**ORDINANCE 2009 - 06**

**AN ORDINANCE ESTABLISHING THE TEMPORARY ZONING PROVISIONS OF THE PIEDMONT MUNICIPAL CODE PURSUANT TO SDCL 11-4-3.1**

**BE IT ORDAINED BY THE CITY OF PIEDMONT THERE IS HEREBY ADOPTED**

**THE FOLLOWING ORDINANCE**

TITLE 17 – TEMPORARY PLANNING AND ZONING ORDINANCES

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**SECTION 17.01. DEFINITIONS.**

**GENERALLY--CONSTRUCTION OF TERMS**. For the purpose of this title and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm, partnership or corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "building" includes the word "structure"; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

The following words, terms and phrases are defined and shall be interpreted as such throughout this title. Terms not herein defined shall have the meaning customarily assigned to them.

A. **ABUT**. "Abut" means to share any portion of a lot line, including a single point.

B. **ACCESSORY BUILDING**. "Accessory building" means a subordinate building, the use of which is incidental to that of a principal building or buildings located on the same lot therewith. Radio and television antennae towers, and permanent satellite dish antennas and the appurtenant mounting apparatus, excluding guy anchor points, shall be considered an accessory building for the purpose of determining setback requirements established in each zoning district.

C. **ADJACENT**. "Adjacent" means parcels with no private lots between them (can be shared by public R.O.W. (Right of Way)).

D. **ADJOIN**. "Adjoin" means to share any portion of a lot line, including a single point.

E. **ADVERTISING**. "Advertising" includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures, or on a building, structure, milestone, signboard, billboard, wallboard, roof board, frame, support, fence, or other manmade structure, and any such advertising is a structure within the meaning of the word "structure" as used in this title.

F. **ALLEY**. "Alley" means a minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street.

G. **ALTERATIONS**. "Alterations," as applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

H. **APARTMENT HOUSE**. See Dwelling, multiple.

I. **AREA, BUILDING**. The square footage of the footprint of the principal building and all accessory buildings exclusive of non-enclosed porches, terraces, steps and decks.

J. **BASEMENT**. A story having at least one-half of its height below the average level of the adjoining ground. A basement shall be counted as one-half story. (See Story).

K. **BED AND BREAKFAST**. A residence offering overnight lodging and a morning meal, with not more than four guest sleeping rooms for not more than eight persons. A bed and breakfast in a residential zone shall be regulated as a home occupation.

L. **BILLBOARD**. See Sign.

M. **BOARD**. "Board" means the Planning & Zoning Board for the city of Piedmont, South Dakota.

N. **BUILDING**. "Building" means any enclosed structure intended for shelter, housing or enclosure of persons, animals or chattels.

O. **BUILDING, MAIN OR PRINCIPAL**. "Main or principal building" means a building or buildings in which is conducted the principal use or uses of the lot. In any commercial or industrial district more than one principal building for an industrial or commercial use may be permitted on a single lot provided setback, yard and lot coverage requirements are met. In any residential district any single-family, two-family or multiple dwelling shall be deemed to be the sole principal building on the lot on which it is situated.

P. **BUILDING OFFICIAL**. The official responsible for the administration and enforcement of the various codes regulating construction, use or occupancy of buildings and structures, public or private.

Q. **BUILDING SETBACK LINE**. "Building setback line" means a line delineating the minimum allowable distance between the street right-of-way and the front of a structure, within which no building or other structure shall be placed unless otherwise permitted under this section. The building setback line is parallel to or concentric with the street right-of-way.

R. **BUSINESS SERVICES**. "Business services" means any activities which render service primarily to other commercial and industrial enterprises, or which service and repair appliances and machines used in a home or business.

S. **CLUB, PRIVATE**. "Private club" means an organization catering exclusively to members and their guests, or premises and buildings for recreational, fraternal or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club, organized formerly by either incorporation or association of a national or state organization.

T. **COVERAGE**. "Coverage" means the lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

U. **DISTRICT**. "District" means any section or sections of the city of Piedmont for which the regulations governing use of the land and use, density, bulk, height and coverage of buildings and other structures are uniform.

V. **DWELLING**. "Dwelling" means a building or portion thereof.

W. **DWELLING, MULTIPLE**. "Multiple dwelling" means a detached building designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort-type hotels.

X. **DWELLING, SINGLE-FAMILY**. “Single-family dwelling" means a detached building designed to be occupied exclusively by one family.

Y. **DWELLING, TOWNHOUSE**. "Townhouse dwelling" means one of a group of two or more attached single-family dwelling units built on one or more common lot lines. Two one-hour walls are required at the common lot line, one on each side of the common lot line. There shall be no overlapping of townhouse structures with the exception of roof overhangs. Each townhouse shall be located on an individually platted lot which may contain open space in addition to the area upon which the dwelling is constructed. The owner of the townhouse may also participate in the ownership of common property within a townhouse development.

Z. **DWELLING, TWO-FAMILY**. "Two-family dwelling" means a detached building designed to be occupied by two families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort-type hotels.

AA. **DWELLING UNIT**. “Dwelling unit” means one or more rooms, designed, occupied or intended for
occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

AB. **FAMILY**. "Family" means one or more persons related by blood, marriage or adoption, or a group not to exceed five persons (excluding servants) none of whom are related by blood or marriage, occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family.

AC. **FLOOR AREA**. "Floor area" means the sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

AD. **GARAGE, REPAIR**. "Repair garage" means a building in which are provided facilities for the care, servicing, repair, or equipping of motor vehicles.

AE. **GARDEN CENTERS**. A "garden center" means a retail and/or wholesale establishment consisting of one or more of the following uses: greenhouses, tree or plant nurseries, and landscaping sales and service.

AF. **GASOLINE SERVICE OR FILLING STATION**. "Gasoline service or filling station" means any area of land, including structures thereon, that is used for the retail sale of gasoline, butane or propane, or oil fuels, or other automobile accessories and for servicing motor vehicles, but not including painting.

AG. **HEIGHT**. As related to Zoning District height regulations, the vertical distance measured from the average ground elevation of the proposed finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

AH. **HOME OCCUPATION**. "Home occupation" means any activity conducted for financial gain by the occupants of any dwelling unit which is located within a residential zoned district.

AI. **HOTEL/MOTEL**. "Hotel/Motel" means a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than twelve sleeping rooms with or without provision made for cooking in any individual room or apartment.

AJ. **LEGAL NONCONFORMING USE**. "Legal nonconforming use" means a building, structure or use of land existing at the time of enactment of this title not legally conforming to the regulations of the district in which it is situated.

AK. **LOT.** A platted parcel of land which is or may be occupied by a building and its accessory buildings.

AL. **LOT, AREA**. "Lot area" means the total horizontal area included within lot lines.

AM. **LOT WIDTH**. "Lot width" means the width of a lot at the building setback line measured at right angles to its depth.

AN. **MANUFACTURED HOME**. A portable dwelling unit, designed and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be connected to utilities for year-round occupancy.  The term shall include:
(1) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity: and,
(2) Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing.  The term shall include units designed to be used for residential, commercial, educational or industrial purposes excluding, however, recreational vehicles and travel trailers.

AO. **MANUFACTURED HOME PARK.** A parcel of land, of not less than ten acres, whereupon manufactured homes are placed.

AP. **MANUFACTURED HOME SPACE**. A defined plot of ground or lot within a manufactured home park which is designed for and designated as the location for two (2) automobiles and one (1) manufactured home, and not used for any other purposes whatsoever other than customary accessory uses.

AQ. **MINIMUM FLOOR ELEVATION**. "Minimum floor elevation" means the lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

  AR. **MODULAR HOME**. “Modular home” consists of finished units composed of two (2) or more components designed to be joined into one integral unit not capable of being separated into its components for moving and towing; designed to be placed on a permanent foundation with or without a basement. To be classed as a modular home, the completed unit must meet with the specifications of the following:

1. (I.B.C.) International Building Code, as adopted.
2. National Electric Code, as adopted.
3. National Standards Plumbing Code, as adopted.
4. Uniform Mechanical Code, as adopted.

AS. **NONCONFORMING USE**. A structure or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

AT. **OPEN SPACE**. “Open space” means the total area of all land on a lot not covered by structures or parking lots.

AU. **PARKING LOT**. "Parking lot" means an off-street facility including parking spaces along with adequate provision for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for the parking of more than six automobiles.

AV. **PLANNING AND ZONING BOARD**. The City of Piedmont Planning & Zoning Board.

AW. **PLAT.** "Plat" means a map, plan or layout indicating the location and boundaries of individual properties drawn in compliance to state requirements.

AX. **SIGN**. “Sign” means any structure, or part thereof, or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant or insignia of any nation, state, city or other political unit.

Types of signs are defined in the following categories:

1. "Advertising sign" means a sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises if at all.
2. "Billboard" means a type of advertising sign having more than one hundred square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.
3. "Business sign" means a sign which directs attention to the business or profession conducted on the premises. A "for sale," "to let" or "information" sign shall be deemed a business sign.

AY. **STORY**. “Story” means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. (Per International Building Code as adopted)

AZ. **STREET**. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

BA. **STREET LINE**. "Street line" means the legal line between street right-of-way and abutting property.

BB. **STRUCTURE.** "Structure" means a combination of materials to form a construction that is safe and stable and includes, but is not limited to, the following: stadiums, platforms, radio and television antennae towers, permanent satellite dish antennae and the appurtenant mounting apparatus, sheds, storage bins, fences, and display signs.

BC. **USE**. "Use" means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

BD. **USE PERMITTED ON REVIEW (UPR)**. “Use permitted on review” means the permitting of a use of land and/or structures not otherwise permitted by right in the zoning district. An approved Use Permitted on Review may be revoked by the Board of Trustees for cause. When ownership of the property on which a use has been permitted changes, the new owner shall register with the Planning & Zoning Board. If no substantial change in the permitted use or substantial alteration of the structure occurs, a new permit shall not be required.

BE. **VARIANCE**. “Variance” means an officially approved exception to the strict interpretation of Zoning Ordinance requirements and regulations as set forth.  An approved variance is a vested property right that runs with the land.

BF. **YARD.** "Yard" means an open space between a building and the lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this title, that building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

BG. **ZONING DISTRICT**. See District.

**17.02 AUTHORITY AND JURISDICTION.**

These regulations shall be known and may be cited as “The 2009 Temporary Zoning Ordinances of the City of Piedmont, South Dakota.”

**17.03 PURPOSE.**

It is the purpose of this zoning ordinance to protect the safety, health, convenience, aesthetics and general welfare in the City of Piedmont, South Dakota.

**17.04 JURISDICTION.**

These regulations shall apply to all lands within the corporate boundary of the City of Piedmont; as from time to time may be amended.

**17.05 ZONING DISTRICTS AND MAPS.**

A. For the purpose of protecting the public health, safety, morals, convenience and the general welfare of the community, City of Piedmont is divided into districts with each type being of such number, shape, kind and area, and such common unity of purpose, and adaptability of use that are deemed most suitable to carry out the purpose of this title.
The types of districts are as follows: The City of Piedmont is hereby divided into districts of two different types:

1. C – Commercial;
2. R – Residential.

B. Zoning Map. The location and boundaries of the zoning districts established by this ordinance are illustrated by the map entitled “Zoning Map of Piedmont, South Dakota,” adopted, and from time to time amended together with this ordinance. The Zoning Map is hereby incorporated into this ordinance as is fully set forth.

C. Rules for interpretation of district boundaries. Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways or alleys shall be construed to follow the centerlines of such streets, highways or alleys.
2. For boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be the boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses and the boundaries shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.
5. Boundaries shown as following or closely following the limits of the city shall be construed as following such limits.
6. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts; the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Trustees.
7. Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

D. Scope of Regulations. The regulations applying to each district include specific limitation on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimension, and area of lot that can be covered by structures.

E. Residential District. General Description. This district is intended to be used for residential development. Additional permitted uses, by review of the Board of Trustees, include related noncommercial, recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area.

F. Uses Permitted. Property and buildings in a Residential District shall be used only for the following purposes:

1. Detached site-built or modular single-family dwellings.
2. Mobile Homes
3. Transportation and utility easements, alleys and rights-of-way.
4. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.
5. Signs as regulated by Code of Ordinances, City of Piedmont.
6. Gardening
7. Accessory uses of pole type construction may be allowed providing the exterior is aesthetically similar in texture and appearance to the exterior of the dwelling.
8. Townhouse/condominium.
9. Multiple Family Dwelling Units.
10. Places of Worship.
11. Bed and Breakfasts.

G. Uses Permitted on Review (UPR). Other compatible uses may be permitted by the Board of Trustees in accordance with the procedure and standards.

H. Area Regulations. All setbacks shall be measured from the owner’s property line.

1. Front setback:
	1. All structures: (25) feet for single, two-family and multiple-family dwellings not exceeding 2 ½ stories or (35) feet.
	2. (35) feet for multiple-family dwellings more than 2 ½ stories;
	3. Unattached buildings of accessory use – (25) feet.
	4. Places or worship and their accessory buildings – (35) feet.
2. Side Setback:
	1. Single and two-family residential dwellings – (8) feet.
	2. Multi-family dwellings – (12) feet.
	3. For each additional story above two stories – (1) foot additional side setback.
	4. Unattached buildings of accessory use – (8) feet.
	5. Places of worship and their accessory buildings – (35) feet.
3. Rear setback:
	1. Primary uses of two stories in height and less – (25) feet.
	2. Primary uses of three stories and more in height – (30) feet.
4. Lot width:
	1. There shall be a minimum lot width of (65) feet at the front building line, except for townhouses and multi-family dwellings.
	2. There shall be a minimum lot width of (75) feet at the front building line for all dwellings except townhouses.
5. Minimum lot size:
	1. (7,000) square feet for single and two-family dwellings.
	2. (8,000) square feet for all other dwellings except for townhouses.
	3. (30,000) square feet for places of worship and their accessory buildings.
	4. Maximum lot coverage: (30) percent.

I. Height Regulations.

1. Dwellings shall not exceed 2 ½ stories or (35) feet;
2. Accessory structures shall not exceed (15) feet.
3. Multi-family residences: Maximum – 5 stories or (60) feet, maximum (15) feet for unattached accessory buildings.

Exceptions to the height restriction for accessory uses may be granted by the Piedmont Planning & Zoning Board due to architectural considerations.

J. Off-Street Parking and Loading Requirements. As regulated by Code of Ordinances, City of Piedmont.

K. Landscape Requirements. As regulated by the Code of Ordinances, City of Piedmont.

L. Commercial District. General Description. The Piedmont commercial district is for personal and business services and the general retail business of the City.

M. Uses Permitted. The following uses shall be permitted in the Commercial District.

1. Retail establishments, including incidental manufacturing of goods for sale at wholesale or retail on the premises.
2. Eating and drinking establishments.
3. Service and repair establishments.
4. Personal service establishments.
5. Hotel, motel, rooming and boarding house, bed and breakfast.
6. Entertainment services.
7. Parking lots and garages.
8. Gasoline, diesel, propane and CNG service stations.
9. Building material sales, garden centers, greenhouses and nurseries.
10. New and used car and truck sales.
11. New and used farm implements and machinery.
12. Truck and trailer rental and sales.
13. Motorcycle sales, repair and services.
14. Sales of prefabricated homes.
15. Auction houses.
16. Manufactured home sales and services.
17. Taxidermist.
18. Offices.
19. Financial institutions.
20. Private clubs and lodges.
21. Wholesale distributing companies, all commodities except live animals, explosives and junk;
22. Assembling and packaging, freight handling, light manufacturing, storage and warehousing and similar operations;
23. Factory outlet stores for retail sale and showrooms for the display of goods manufactured on site;
24. Service, research and development establishments.
25. Newspaper and printing firms.
26. Small animal veterinary clinics, subject to the following requirements:
	1. Outdoor runs shall maintain a minimum setback of (40) feet from all property lines, and (100) feet from all residential uses;
	2. The clinic facility shall be constructed and operated in such a manner as to minimize the transmission of sound to neighboring properties;
	3. Fenced outdoor runs and exercise areas shall be used only during normal business hours, and shall be screened to a height of (8) feet.
27. A conversion of existing structures to apartments, subject to requirements and regulations.
28. Places of worship.
29. Single and two-family dwellings, townhouses, new multi-family construction.
30. Signs conforming to the standards and requirements.
31. Group Care Homes/Assisted Living Facility.
32. Signs conforming to the standards and requirements as regulated by the Code of Ordinances, City of Piedmont.
33. Open storage uses which shall comply with the following requirements:
	1. All open storage and display of merchandise, material and equipment shall be screened by a solid fence.
	2. (7) feet high at the side and rear of the lot which abuts any residential district.
	3. Driveways used for ingress and egress shall not exceed (40) feet in width, exclusive of curb returns.
	4. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lightly which shall not interfere with adjacent land uses or the use of adjacent streets.

N. Uses Permitted on Review (UPR). Other compatible uses may be permitted by the Board of Trustees in accordance with the procedure and standards.

O. Area Regulations. The following requirements shall apply to all uses permitted in this District.

1. Front setback: (25) feet;
2. Side setback: (5) feet.
3. Rear setback: (10) feet; and where serviced from the rear, (30) feet.
4. Lot width: (75) feet at the front building line.
5. Minimum lot size: (5000) square feet.
6. Lot coverage: No maximum percentage of lot coverage.

P. Height Regulations. Maximum (5) stories, or (60) feet.

Q. Minimum Off-Street Parking and Loading Requirements. As regulated by Code of Ordinances, City of Piedmont.

R. Landscape Requirements. As regulated by Code of Ordinances, City of Piedmont.

S. General Provisions. A nonconforming use of a building and land at the time of the adoption of this ordinance is deemed to be “grandfathered” and may be continued although the use does not conform with the district regulations. Such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made.

T. Continued Use. Whenever a district is changed, any existing nonconforming use in the changed district may be continued, provided all other regulations governing the use are complied with;

1. A nonconforming use, if converted to a conforming use, shall not be changed back to a nonconforming use;
2. Where a building or signs located in a district restricted against its use has been wholly or partially destroyed by fire or other calamity, a permit shall be granted for its reconstruction within a period not to exceed (12) months from the date of its destruction
3. Where a nonconforming use has existed and it is not exercised or continued for a period of (180) days, the use shall cease to exist. Thereafter, uses shall conform to the district in which such premises or building is located.
4. Where a nonconforming use exists, it cannot change to another conforming use of different quality and characteristics unless the use is more compatible with the characteristics of the neighborhood in which it is located.  Where a nonconforming use has changed to a more compatible use, it shall not be changed back to a lesser compatible use.

**17.06. ADMINISTRATION AND ENFORCEMENT.**

A. Organization*.*

ADMINISTRATIVE OFFICER: The provisions of this Ordinance shall be administered by the Chairman of the Planning & Zoning Board, who shall:

1. Maintain and keep current zoning maps and records of amendments, variances and uses permitted on review.
2. Conduct inspections as prescribed by this Ordinance;
3. Interpret the provisions of this ordinance.

PIEDMONT BOARD OF TRUSTEES: The Piedmont Board of Trustees shall:

1. Establish rules of procedure that are necessary to the performance of its functions under this ordinance.
2. Review and decide all applications and amendments, uses on review and variances brought forth by the public in accordance with this Article.

PIEDMONT PLANNING & ZONING BOARD: The Piedmont Planning & Zoning Board shall:

1. Establish rules of procedure that are necessary to the performance of its function under this ordinance.
2. Review and make recommendation to the Board of Trustees on all applications brought forth by the public in accordance with this Article, or as required by state statutes not specifically identified herein.

B. Variances. General. The purpose of the variance is to modify the strict application of the specific requirements set out in each zoning district in conditions where such strict application would result in practical difficulty or unnecessary hardship depriving an owner of the reasonable use of his land.  The variance shall be used only where necessary to overcome some condition which prevents an owner from using his lot as the Zoning Ordinance intended.

C. Application Procedure. A property owner may apply to the Board of Trustees for a variance, using forms available from the Planning & Zoning Board.

1. Fees shall accompany the application.
2. The applicant shall, by certified mail, notify adjoining property owners as to the nature of the variance request and the time and date of the Planning & Zoning Board meeting at which the request will be considered.
3. The Planning & Zoning Board shall forward its recommendation to the Board of Trustees, fully setting forth its findings, and set the date of the Board of Trustees’ public hearing.
4. Legal notice shall be published of the date, time and place of the public hearing (10) days prior to the hearing.
5. The Board of Trustees shall issue its decision within (30) days of the hearing, except that the applicant may request a continuance.

D. Criteria for Variances.

1. Variances shall be granted only where special circumstances or conditions exist.
2. Variances shall not be granted to allow a use specifically excluded from the district in which requested.
3. For reasons fully set forth in the findings of the Piedmont Board of Trustees, the circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his or her property. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of property.

E. Requirements for the Granting of a Variance. Before the Piedmont Board of Trustees shall have the authority to grant a variance, it shall receive the recommendation of the Planning & Zoning Board. The person claiming the variance has the burden of showing:

1. The variance granted shall be the minimum adjustment necessary for the reasonable use of the land.
2. The granting of the variance must be in harmony with the general purposes and intent of this ordinance and must not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Comprehensive Plan of the City of Piedmont, as adopted.
3. That the granting of the variance will not be contrary to the public interest.
4. That by granting the variance to the provisions of the Piedmont Zoning
Ordinance, the spirit of the Ordinance will nonetheless be observed.
5. That by granting the variance, substantial justice will be done.

In the event the request for a variance is denied by the Board of Trustees, re-application shall not be permitted for a period of one year, unless the Planning & Zoning Board determines that the request has substantially changed.

F. Court Review of Board. Any person, firm or corporation aggrieved by any decision of the Piedmont Board of Trustees may appeal the decision to circuit court.

G. Authorizing Uses Permitted on Review. GENERAL: The City of Piedmont recognizes that diversity and the blending of compatible uses is essential to a healthy and dynamic community. Toward that end, the following procedure is established to properly integrate Uses Permitted Upon Review with permitted uses in the district.

H. Application Procedure: A property owner or a designated representative may apply to the Board of Trustees for a Use Permitted on Review, using forms available from the Planning & Zoning Board. If the request is by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application fees.

1. The applicant shall, by certified mail, notify all property owners within (500) feet, exclusive of rights-of-way, of the nature of the request and the date, place and time of the public hearing of the Planning & Zoning Board.
2. The Planning & Zoning Board shall hold its public hearing, having given (10) days notice of the date, place and time of the hearing in the City’s designated legal newspaper
3. Requirements for submission – An applicant shall submit a preliminary development/redevelopment plan to the Planning & Zoning Board. The plan shall include, but not be limited to:
a. The location and legal description of the property;
b. Position, size and use of all structures, improvements and facilities to be constructed/reconstructed;
c. Location of all points of ingress and egress and internal traffic circulation pattern;
d. If applicable, landscape, lighting and drainage plan;
e. Parking plan
f. Such other architectural and engineering data as may be required by the Planning & Zoning Board.
4. In consideration of a request for a Use Permitted on Review, the Planning & Zoning Board may take into account factors including, but not limited to:
a. Conformance with the goals and policies of the Comprehensive Plan;
b. Compatibility with existing and potential permitted uses in proximity to the proposed use;
c. Public safety issues relating to projected traffic generated by the proposed use;
d. Community benefit of the proposed use;
e. Aesthetic considerations related to the scope and size of the proposed use; and,
f. Adequacy of public services for the proposed use.
5. The Planning & Zoning Board shall forward its recommendation to the Board of Trustees, fully setting forth its findings and conditions, if any, for approval.
6. The Board of Trustees shall issue its decision within (30) days; except that the applicant may request a continuance.

I. Restrictions. The Piedmont Board of Trustees may impose such conditions regarding the location, character, or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of this Ordinance.

A use approved under this section may be revoked by the Board of Trustees for cause. The city shall provide notice of the date, place and time of the public hearing for the revocation by certified mail sent to the owner of the use/property considered for revocation and to all property owners within (500) feet, exclusive of rights-of-way.

Upon receipt of a valid written complaint filed by a person directly affected, the Planning & Zoning Board may request a formal review of the approved use by the Board of Trustees.

J. Denial of Request. In the event the request for a use on review is denied by the Board of Trustees, re-application shall not be permitted for a period of one year, unless the Planning & Zoning Board determines that the request has substantially changed.

**SECTION 17.07. AMENDMENTS.**

This Ordinance may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following standards and procedures:

A. Standards for Amendments. A proposed amendment shall be considered on its own merits using the following criteria as a guide.

1. Text or Map Amendments. Proposed amendments shall:
a. be necessary because of substantially changed or changing conditions of the area and district affected, or in the Ordinance generally.
b. be consistent with the intent and purposes of the Ordinance.
c. not directly or indirectly adversely affect any other part of the Ordinance.
d. be consistent with and not in conflict with the Piedmont Comprehensive Plan.
e. Errors or oversights as may be found in the Ordinance as originally adopted shall be corrected under the normal amendment procedure.

B. Text Amendment Request. Text amendment requests shall be filed with the Planning & Zoning Board. Requests may be initiated by the Planning & Zoning Board or Board of Trustees.

1. General: The proposed amendment shall be presented at a regularly scheduled meeting of the Planning & Zoning Board, at which time the Board of Trustees may initiate a study of the amendment. If no study is deemed necessary, a public hearing shall be set.
2. Hearing by the Planning & Zoning Board: The Planning & Zoning Board shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Planning & Zoning Board shall forward its recommendation to the Board of Trustees.
3. Hearing by Board of Trustees: The Board of Trustees shall publish twice for two successive weeks,  notice of a final public hearing on the amendment. After taking into account all pertinent information and the recommendation of the Planning & Zoning Board, the Board of Trustees shall make a final determination within thirty (30) days from the date of the hearing.

C. Rezoning Request. An application for a rezoning shall be filed with the Planning & Zoning Board. Rezoning requests may be initiated by either the property owner or a designated representative, or by an appropriate governmental agency. If by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application.

1. The applicant shall appear before the Planning & Zoning Board to present the application, at which time the Planning & Zoning Board may initiate a study of the request. If in the opinion of the Planning & Zoning Board a study is not required, a public hearing shall be set.
2. Notification procedure: The applicant shall notify by certified letter, at least ten (10) days in advance of the public hearing, the owners of equity of all property in the City limits within (500) feet, exclusive of streets and alleys, from any part of the property subject to the rezoning, of the date, place and time of the public hearing.  Such notification shall fully set forth a description of the development plan for the property, if any, in the event the rezoning request is approved.
3. Hearing by the Planning & Zoning Board: The Planning & Zoning Board shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Planning & Zoning Board shall forward its recommendation to the Board of Trustees.
4. Hearing by Board of Trustees: The Board of Trustees shall publish twice for two successive weeks notice of a final public hearing on the application. After taking into account all pertinent information and the recommendation of the Planning & Zoning Board, the Board of Trustees shall make a final determination within thirty (30) days of the date of the hearing.

D. Concurrent Annexation/Zoning Designation Request. The boundaries of the corporate limits of the City of Piedmont may be amended from time to time, upon a concurrent annexation/zoning designation request by either a property owner or a designated representative. If by a designated representative, the designation must be in writing, signed by the property owner and filed with the application request. The applicant shall comply with the following procedures:

1. Application. The applicant shall present a concurrent annexation/zoning designation application request with the required fee to the Planning & Zoning Board.
2. Optional Planning & Zoning Board Review: If determined appropriate by the Planning & Zoning Board, the applicant shall appear before the Planning & Zoning Board to present the application, at which time the Planning & Zoning Board may initiate a study of the request which may include, but not be limited to, the compatibility of the proposed development and zoning designation to: surrounding land use and zoning, topography, access, and the availability of municipal services. If in the opinion of the Planning & Zoning Board a study is not required, a public hearing shall be set.
3. Public Hearing by the Planning & Zoning Board: The Planning & Zoning Board shall publish legal notice not less than ten (10) days prior to the public hearing. Prior to the public hearing, the applicant shall provide documentation that property owners in the City limits within 500 feet have been notified by certified mail of the date, place and time of the hearing. At the close of the public hearing, the Planning & Zoning Board shall forward its recommendation to the Board of Trustees.
4. Board of Trustees Review: If Planning & Zoning Board review of the request is not required by the Planning & Zoning Board, the request shall be presented to the Board of Trustees.
5. Hearing by Board of Trustees. The Board of Trustees shall publish twice for two successive weeks notice of a final public hearing on the application. After taking into account all pertinent information and if applicable, the recommendation of the Planning & Zoning Board, the Board of Trustees shall make a final determination within thirty (30) days of the date of the hearing.

**SECTION 17.08. APPEALS.**

Within thirty (30) days of the Planning & Zoning Board’s decision, a person may appeal, in writing, to the Board of Trustees. The appeal shall be accompanied by fees. Upon receipt of an appeal and fee, the Board of Trustees shall consider and decide within thirty (30) days.

**SECTION 17.09. FEES.**

A. Fees for all permits, fees required for filing of appeals, and fees for applications for amendments to this Zoning Ordinance are established as follows:

1. Appeals $ 500.00;
2. Re-zoning $ 300.00;
3. Concurrent Annexation/De-Annexation/Zoning Request $ 500.00

B. Uses on Review.

1. Home Occupation $ 100.00;
2. Primary Use $300.00;
3. Redevelopment and Infill Project Review $ 300.00;
4. Variances $300.00; and
5. Development Review District Permit $300.00.

C. Subdivision Plat Fees. Fees for the submittal or application for a subdivision plat shall be based on the Density level of the smallest lot. At no time shall a plat be brought before the Piedmont Board of Trustees without proper fees being collected.  All plat fees shall be set at fifty-dollars ($50) per each platted lot. The City of Piedmont reserves the right to set the minimum plat fee as follows:

1. Residential $1,000; and
2. Commercial $1000.

Plat fee does not include any recording fees.

The governing board may review plat fees periodically and adjust them by resolution.  Due to unusual or unique circumstances, the foregoing fees may be adjusted at the discretion of the Planning Board.

D. Pending Ordinance Rule. An applicant may be denied a permit, plat, re-plat, rezone, variance, use on review permit, or other use of property for a use allowed by this ordinance if, at the time of application, an amendment is pending, which if adopted, would proscribe the proposed use.

**SECTION 17.10. COMPLAINTS REGARDING VIOLATIONS.**

Any person directly affected may file a written complaint alleging a violation of this ordinance. The complaint shall state the basis for the violation, how the complainant is affected, and be filed with the Planning & Zoning Board, who shall timely investigate and take appropriate action as provided by this Ordinance.

**SECTION 17.11. TITLE X. PENALTIES.**

Unless another penalty is expressly provided, every person convicted of a violation of any provision of this ordinance, rule or regulation, adopted or issued in pursuance thereof, shall be punished by a fine of not more than $200.00. Each violation and each day upon which any violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section herein, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty described above, the City may pursue other remedies, including but not limited to, abatement of nuisances, injunctive relief and revocation of licenses or permits. The owner or owners of real estate within the district affected by the regulation of this ordinance may also pursue such remedies by filing a complaint through the Planning and Zoning Board.

**SECTION 17.12. VALIDITY.**

Should any section, clause or provision of this ordinance be declared by the Court to be unconstitutional or invalid, such shall not affect the validity of the ordinance as a whole or any other part, other than the part judged invalid.

**SECTION 17.13. MINIMUM REQUIREMENTS.**

In the interpretation and application of the provisions of this ordinance, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, convenience, safety, and the general welfare in the City of Piedmont.

**SECTION 17.14. CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS**

Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations, or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction.  Restrictive covenants may be taken into consideration by the City in the issuance of building permits. As a rule of law, the City may not enforce covenants.

**SECTION 17.15. REFERENCE TO REVISED ORDINANCE.**

Additions or amendments to the 2009 Zoning Ordinance of the City of Piedmont when passed in the form as to indicate the intention of the Board of Trustees to make the same a part of the 2009 Zoning Ordinance shall be deemed to be incorporated in the 2009 Zoning Ordinance so that reference to the 2009 Zoning Ordinance includes the additions and amendments.

**SECTION 17.16. FUTURE AMENDMENTS.**

Ordinances adopted after [INSERT DATE] that amend or refer to ordinances that have been codified in the 2009 Zoning Ordinance shall be construed as if they amend or refer to like provisions of the 2009 Zoning Ordinance.

  Dated this 1st day of December , 2009.

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 Philip C. Anderson, Chairman Piedmont Board of Trustees

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

City of Piedmont Finance Officer

(SEAL)

First Reading Nov. 17, 2009

 Second Reading Dec. 1, 2009

 Published Dec. 16, 2009

 Effective Jan. 5, 2010