a bond guaranteeing payment of any civil penalty assessed and unpaid pursuant to Chapter 1.02 of the GMC;

NOW THEREFORE, should the Principal be assessed a civil penalty pursuant to the GMC for non-compliance with GMC Chapter 5.08, et seq., and fail to pay such civil penalty, and, upon demand by the Obligee, Surety shall pay to the Obligee the amount of this civil penalty, and shall also, in case suit is brought upon this bond, pay to Obligee court costs and reasonable attorney fees, to be fixed by the Court. The aggregate liability of the surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.

PROVIDED, however, that the surety may cancel the bond and be released of further liability hereunder by delivering thirty (30) days written notice to the City of Goleta. Such cancellation shall not affect any liability incurred or accrued hereunder prior to the termination of the thirty (30) day period.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name of Principal)

By: \_\_\_\_\_  
Signature

Title: \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_  
Signature (Agent)

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

Telephone: (     ) \_\_\_\_\_

**PIEDMONT PLANNING COMMISSION**

Regular Meeting Minutes for Monday, September 8, 2014  
(Abridged)

A Regular Session of the Piedmont Planning Commission was held September 8, 2014, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on August 25, 2014.

**CALL TO ORDER**

Chairman Ode called the meeting to order at 5:00 p.m.

**ROLL CALL**

Present: Commissioners Phillip Chase, Susan Ode, Louise Simpson, Tony Theophilos, Tom Zhang and Alternate Commissioner Eric Behrens

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Jennifer Gavin, Janet Chang and Lauren Seyda and Recording Secretary Chris Harbert

Council Liaison: Councilmember Tim Rood

**Short-Term Rentals**

Per City Council direction, the City Planner introduced the topic of short-term (less than 30 days) property rentals in Piedmont for Commission discussion. The Planner stated that she and the Council have received complaints from neighbors regarding such rental activity and noted that cities across the country are also dealing with this issue. She outlined the various options available for permitting, prohibiting, regulating or restricting such rental activity, noting that the City Council is seeking advice from the Commission as to how to proceed.

**Correspondence** was received from: Nancy Herbert; Patty White; Gail Ramsey; Alicia Gruber, Teddy King

**Public testimony** was received from:

Linda Horne voiced support for allowing short-term rentals in Piedmont as a potential revenue stream for the City through regulation fees and taxes. She felt such rentals add to Piedmont's diversity, provide an opportunity for family and friends visiting Piedmont residents to stay nearby during their visits, and provide an income source for Piedmont residents. She felt that since it is essentially impossible to prevent such rentals given the popularity of numerous internet sites, the City should regulate and tax their occurrence.

The Commission was unanimous in its support for prohibiting short-term rentals in Piedmont, citing the following reasons: (i) contrary to Piedmont's single-family character; (ii) neighborhood and public safety/security concerns arising from stranger/transient rental occupancy -- criminals could take advantage of short-term rentals to "case" neighborhoods in advance of burglary plans or other nefarious activity; (iii) such rentals do not add nor enhance diversity since short-term occupants do not integrate into the community; (iv) most neighbors of short-term rental properties find such activity to be very disruptive and intrusive because of the comings and goings at all hours by strangers who are not known nor connected to the neighborhood or community; (v) the difficulties and staff effort involved in enforcing regulations/taxation far outweigh any potential revenue that would be generated; and (vi) there is evidence that allowing short-term rentals takes housing off the market for full-time occupation by community

residents. This could adversely affect the City's Housing Element and make it more difficult for the City to meet its assigned housing allocations. Based upon the Commission's discussion and direction, the City Planner stated that she would work with the City Attorney in developing a policy and, if necessary, proposed City Code amendments to prohibit short-term rentals in Piedmont. The proposed policy would then be submitted to the Commission for review and recommendation to the City Council.

**ADJOURNMENT**

There being no further business, Chairman Ode adjourned the meeting at 8:20 p.m.

**PIEDMONT CITY COUNCIL**

(Abridged)

Regular Meeting Minutes for Monday, March 16, 2015

A Regular Session of the Piedmont City Council was held March 16, 2015, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on March 12, 2015.

**ROLL CALL**

Present: Mayor Margaret Fujioka, Vice Mayor Jeff Wieler and Councilmembers Teddy Gray King, Robert McBain, and Tim Rood

Staff: City Administrator Paul Benoit, City Attorney Michelle Kenyon, Finance/Human Resources Director Erick Cheung, Planning Director Kate Black, and City Clerk John Tulloch

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**Short Term Rentals**

City Administrator Benoit introduced the subject of short term rentals. He

reported that the topic was brought up during the Housing Element discussions, mostly because of the potential impact that short term rentals have on the City's second units. At that time, the Council asked Staff to investigate the issue and to propose options to address short term rentals. City Administrator Benoit suggested that the Council hear public testimony and give further direction to Staff regarding the issue.

Planning Director Kate Black provided a brief overview of definitions related to short term rental. She mentioned advantages and disadvantages, noting that property owners benefit from increased revenue, but that neighbors complain about increased noise, parking difficulties, and the introduction of unfamiliar people to the neighborhood. Planning Director Black summarized the current regulations in Piedmont that pertain to short term rentals. She stated that most short term rentals are currently allowed within the code; however, the code does not allow room rentals (within a larger house or apartment) of fewer than 30 days. Additionally, renting a rent-restricted second unit would be difficult due to the documents that are necessary to show that a guest meets the income requirements.

Planning Director Black reported that Piedmont is the first city in Alameda County to consider a code change regarding short term rentals, and she summarized Piedmont's options for doing so. She explained that the City could require a discretionary application, similar to a planning application, which would be based on the assessment of site-specific impacts; or a ministerial application, which would be granted if the short term rental were to meet certain standards, such as regular safety inspections. Planning Director Black also discussed taxation, which could be in the form of an upfront occupancy tax or a retroactive tax based on actual earnings. She informed the Council that only two Piedmont property owners have come forward to pay the rental tax required in Piedmont. In closing, she reiterated the advantages and disadvantages but expressed concern that allowing the short term rental of second units could diminish the City's only source of affordable housing, could impact the City's ability to help ease the area housing shortage, and could jeopardize the approval of the Housing Element of the General Plan during the next cycle, a concern shared by the Planning Commission during their September 2014 review of the topic. She also described the nature of the complaints that have been directed to her regarding short term rentals.



**Correspondence** was received from: William Wexelblatt, Nancy Menke, Ed Rosenthal, Jane Klein, Alice D. Mikuteit, Christine Mulder, Alicia Gruber, Jordie Bornstein, Neighbors for Overnight Oversight, Craig Casebeer, Patty White, and Astrid, Lacitis

**Public testimony** was received from: Darcie on behalf of Ed Rosenthal, Linda on behalf of Jane Klein, Robert G., Audrey Gilles, Jordie B., Jonathan Muhiudeen, Alice, Doug Frankel, Suzy, and Michael Stoneman all expressed their support for the ability of homeowners to conduct short term rentals, citing the financial, cultural and general benefit to the community of this activity.

Alicia Kalamas, and John Mittan each spoke against short term rentals, citing negative effects on the community, the possibility of criminal behavior, and lack of connection of the renters to the community. Tom Ferguson expressed a recommendation that there be tight regulations if they are allowed. Steve Wubbens expressed concern that affordable long term second units like his will be replaced by more lucrative short term rentals, making it difficult for divorced people like him to live in town close to his children.

Planning Commission Chair Susan Ode addressed the Planning Commission's September 2014 opinion that the City consider a prohibition on short term rentals. Chairperson Ode stated that the predominate concern of the Planning Commission was how short term rentals might impact the housing element, but said that there were also concerns about the impacts on neighbors. She stated that much has happened since that Planning Commission discussion, and that she would like the discussion to return to the Planning Commission so they can work with the City Council on this important issue.

The Council thanked all of the speakers for sharing their experiences and expressed a variety of opinions on the matter:

Vice Mayor Wieler stressed his belief that the City's regulation of a property owner's ability to do what he or she wishes on their own property should be minimal. He recognized that parking concerns regarding short term rentals are valid, but believed that they are solvable. He further suggested that reasonable restrictions can be placed on short term rentals to protect the homeowner and neighbors, and regarded an outright ban on short term rentals as unwarranted. The Vice Mayor suggested placing something on the City's website so that people can submit comments about the issue. He also suggested that the issue of house exchanges should be covered by this general discussion.

Councilmember Rood shared his belief that the current regulations in place regarding short terms rentals were untenable and that the City Code be updated to have uniform regulation of short term rentals, generally with objective standards. He further stated that he opposed allowing short term rentals of second units because their intent is to provide long-term housing.

Councilmember King expressed her belief that short term rentals do impact neighbors, and stressed the importance of neighbor notification, neighbor input, and taxation, for the good of the community. She also expressed her belief that the City's approach on short term rentals needs to be determined by the community. She discussed the difficulty in being one of the first cities to tackle this issue, which is not a position that Piedmont usually finds itself in.

Councilmember McBain stressed the need to update the code to be consistent with regard to hosted and unhosted rentals. He expressed support for determining the best way to regulate short term rentals through restrictions,

registration, and inspection. He expressed his belief that the City can develop rational regulations for short term rentals that deal with resident concerns about parking.

Mayor Fujioka explained that the issue of short term rentals was brought to the Council's attention because of neighbor complaints, and that this is the beginning of a long discussion on the topic. She expressed a desire that legal issues be thoughtfully considered in developing regulations of short term rentals. She also expressed her concern for how short term rentals might impact the City's housing element.

The Council agreed that Piedmont is on the forefront in dealing with issues regarding the effect of short term rentals on the community. The Council further agreed that a thorough discussion of this topic at this point was a benefit to the City.

The Council discussed the issue of how the City's existing rental tax should be enforced with regard to existing legal short term rentals. Staff was directed to advise residents who are legally conducting short term rentals of their obligation to pay the City's rental tax. Council further directed Staff to not accept rental tax payments from homeowners who are conducting short term rentals of their property which violate the City's current regulations.

Staff was directed to continue community outreach regarding this issue and to inform all property owners who are legally and illegally conducting short term rentals and invite them to take part in the discussion.

Council directed Staff to provide the following information when this issue is agendized for further discussion:

- A summary of any complaints to the Planning and Police departments associated with short term rentals.
- A report from the Planning Director discussing the effects of legalizing hosted short term room rentals on the City's housing element compliance.
- A report from the City Attorney regarding regulatory fees and taxes, including the advantages, disadvantages and limitations of each. This report should also include information about amnesty periods and enforcement measures.
- A report from the Planning Director summarizing performance standards and safety inspection options.
- A report from the Planning Director on how home swaps should be handled.
- A summary of feedback that was received in response to the enforcement letters.

The Council asked for Staff to return to the Council as soon as possible with this additional information, to keep the momentum of the discussion going.

**DRAFT**

**PIEDMONT CITY COUNCIL**

Regular Meeting Minutes for Monday, September 21, 2015  
(abridged)

A Regular session of the Piedmont City Council was held September 21, 2015, in City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on September 17, 2015.

**CALL TO ORDER**

Following a 6:30 p.m. Closed Session regarding a Conference with Legal Council regarding Existing Litigation (Government Code § 54956.9(a)): City of Piedmont v. Harris & Associates; and Conference with Real Property Negotiators (Government Code § 54956.8): Corporation Yard, 898 Red Rock Road; Negotiating Parties: City and Verizon Wireless Negotiators: City Administrator and City Attorney; Under Negotiation: Potential Lease Terms, Mayor Fujioka called the meeting to order at 7:39 p.m. with the Pledge of Allegiance.

**ROLL CALL**

Present: Mayor Margaret Fujioka, Vice Mayor Jeff Wieler, and Councilmembers Teddy Gray King, Robert McBain, and Tim Rood

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, Planning Director Kate Black, Public Works Director Chester Nakahara, Fire Chief Bud McLaren, Recreation Director Sara Lillevand, Senior Planner Kevin Jackson, and City Clerk John Tulloch

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**Short Term Rentals**

City Administrator Paul Benoit brought to the Council the issue of possible regulation of Short Term Rentals. He stated that the Planning Commission had previously taken this item up at a hearing in September and that this discussion had been continued from the Council's March 16, 2015 meeting. Based upon Council direction, staff has returned with findings and recommendations.

Planning Director Kate Black noted that the regulatory environment regarding short term rentals has changed significantly since March and many cities are struggling with the issue. She reviewed regulations that have been passed or are being considered by other cities, noting all cities are facing the same issues: how to ensure short term rentals cause the least amount of disruption to nearby neighborhoods; ensuring that taxes are collected from each legal short term rental; how to address safety, indemnification, and notification; and how to enforce compliance. Ms. Black discussed hosting platforms and described the difference between home share rentals and vacation rentals.

Ms. Black advised the Council of Senate Bill 593, which would allow jurisdictions to adopt ordinances to require quarterly disclosures from hosting platforms, the ability to fine hosting platforms that don't comply, and to require hosting platforms to collect transit occupancy taxes, and require hosting platforms to disclose information. She indicated that this bill didn't receive enough votes to pass in the 2015 legislative session, but would be re-introduced in 2016.

She discussed recommendations in relation to the Housing Element compliance.

**Public testimony** was received from:

Rick Schiller, 43 Fairview Avenue expressed the opinion that the State's housing mandates are unrealistic and stated that there are concerns about how short term rentals effect neighborhoods; however, they are needed in some cases. With the proper requirements and restrictions, home share rentals can be of benefit.

Alice and Jordie B, Oakland, expressed their support for the ability of homeowners to conduct short term rentals, citing the financial, cultural and general benefit to the community of this activity. They expressed the opinion that short term rentals do not affect neighborhoods any more than long-term residents, and that allowing them will not create a great increase in their numbers.

Dottie Hutch, 833 Kingston Avenue, stated her belief that it would be almost impossible to regulate all the variations of rentals noting fewer laws are preferable.

Jane Klein, 9 Lake Avenue, supported short term rentals and suggested that the City use procedures similar to getting to a home business permit which includes contacting neighbors. With regard to possible regulations, she expressed concern with some of the restrictions, such as the 30 day maximum.

Mayor Fujioka closed the Public Hearing.

The Council discussed the following issues - clarifying the landlord/tenant relationship with regard to subleasing; not turning rooms into commercial enterprises; that the City is not a destination location; neighborhoods being informed of rentals; and addressing this emerging economy. In addition, a Councilmember discussed prohibiting whole house rentals for more than 30 days as they could have deleterious effects on neighborhood's quality of life.

The Council agreed on the following aspects of regulating Short Term Rentals:  
1) No Second Units or apartments should be allowed as short term rentals so as to not jeopardize the existing low income housing stock and 2) Home swaps should not be regulated.

The Council referred the following items to the Planning Commission for a recommendation:

- 1) Whether home shares and/or vacation rentals should be permitted and if so, how they should be regulated;
- 2) How any enforcement of said regulations would be accomplished, including:
  - i) Whether permits for short term rentals would be ministerial or discretionary (with neighbor notice).
  - ii) How inspections of units should be addressed.
  - iii) How any regulations should be enforced, including the amount of staff time devoted to enforcement as well as the cost.
  - iv) Whether short term rentals should be limited to a certain number of days per year.
  - v) Whether tenants should be allowed to sublet.
  - vi) How taxes and fees should be addressed.

(0075)

October 12, 2015

Dear Ms. Black:

The world around us is changing quickly. Our phones have become our personal assistant and how we seek goods and services is changing too. Today we are here to discuss another innovation: shift in travel styles. AirBnB is the “new” Club Med— it’s how people travel as a couple, single, or family.

I have been involved with the process for over a year and commend the City Council, Planning Dept. and Planning Commission for taking the time to learn more about the issue and to listen to the different sides before shaping regulations. I also appreciate our City’s understanding that short-term rentals help some residents maintain their homes while having the guest space available for family visits.

As an outsider to the governmental process, but an insider to the hosting world, I understand the need to develop regulations that define obligations without compromising property owner rights. I offer these suggestions to the process:

**Regulations that are logical and implementable**

In Agenda Memorandum of Oct 12, 2015 it is referenced that “90 days is typical” but this is up for interpretation. Some cities are considering no time restrictions on hosted rentals and a 90-day annual limit only on Vacation Homes. Other cities are regulating occupant capacity. Implementation has been spotty.

Develop a system based on set of performance standards. Typically situations involving commerce, in this case rental income, are defined by performance standards and penalized civilly for being a nuisance or safety threat.

Merely restricting the number of days of rental does not resolve concerns expressed about noise, parking, or coming and going of people in the neighborhood. If hosts can only rent up to 90 days through a STR Hosting Platform, then they will turn towards Craig’s List for several 30 day+ tenants.

The regulations for rentals of hosted home as well as un-hosted Vacation Rentals should be the same. The current regulations, which are less restrictive for rentals of an entire home, are not based on public safety. Some of the concerns expressed in letters to the City, such as wild parties, are more likely to occur in an un-hosted rental location while the more public AirBnB rentals are taking the heat.

**This is an opportunity to develop policies that serve the city**

The licensing process can be an economical way to inform residents about city codes relevant to legally qualifications of a bedroom, smoke detectors, and serve as a re-fresher course on other safety requirements.

While the focus is on the obligations of Short Term Rentals, use this momentum to inform all property owners about the obligations to report rental income even when they rent to a friend or family member, or receive rent in a reduced amount in exchange for house and family services. Taken together with the advertised short-term rentals, these additional rental tax revenues will benefit the City.

**Work with “Hosting Platforms.”**

For two years I’ve hosted exclusively through AirBnB. Currently they provide services such as peer reviews that contribute to the safety of the homeowner and neighborhood. In the long term they are likely to move to providing ways of streamlining the collection of fees and other information relevant to implementing regulations.

Centralization of revenue records will make implementation simpler and more accurate. AirBnB issues hosts a 1099 Form so it is easy for to calculate the rental fees for Piedmont and Fed and CA State taxes,

**Work with Hosts**

Right now, many hosts are reluctant to come forward because of fear of loss of privacy and rental income. However, they could provide insights on how to implement regulations, insurance, and in some cases the relationship established with their landlord.

In conclusion, regulations are important because they assure all stakeholders of uniform rules and standards. In addition to the points above, I encourage the Planning Commission to recognize that there is a large percentage of residents who use services like AirBnB and would like to recommend them for guests when they come to visit.

Yours truly,  
Jane Klein

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I agree that having permanent rental housing stock removed from circulation so that a series of people can rent a home for 3-5 days at a time is a bad idea. A different scenario is that I'd like to go to Europe for two weeks, and I'd like to rent out my house through AirBnB to offset the cost of my vacation while I'm not going to be in my house. That seems like a win-win for me. If any of my neighbors had AirBnB renters, I'd be happy to give them vacation advice, extra tomatoes and basil out of the garden, maybe a glass of wine on the front porch--I like the idea of people visiting our neighborhood and appreciating it.

We've used AirBnB a few times, and have had great experiences; I prefer them to hotels. The clientele of AirBnB are not typically destructive meth addicts--users have reviews from the homes they've previously rented. I suspect that most renters are charming, nice people looking to stay in a neighborhood rather than a sterile hotel and maybe save a few bucks.

I think that the issue of short term rentals can be handled in a way that allows for families, on a limited basis, to rent out their homes, and not undermine neighborhood. I would like to maintain the maximum flexibility in deciding what I do with my home and would prefer as little oversight by the City as possible while preserving the character and safety of the neighborhood.

So this is another point of view; I like that we are collectively airing the pros and cons,

Dan Phillips

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This video may convince you NEVER to rent your home to strangers

If you follow my site, you know all about Airbnb and other internet home rental services. They help homeowners rent out their pads to travelers. Everyone knows there are risks, but never in my wildest dreams did I expect to see this. Watch a nightmare walkthrough of the worst trashed house I've ever seen.

[http://videos.komando.com/watch/7860/kims-picks-this-video-may-convince-you-never-to-rent-your-home-to-strangers?utm\\_medium=nl&utm\\_source=tvkim&utm\\_content=2015-05-02-article-screen-shot-1](http://videos.komando.com/watch/7860/kims-picks-this-video-may-convince-you-never-to-rent-your-home-to-strangers?utm_medium=nl&utm_source=tvkim&utm_content=2015-05-02-article-screen-shot-1)

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Dear Mr. Weiler-

At the City Council meeting you stated that people should be able to do whatever they want with their homes.

You will undoubtedly approve of the plan the Gruber, Shalev and Kalamas families have for the 20+ million dollars of real estate we own in Piedmont.

The Gruber home (37 Bellevue) is staying in our family. My husband and I will be taking it over in 2-3 years and have been looking forward to raising our 3 children in the home in which I grew up.

The Bellevue Estate is not a cheap property to maintain and living in that home means we will not be retiring any time soon.

I am Director of Perioperative Medicine at John Muir Health; my husband, Jim, started a healthcare company after spending 16+ years on airplanes traveling as a consultant for McKinsey & Co. We work incredibly hard for every dollar we earn. We can not afford to retire and maintain the property at 37 Bellevue. We have to work. At least I thought I had to work until I heard all of the Piedmont and Oakland residents speak about the wonderful opportunities they have to travel now that they lease out their homes. And then it hit me...

Instead of growing the Division of Perioperative Medicine at JMH or our health care company, my husband and I can lease 37 Bellevue as a wedding venue. After all, my parents have been approached numerous times during the 40 years they have lived in that home asking if the property is available for weddings, corporate events and/or to film commercials.

Since the bride, groom and wedding party will need a place to stay, my sister April (who is the middle of extensive renovations at 74 Sea View) can rent her home to wedding guests. 74 Sea View is a 8,000 square foot home on 2 acres of property in walking

distance to the Bellevue Estate. We can easily make \$100,000/week renting out the 2 properties. Easy money and we can all retire before the age of 50!

In the process, we will of course completely destroy the community, but who cares, right?

After all, you believe people should do whatever they want with their homes.

Mr. Weiler- Piedmont is not Berkeley and I resent the fact that you and the Oakland residents who spoke at the City Council meeting are trying to coerce fellow Council Members to allow people to lease their homes as hotel rooms to unhosted strangers. This will destroy our town.

Second units and long term rentals- "yes"; turning homes into hotels so that people can make a quick buck, "no".

Alicia

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Dear Mr. Tulloch: Regarding short-term rentals, It seems to me that a simple ban is a facile, uncreative and heavy handed approach to the issue. Wouldn't it make sense to see if greater regulation and enforcement might address peoples' concerns before resorting to an outright denial of property rights?

I understand why high density cities like San Francisco are worried that short term rentals may deplete the availability of housing units at a time when demand already outstrips supply and is driving up rents. That, however, would seem not to be a major problem in Piedmont.

My wife and I own a condo in a complex in Incline Village, and several years ago comparable efforts were made there to ban short term rentals, and the same arguments were raised---noise, traffic etc. But the proposed ban was defeated and in the ensuing years, none of the feared problems came to pass in any meaningful way

May I suggest for Piedmont a provisional approval of short term rentals, with appropriate regulations, taxes and enforcement mechanisms. If it happens that the feared problems do come to pass in a significant way, and/or that enforcement of regulations is too burdensome or ineffective, then perhaps a ban would be appropriate.

But let's try the less intrusive path first.

Thanks for your consideration.

Craig Casebeer

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I meant to write a letter but forgot.



Dan and I are very much opposed to any type of AirBnB/VRBO rentals in Piedmont. Piedmont is a residential community with lots of kids. Ours are grown, but a continuous stream of strangers is a threat to kids. Stalkers? Molesters? "Casing" the neighborhood? Just not a path Piedmont should go down.

Best to you all, and thanks for taking care of Piedmont!

Patty White

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To the Members of the Piedmont City Council:

As you analyze and debate short-term online rentals, Neighbors for Overnight Oversight wants to bring to your attention growing concerns with these rentals, both in Piedmont and nationwide. The fact is short-term online rental companies are operating outside of the law and making billions of dollars with little regard for the long-term health and safety of consumers and neighborhoods.

We believe with no oversight, these companies pose a significant threat to our homes, neighborhoods, and communities—as well as the guests who use their services. As a coalition of concerned residents, community leaders, businesses and policymakers committed to protecting neighborhoods nationwide, we believe sensible regulation of this industry is desperately needed.

Furthermore, the unchecked expansion of short-term rentals often has a disastrous impact on communities. Many predatory landlords have seen the growth of regulation-free short-term online rentals as a way to make more money than they would renting out apartments to locals. That has led to some buying up entire properties to lease on the short-term rental market—even evicting long-term residents to make some extra cash. Currently, most jurisdictions have no law in place to stop this kind of unscrupulous behavior.

Right now, short-term online rentals don't abide by basic health and safety regulations such as fire extinguishers, smoke alarms and liability insurance. Without these guarantees, are the people coming in and out of our neighborhoods, and current residents, safe?

Would you want to live next door to what is essentially a revolving door of strangers coming in and out of your neighborhood at any hour of the night? That's certainly not what most people look for in a neighborhood. We believe the unchecked expansion of the short-term rental market will continue to put consumers and neighborhoods at risk via the hands of illegal hoteliers. Like any other industry and any other business, the short-term online rental market needs to play by the rules to protect consumer safety as well as the integrity of communities throughout Piedmont and across the country.

We hope that you consider this issue closely and weigh the negative effects illegal hotels are bringing to neighborhoods across the country. For more information, please visit [www.overnightoversight.com](http://www.overnightoversight.com).

Sincerely,

Neighbors for Overnight Oversight

*For more information, please visit [www.overnightoversight.com](http://www.overnightoversight.com).*

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**Subject:** In loving memory of Cliff, Inge and John (age 5) Thompson

Dear friends and neighbors-

Tonight at 730 pm Piedmont's City Council will discuss the rules and regulations pertaining to short-tern rentals within our town.

Currently the City does not allow residents to rent out a room in their home for < 30 days. Nevertheless, several Piedmont residents ignore this ordinance and rent out rooms in their homes for 1-2 nights through websites such as AirBnB.com and VRBO.com.

I wish to share a piece of Piedmont history with you to put this in context:

In December 1974, 5 year old John Thompson was sodomized and strangled to death on San Carlos Avenue in Piedmont.

John was playing outside of his home on San Carlos when he was lured into a neighbor's garage by Jimmy Fischer.

Jimmy was visiting his mother in Piedmont for the weekend.

Jimmy molested (sodomized) 5 year old John and then strangled him to death. Minutes later, Cliff (John's father) found his young, blue son hanging from the rope that Jimmy used to kill him.

When asked at trail why he murdered 5 year old John, Jimmy Fischer reportedly responded "I wanted to see what it looked like to see someone die".

Needless to say, Cliff and Inge Thompson never recovered from this unspeakable tragedy. They sold their home on San Carlos and spent the next 20 years on Pacific Avenue before retiring in La Jolla (Inge passed away 4 years ago; Cliff passed away last year from complications from Parkinson's disease).

No one should have to endure the pain or suffering evoked by this type of tragedy. While we would all like to believe Piedmont is a very safe, tight-knit community, tragedy can and will strike. There are things we can and must do to minimize our exposure to such heinous acts.

Please come to the Piedmont City Council Meeting this evening and urge its voting members to not only place the strictest limitations on unregulated short term rentals but to also punish those who disobey the current City ordinance.

In loving memory of Cliff, Inge, and John Thompson,

Alicia

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I have sent the following note of support to my Airbnb group:

"I won't attend, but will be following this development. My place is in neighboring Albany, and I wouldn't like to see this ban become a precedent.

I hope the plus side will be presented, as to why this is good for a city.

Plus: income coming in; after all, the guests will be shopping, dining, and spending their money in the city.

Plus: added incentive to upgrading and keeping host property attractive and well-maintained. Plus: the income to hosts is reported and taxed. These units are owned (I am guessing) by individuals who also reside here, income generated does not flow out to some anonymous corporate entity. Fingers crossed for a positive outcome."

Christine

P.S. I am 70 years old, female, retired, and single, so a little extra income helps out a lot. Having a structure in place such as what Airbnb provides means the guests I welcome under my roof have most likely been screened much more efficiently than I could do on my own, and I can choose how often I want to be available and who to accept. Every guest I have had has been quiet, clean, and respectful of my property and our neighbors.

Thank you, Christine

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March 15 2015

Dear Piedmont City Leaders:

I have recently heard that the City of Piedmont is considering prohibiting all types of short term rentals. I have read the Council Agenda Report on the subject of short term rentals that was issued on March 13, 2015. I am upset by the Planning Commission's recommendation that short term rentals be prohibited, and I feel that there are no legitimate reasons for such a blanket prohibition. In her report on Short term rentals, Kate Black stated that "staff has not found any community that has permanently prohibited all short term rentals", and yet in spite of this, the Commission seeks to be the first city in the nation to impose such a blanket prohibition. This would be a regrettable move, completely out of step with the emerging trend of US cities to take up this issue, carefully consider it, and then to pass fair and reasonable regulations on short term rentals.

I read in the report by Kate Black that "this topic has received few comments from Piedmont residents, probably because most residents are unaware that the topic is being discussed at the Council level." I saw the enclosed exhibits including letters from some Piedmont residents opposed to short term rentals. I noted in one letter that one of the Piedmont residents worried that "short term renters could be pedophiles, drug dealers, burglars." I would hope that the City Council would seek input from more Piedmont residents, including those who host short term rentals, as well as those who host short term rentals in neighboring cities, so that the city's decisions can be made not on fears and prejudices, but on the real facts related to short term renting. I would guess that the

complaints you have from 5 Piedmont residents opposed to short term rentals, could easily be eclipsed by the “pro” short term rental point of view of 15 to 20 hosts of the 24 Piedmont properties which are indicated in your report.

I am an Oakland resident and member of Home Sharers of the East Bay, who has in recent years been an Airbnb host with short term renters. My Airbnb guests have been the most wonderful, considerate and lovely people, who treat my house and my neighborhood with the greatest respect. They are researchers or visiting professors of UC Berkeley, or are attending a professional seminar in San Francisco. They are family members visiting their friends or family in the Berkeley or Oakland area who prefer not to impose on their family and ask to stay with them, but also prefer not to stay in a hotel. They are Berkeleyites who are having remodeling done in their home, needing a place to stay a few days while the bathroom floor is torn out and redone. They are body workers attending a class in Breema Technique, or Chi Nei Tsang, or learning hypnotherapy at the Sacred Stream Institute in Berkeley. They are lawyers – one from South America, here to take a seminar in international law at Boalt Law School. They are independent filmmakers --- one coming to produce a PBS nature film. Next week I will have a guest who works with an international organization that helps bring electricity to off-grid regions. Like most Airbnb hosts, particularly those who live in the same home where they invite guests to come and stay, I am very proactive about my own safety and that of my neighborhood, and I screen my guests carefully and do not take just any warm body. Using Airbnb to find short term guests means I have more built-in security than I would if I found short term renters through Craigslist, since Airbnb asks guests to provide their photo, full name, Verified ID, verified Email and phone number, and each guest has an account with reviews from their past hosts, which demonstrates their track record as guests and helps hosts be confident that they will be getting someone who will be respectful to them and their property and neighborhood. Because I live in the home where I have guests, I am more concerned about the quality of these guests than my neighbors would be.

IN addition, I think it is important to note that when a homeowner has guests in his or her home, that house is no longer empty during the property owner’s workday, when he or she is away at work, and thus is less subject to burglary or crime, than the home which burglars can see is predictably empty. Thus, quite in contrast to those who simply irrationally fear that short term renters may be criminals (much as white homeowners in all white areas used to fear and try to prohibit black renters in their neighborhoods, out of a prejudicial fear that the black renters would be criminals), the short term guests may with their presence actually provide more protection to a home, and more “eyes on the street’ to help deter break-ins.

In the Council Agenda Report, the Planning Commission gives as one of its reasons for prohibiting short term rentals, that “most neighbors of short term rental properties find such activity to be very disruptive and intrusive...”. What evidence is there for such a statement? I don’t think this statement is based on any facts. Have there been studies published, summarizing the views that “most” neighbors have of short term rental properties? I have had guests for several years, and have not had a single complaint

from a neighbor about my guests. My neighbors very likely do not even know I have short term renters, and probably hardly ever notice them. In any case, no neighbor has ever spoken to me about my renters. They are quiet, very polite people. They arrive quietly, and their whole demeanor is one of gratitude and respect. They often spend their days at UC Berkeley, or here at my house doing academic work or rejuvenating in the quiet, tranquil environment that I have carefully and lovingly created as a place of respite from the hectic and noisy world “out there”, and one which, because they have full use of a kitchen, and yard, is far more homey and comfortable than a hotel. I would suggest that once you start talking to Airbnb hosts you will find that their story is similar – the vast majority of their neighbors have no issue with them.

Particularly given that Piedmont has no hotels, and that Oakland also has a dearth of hotels, I think it makes a lot of sense to allow short term rentals in Piedmont, so as to be able to accommodate those visiting family members and allowing them to be able to stay nearby, in a quiet residential area, instead of miles away in a noisy commercial district downtown Oakland, or downtown Berkeley or Emeryville. Then too, many Piedmonters like to renovate their homes, and when they do, oftentimes they will have a need to vacate their home and stay someplace else for awhile. Hence, short term renting in Piedmont would be of value to Piedmonters directly, providing them places to stay in their own community while they have work done on their homes.

It is notable that in the 5 complaint letters shown as exhibits in your report, not one of these complaints is based on actual incidents or events. ( I see elsewhere in the report that neighbors reported several short term rental situations, but there is no information about the problems these neighbors had, if any, that led to their reporting of those situation.) Of the 5 complaints, one writer simply states that she is against short term rentals, without giving any rationale. Another states that he is opposed to short term rentals because “short term rentals have a history of...negative things”, but does not mention what those negative things are, or what facts might be found about that long and sordid history supposedly associated with short term rentals. A third writer states that allowing short term rentals would be “ludicrous” but gives no reasons why. A fourth writer, as I noted above, worries that short term renters would be “pedophiles, drug dealers, burglars.” Have Piedmont police noted that a preponderance of the burglars associated with crimes in Piedmont, were actually short term renters in Piedmont? A fifth writer rhetorically asks whether if short term rentals are allowed, she will be able to have parties and weddings at her home, which could potentially destroy a community. Again, this writer is not talking about anything that has actually happened, but rather has fears of what might happen. Since rentals of entire properties are currently allowed under existing Piedmont law, one might think that if someone had wanted to rent out their home for parties and weddings, they might well have already done so. Actually, as a longtime member of Airbnb forums for hosts with many thousands of members, I can say that it is quite the rare host who would allow any sort of party in their home. Parties are actually anathema to hosts – I and many other experienced hosts actively advise other hosts to prohibit parties at their properties, because of the potential for damage to the premises, damage to the furniture, and other problems. I would imagine that Piedmont property owners in particular, who have very beautiful homes, would be very reluctant to allow those

properties to be used for parties, even on a singular occasion, and in 1.5 years of reading literally thousands of posts from hosts on the Airbnb forums, I have never come across a host who regularly rented their home out for parties.

My experience of being an Airbnb host has been overwhelmingly positive. As a single self-employed woman, someone with no pension, I worried for many years that I was not making enough money to ever be able to afford to retire. Now, as an Airbnb host, I am finally able to save money, and thus it is now foreseeable that I will be able to retire at some point. This has been one of the greatest gifts of Airbnb hosting to me personally. As well, I love being able to create unique and colorful, artistic environments, and find guests who appreciate the unique environments I create. I love having people in my home from all over the world – I have put up a world map on the wall in my house, and I put pins into it showing where all my guests are from. I have pins in 33 US states, 3 Canadian provinces, and 23 other countries around the world, showing where my guests have come from. During any given month, I may hear French, German, Italian, Swedish, Mandarin, Cantonese, Korean, Spanish and Hindi spoken in my home, as I overhear a guest phoning home. I really delight in the marvelous cultural diversity that hosting guests brings to me and to my neighborhood and city. I would hope that Piedmonters would be able to have the same opportunity to use their homes in this way. Let Piedmonters have the freedoms to be generous and welcoming to not only their own community and community's family members, but to people from around the world, without those expressions of welcome and generosity being unreasonably curtailed by their local government.

Sincerely,

Alice D. Mikuteit

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Please include the following comment in the March 16 meeting re: short-term rentals.

Dear Piedmont Council:

I'm writing this to you as an AirBnb host who has paid taxes on rental revenues.

In your discussion regarding short-term rental regulations please consider the following:

Purpose of current regulations:

There is neither logic or fairness to the current regulation that allows rentals of entire homes which are unsupervised for fewer than 30 days, while denying hosted rentals similar rights. In a hosted situation someone is there to monitor and supervise while renting an entire house out does not necessarily include these safe guards.

Piedmont is an AirBnB Community:

In discussions with neighbors I found that they are familiar with the service and some have used it for their own travels. What they were most concerned about was transparency.

We have hosted visiting relatives and friends of Piedmont residents who wanted to be close by for weddings and other special events. Hotels that they would have considered were either downtown, Jack London Sq, or the Claremont and not as convenient.

Another Piedmont family did not want their toddler in the house while their floors were being refinished. Staying with us they did not have to alter their morning routine which included getting the boy to his shared nanny-care.

Regulating short term rentals:

The City already has a process for licensing home businesses that can be applied to short-term rentals. To get the license applicant has to inform adjacent neighbors that they will be engaging in the hosting service. This gives the applicant an opportunity to hear concerns and share phone numbers. Also Airbnb has a toll free number that applicant can give neighbors so they can call 24/7 to report concerns.

Licensing brings hosts into the system so they can be regulated and taxed. This also gives the building department information to initiate inspections.

Hosts want to be good neighbors and good citizens of Piedmont. We've proven ourselves as responsible business people as our reviews on AirBNB are very positive.

My experience with the guests has been positive. They have been pleasant and respectful of the neighborhood. Using services such as AirBnB allows to select their guests based on reports from other hosts, avoiding problematic situations.

Short-term rentals vs low income rental spaces:

By regulating and licensing the City can truly assess whether short-term rentals compete for low income housing units. A survey of Piedmont properties on AirBnB shows mostly entire homes or bedroom suites not 2nd units. In order to convert my 790 square foot suite to qualify for as a 2nd unit, considerable costs would be incurred, at least \$15,000. Moreover it would remove the option of having the space available for when my kids, parents, and friends visit. It also changes the legal relationship from host to landlord. The assumption that short-term rentals hinder the obligations of the City to provide low-income rentals are not be factually driven.

Conclusion:

- . Allowing property owners who have entire homes to rent does not promote public safety or support community needs for short-term rentals.
- . Hosting offers a way for empty-nesters to utilize their home more efficiently.
- . Having more activity around the property and more people present creates a more secure situation for home-owners . AirBnB type services provide revenue streams for both hosts and the City in the form of taxes.

Yours truly,  
Jane Klein

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Subject: March 16 Meeting RE: Short Term Rentals

Dear Piedmont Council Members:

I am writing this letter in support of the right of Piedmont homeowners to make portions of their residences available for hosted short term renting. In short, the benefits to the community and the increased tax revenue that hosted short term rentals bring outweigh the purely theoretical concerns that a few isolated individuals have raised regarding such rentals. We believe that that the best solution is one that permits hosted short term rentals but allows the city to regulate such rentals and share in the revenue that flows in from them.

I have had the opportunity to review the March 16, 2015, Council Agenda Report regarding "Consideration of Short Term Rentals." The Report is notable in that it repeatedly recognizes the benefits to the City of short term rentals and downplays the alleged harms, yet it ultimately concludes that hosted short term

rentals should be banned outright. This conclusion is draconian to say the least and is not supported by the contents of the report.

There are numerous points made by the Report that merit further discussion:

As a starting point, on page 4 of the Report, there is a reference to complaints from neighbors regarding short term rentals, but the Report does not refer to any situation in which the Police were required to engage with short term renters. As far as we can tell, the reality is that short term rentals have been available within Piedmont for years and to date there have not been any reported complaints of short term renters violating the law.

Page 4 also contains reference to the hypothetical problem of "guests renting an entire residence for one or two nights and throwing large parties with the resulting parking problems, noise, excess trash, and general disruption." This fear is mirrored in resident Alicia Gruber's concern on page 19 of the Report that ".if the City approve (sic) short term rentals (<30 days) is there anything that would preclude me from renting my house for a night to a fraternity member at UC Berkeley and allow them to have a big party in my home?" Ms. Gruber will probably be shocked to learn that, in fact, there is nothing to prevent her right now from renting out her home to this theoretical unruly Cal fraternity because the law currently permits short term rentals of entire residences (referred to in the report as "un-hosted short term rentals"). This only goes to undermine Ms. Gruber's point; while it is currently perfectly legal to rent a Piedmont residence out for a college bacchanal, no one in Piedmont is actually making their houses available for such parties. Indeed, the Report itself concedes that such events have not been an issue in Piedmont.

However, to the extent that there is a desire to prevent wild parties, then the focus should be on un-hosted short term rentals of entire residences. The hosted short term rentals for which we are advocating - rentals in which the owner merely rents out a portion of their residence to a short-term tenant - necessarily preclude out-of-control parties or inappropriate behavior because the owner of the residence is still residing in the house at the same time as the short-term tenant. Simply put, it is not plausible that allowing for hosted short term rentals will lead to an increase in the dangerous behavior that Ms. Gruber envisions.

Indeed, in my experience the short term renters we have encountered are well-mannered and respectful. People who are looking to "go wild" simply are not coming to Piedmont in the first place. Moreover, the amounts charged for short term rentals really prevent college-age students and other potentially disorderly individuals from obtaining short term rentals in Piedmont. In fact, in my experience, many of the short term renters we have encountered are individuals who are friends or family of other Piedmont residents. These are people visiting specifically to visit Piedmonters or for events that will be held in the community. As Piedmont obviously has no traditional hotels or commercial venues at which people can stay, hosted short term rentals fill the void.

While we are on the topic of the types of people who make use of short term rental options within Piedmont, I feel obligated to respond to Patty White's comment that appears on page 21 of the Report. Ms. White asserts that short term renters may be "pedophiles, drug dealers, burglars." Obviously, everyone wants to live in a safe community and Ms. White's fears are taken to heart. However it is simply not reasonable to assume that every non-Piedmonter is some sort of unsavory character looking to engage in criminal activity within the city limits. It goes without saying that any host of short term renters has an even greater interest in ensuring that their renters are upstanding individuals, as they will literally be inviting this person into their home and can use the Airbnb rating system to reject guests reported as problematic. In my experience, the short term renters we have hosted have uniformly been gracious, cultured, and respectful. Thus, while I respect Ms. White's concerns, I feel they are completely misplaced.

Turning to page 5, the Report astutely points out that "In some instances, the income allows owners on a fixed or low income to stay in their residences. These are typically the hosted type of short term rental." This is an important point that requires further explication. The writer of this letter has lived in Piedmont for over a decade. My daughter graduated from Piedmont High School and we made the decision to remain Piedmont residents despite the fact that we are now empty-nesters without any children in the school system. However, with time, if the people most likely to host short term renters (empty-nesters with extra space in their houses) are prohibited from doing so, some may leave. If this were to happen, the tax balance the City requires would be upended, which could potentially have a serious impact on the services it provides.



Moreover, hosted short term rentals represent potentially a new source of income for the City of Piedmont. As the Report points out, the two residences that have come forward in order to pay taxes have paid nearly \$1,000 to the City. This is income that requires no expenditures by the City in order to earn. Is the City truly in such a comfortable financial situation that it is going to turn down tax dollars that require nothing of it in return? Further, we are completely open to a higher taxation rate for hosted short term rentals if the City deems it appropriate.

On page 8 of the Report it discusses the possible impact that short term rentals may have upon affordable second units within the City. This is comparing apples and oranges. A resident making a portion of their home available for hosted short term renting is not the same person who wishes to make their home permanently open to a third party on a long-term basis. There are times when we have personal guests, or our daughter is visiting, in which they stay in the space that other times we make available for short term renting. If we were forced to permanently make this space available to long-term tenants, we simply we would not rent it out at all, which would not assist the City in its goals regarding affordable second units. Further, it is our understanding that in order to make the short term rental space legally compliant as a long term rental space, we would need to spend about \$15,000 in order to bring it up to code. This deters us from even considering long-term rentals as an option. To be clear, we do sympathize with the City's aspiration to provide more long-term affordable housing. However, as the Report does not delve into what exactly those details of this issue are (i.e., a quota of units or some other hard goal, how far the City is from achieving this goal, and what the City is willing to do in order to achieve this goal) it is not a convincing reason to ban hosted short term rentals.

Our proposal is that residents who desire to make their homes available to short term renters work with the City to come to a solution that works for everyone involved. Literally every "Regulation and Restriction" listed on page 9 of the Report are viable options that could be discussed in greater detail. In particular, we believe a discretionary application as described on page 9, fees, performance standards, safety inspections, as well as a higher tax rate are all options that would serve to benefit all parties.

What does not make sense is to simply ban hosted short term rentals completely. The fears that a few residents seem to have about short term rentals are applicable to un-hosted short term rentals rather than hosted ones. A hosted short term rental is not going to allow for out-of-control parties or criminal activity. Yet under the law as it currently stands, it is un-hosted short term rentals that are permitted. As we have discussed, many of the short term renters we have encountered are friends or family of other Piedmont residents. Thus, hosted short term rentals provide a convenient and safe option for such individuals who specifically wish to visit Piedmont.

The Report recognizes that should the City affirmatively take steps to ban hosted short term rentals, it will be taking an action that literally no other municipality in the United States has taken thus far. Indeed, the Report specifically states that should such a step be taken, "further research" is necessary to see whether it is even a viable option under the law. Is Piedmont prepared to take this step and be subject to the public scrutiny that will naturally stem from such a decision? Is the City also prepared to enter into the uncertain legal morass that will inevitably ensue? It is irresponsible and dangerous to even go down this road. The more reasonable and realistic resolution is one that allows for hosted short term rentals, but makes them subject to greater regulation and taxation while still maintaining Piedmonters' safety and property rights.

Sincerely,

Ed Rosenthal

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Re: Short Term Rentals MTG: 3/18/15

I have seen first hand - and it has been widely reported nationwide - short term rentals ala Airbnb seriously erode/wipe out availability of affordable housing wherever it is permitted to grow and flourish.

If we already have rules against rentals shorter than 30 day in duration than enforce those rules and create serious fines for violators.

I have tried to find affordable rental housing for seniors in Los Angeles as well as SF in the past six months. Both are almost non-existent. A quick look at Craigslist rentals will show the preponderance of rentals are nightly: Airbnb or the like.

This City already is in dire need of affordable housing and does not meet state requirements for same. Why allow rentals that will further eliminate what is available to rent long term? No reason to benefit a few at the expense of the majority. I have not even addressed the other problems that arise from daily rentals. I am concerned about noise, security, etc. I do not want to live in a community whose residents are permitted to flout the existing laws and change the character and safety of a community by so doing.

Nancy Menke

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Very powerful Alicia,  
Thank you.  
Working a 12 hour shift but if I get out of ICU in time will attend!

Sent from my iPhone

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Dear friends and neighbors-  
Tonight at 7:30 pm Piedmont's City Council will discuss the rules and regulations pertaining to short-term rentals within our town. Currently the City does not allow residents to rent out a room in their home for < 30 days. Nevertheless, several Piedmont residents ignore this ordinance and rent out rooms in their homes for 1-2 nights through websites such as AirBnB.com and VRBO.com.

I wish to share a piece of Piedmont history with you to put this in context:

**In December 1974, 5 year old John Thompson was sodomized and strangled to death on San Carlos Avenue in Piedmont.**

John was playing outside of his home on San Carlos when he was lured into a neighbor's garage by Jimmy Fischer.

Jimmy was visiting his mother in Piedmont for the weekend.

Jimmy molested (sodomized) 5 year old John and then strangled him to death. Minutes later, Cliff (John's father) found his young, blue son hanging from the rope that Jimmy used to kill him.

When asked at trial why he murdered 5 year old John, Jimmy Fischer reportedly responded "I wanted to see what it looked like to see someone die".

Needless to say, Cliff and Inge Thompson never recovered from this unspeakable tragedy. They sold their home on San Carlos and spent the next 20 years on Pacific Avenue before retiring in La Jolla (Inge passed away 4 years ago; Cliff passed away last year from complications from Parkinson's disease).

No one should have to endure the pain or suffering evoked by this type of tragedy. While we would all like to believe Piedmont is a very safe, tight-knit community, tragedy can and will strike. There are things we can and must do to minimize our exposure to such heinous acts.

Please come to the Piedmont City Council Meeting this evening and urge its voting members to not only place the strictest limitations on unregulated short term rentals but to also punish those who disobey the current City ordinance.

In loving memory of Cliff, Inge, and John Thompson,

Alicia

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I agree with the commission recommendation that there be No Short Term rentals for any Piedmont property.

Thank you.

William Wexelblatt

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Kate -- Your prompt reply was appreciated. Also, your suggestion to view the Sept. 8 meeting was very helpful in broadening my perspective of the City's concerns. Here are some thoughts that I hope you will consider:

One concern that can be easily addressed is the effort involved in collecting revenue from short-term rentals.. AirBNB would streamline the process and has worked out arrangements with other cities (SF) to collect and pay the tax directly to the city. <http://publicpolicy.airbnb.com/collecting-remitting-taxes-san-francisco/>

As for the important issue of taking housing off the market, more likely an AirBNB rental is a guest suite within a home, not a second unit or occasionally occupied home.

Regarding concerns for safety, hosted homes pose less risk than un-hosted. With a hosted home someone is actually living on site to monitor inappropriate behavior. Hosts who

live alone or with a spouse that frequently travels have safety benefits from the activity of an extra person coming and going or another car in the driveway.

For comments regarding the possibility of "interlopers with nefarious purposes" there is the counter that any construction, delivery, repair or car service (Uber), brings on risk. My experience has involved responsible people, the majority being professionals, who live in similar upscale neighborhoods.

Separate from the short-term rental decision, I am looking forward to learning more about assisting with year-round housing. My assumption has been that is difficult to change a single-family residence into two units. The way our property is laid out we may be able to provide a separate unit.

I'm traveling through the night of October 8th and will contact you when I return. I am available by email at all times.

Yours truly,  
Jane

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Thank you Kate.  
Please feel free to share my email/comments with other interested parties.

Are you able to disclose who brought this agenda item forward (i.e. who is a proponent of using our homes as hotels)?

Also, if the City approve short-term rentals (< 30 days) is there anything that would preclude me from renting my house for a night to a fraternity member at UC Berkeley and allow them to have a big party at my home?

What if my parents wanted to rent their estate at 37 Bellevue out for 1 week at a time? Would they be allowed to rent to individuals who in turn opt to have large wedding ceremonies/receptions at their home?

Many people have expressed interest in getting married on their property and you can imagine how easy it would be for me to list it on Airbnb.com and have it occupied by large groups of strangers year round. My husband and I could quit our day jobs and live off the rental income. What a fantastic way for us to fund my dream home on the Big Island!

**For the record, we would never do this.** I am trying to make the point that such a policy (i.e. short term rentals) is a very slippery slope and has the potential to destroy the community overnight.

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Hi Committee Members!

I've encouraged our CC to address short-term rentals for some time. I feel STRs are very bad for our residential community. Piedmont law currently requires a 30-day minimum rental.

Several Piedmont residents now frequently advertise their homes for very short-term rentals on the sites Kate Black references below.

Though our children are grown, I worry that Short Term Renters could be pedophiles, drug dealers, burglars. I'm not trying to be Henny-Penny, but I truly worry about Piedmont's kids being assessed for future abuse. One-night rentals could be for drug deals or casing neighborhoods.

I urge the members of the PSC to put this on your agenda, discuss the implications for our community, and vote against allowing strangers to rent in our neighborhood for less than thirty days.

Best Regards to you all,  
Patty White

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Kate,

As a long term resident of York Drive, I want to make it very clear how much I am against "short term rentals" in Piedmont. We have a very close-knit street and look out for our neighbors. We all try to be very aware of who comes and who goes.

Short term rentals have a history of all the negative things that we, as residents of Piedmont, have tried to avoid by paying the very high taxes that we endure.

Our property values will come down, with "short term rentals" and bring a great unease in our otherwise current healthy area.

Respectfully,

Gail L. Ramsey

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I agree with what Patty white has said about short term rental and am also strongly opposed to them.  
Annis Kukulan

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Thanks, Kate. I feel strongly that we need to remain a single-family, residential community.

Patty

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