

Chapter 12  
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1 For state law as to concealed weapons generally, see Pen. C. §§12000 to 12078.

SEC. 12.1 AUCTION PROHIBITED ON SUNDAY OR LEGAL HOLIDAY

No auction shall be held or conducted nor shall any item be offered for display in the City on Sunday or any day designated as a legal holiday in the state. (Ord. No. 12 N.S., 5/34)

SEC. 12.2 CURFEW-MINOR UNDER EIGHTEEN NOT PERMITTED IN PUBLIC PLACES AFTER 10:00 P.M.; EXCEPTION

Every person under the age of eighteen years who loiters in or about any public street or other public place or any place open to the public in the City, between the hours of 10:00 p.m. and the time of sunrise of the following day, when not accompanied by his parent, guardian or other adult person having the legal care, custody or control of such person or spouse of such person over twenty-one years of age, is guilty of a misdemeanor. (Ord. No. 167 N.S., 6/54)

SEC. 12.3 SAME-LIABILITY OF PARENT OR GUARDIAN

Every parent, guardian or other person having the legal care, custody or control of any person under the age of eighteen years who permits such person to violate any provision of the preceding section is guilty of a misdemeanor. (Ord. No. 167 N.S., 6/54)

12.3.1 Disorderly Assemblies or Congregations. It shall be unlawful for two or more persons to congregate or assemble for the purpose of engaging in any type of activity or disturbance that may result in harm to persons or property to make or endeavor or make any disturbance on any public street or other public property. (Ord. No. 237 N.S., 4/63)

SEC. 12.4 FALSE CALLS FOR POLICE PROTECTION

It shall be unlawful for any person knowingly to report or cause to be reported to the police department any false or fictitious request for protection or assistance, or any false or fictitious information indicating that a crime has been or is about to be committed, or to knowingly cause the police department to respond to any such false or fictitious report, or to request any assistance or investigation in connection with or as a result of any such false or fictitious report or false or fictitious information. (Ord. No. 135 N.S., 4/50)

SEC. 12.5 FIREARMS, ETC.<sup>2</sup> -SALES OR GIFTS TO MINORS; USE OR POSSESSION BY MINORS; EXCEPTIONS

It shall be unlawful for any person to sell or give to any minor in the City, under the age of eighteen years, or to allow any such minor to possess, use or discharge, or for any such minor to use or possess, any rifle, gun, pistol, revolver, air rifle, B-B gun, slingshot or other similar

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2 For state law as to firing of firearms, see Gov. C. §25840. As to discharge of firearms at dwelling houses, etc., see Pen. C. §246. As to shooting firearms from or upon public roads or highways, see Pen. C. §374c. As to discharge of firearms, see §12.24 of this Code.

instrument from or by means of which any bullet, shot or other missile of any kind may be projected; provided, however, that the provisions of this section shall not apply to the possession of such firearms or other instruments by such minors in bona fide shooting galleries, gun clubs or organizations and educational institutions authorized to give firearm instructions, while such firearms or other instruments are being used as a part of such instructions, nor to the possession of unloaded firearms, air rifles or other such instruments by any such minor as an employee of a merchant, when such possession is in the usual course of his employment. (Ord. No. 82, N.S., 6/37)

12.5.1 Fortune-Telling, Etc. for Fees, Salary or Any Other Compensation. It shall be unlawful for any person to exhibit or conduct within the corporate limits of the City, for fees, salary or any other compensation, the business, art or practice of astrology, palmistry, phrenology, life reading, fortune-telling, cartomancy, clairvoyance, clairsaudience, crystal gazing, mediumship, prophecy, augury, divination, magic or necromancy. (Ord. No. 234 N.S., 12/62)

12.5.2 Insulting, Annoying, Etc., Remarks to or Molestation of Another in Public. It shall be unlawful for any person to make audible annoying or insulting remarks to or about or to molest in any other manner whatever, any person in, near or about a public place. (Ord. No. 237 N.S., 4/63)

SEC. 12.6 INTOXICATED PERSONS-PROHIBITED FROM BEING IN OR ABOUT ANY VEHICLE

It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic drugs to be in or about any vehicle to which he has right of access or control while such vehicle is in or upon any street or any other public place in the City, unless the vehicle is under the immediate control or operation of a person not under the influence of intoxicating liquor or narcotic drugs. (Ord. No. 163 N.S., 10/53)

SEC. 12.7 SAME-UNLAWFUL TO APPEAR IN PUBLIC PLACE

It shall be unlawful for any person to appear in any public place, or place open to public view in the City, in an intoxicated or drunken condition. (Ord. No. 162 N.S., 10/53)

SEC. 12.8 NOISE DECLARED NUISANCE

Notwithstanding any other provision of this Code, and in addition thereto, it is unlawful for any person to willfully make or continue or cause to be made or continued or to allow any animal to make or continue to make any loud, unnecessary, or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. Such noise is declared to be a nuisance.

12.8.1 Standards to Be Considered. The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

- (a) The sound level of the objectionable noise;
- (b) The sound level of the ambient noise;
- (c) The proximity of the noise to residential sleeping facilities;
- (d) The nature and zoning of the area from which the noise emanates;
- (e) The density of the inhabitation of the area from which the noise emanates;
- (f) The time day or night the noise occurs;
- (g) The duration of the noise and its tonal content;
- (h) Whether the noise is continuous, recurrent or intermittent;
- (i) Whether the noise is produced by a commercial or non-commercial activity;
- (j) The intensity of the noise;
- (k) Whether the noise is natural or unnatural;
- (l) Whether the noise is usual or unusual. (Ord. No. 512 N.S.,12/89)

12.8.2 Prohibited Noise. In addition to the prohibition described in paragraph 12.8.1, the following noise is specifically prohibited:

- (a) Construction and Demolition. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition activities between the hours of 6:00 p.m. and 8:00 a.m. each day, Sunday evening through Saturday morning, and between the hours of 6:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.
- (b) Gasoline-Powered Blower. It shall be unlawful for any person to operate a gasoline-powered device used to blow leaves, dirt or other debris off sidewalks, driveways, lawns or other surfaces within any area of the City except that gasoline-powered leaf blowers may be used by public agencies on publicly-owned or operated facilities. (Ord. No. 517 N.S., 3/90)

12.8.3 Exceptions

- (a) Emergency Repairs. Emergency work conducted by public service utilities or governmental agencies shall be exempt from the provisions of this ordinance; provided that in the case of such emergency work, the public service utilities or government agencies involved shall promptly contact the Piedmont Police Department prior to or within 30 minutes after commencing such emergency

work, providing the Police Department with the exact location of the work, the time anticipated to complete the work, the nature of the work to be performed, and whether any assistance from the Police Department or other City services are anticipated in connection with such emergency work.

- (b) Other. The City Administrator may grant temporary written exceptions to the Noise Ordinance upon the showing of good cause by the applicant. (Ord. No. 512 N.S., 12/89)

12.8.4 Violations. Violation of any provision of the Noise Ordinance shall be an infraction. The City Council shall set the fine for violations from time to time by resolution. (Ord. No. 512 N.S., 12/89)

## SEC. 12.9 DEFINITIONS.

For the purposes of Sections 12.10, 12.11 and 12.12, the following definitions shall apply:

- (a) Party, Gathering, or Event. “Party, gathering or event” means a group of persons who have assembled or assembling for a social occasion or for a social activity.
- (b) Police Services. “Police services” means the law enforcement and crime prevention services provided by the City Police Department and include the salaries of the police officers for the amount of time actually spent in responding to or in remaining at the party, gathering or event, the actual cost of any medical treatment to injured officers, and the cost of repairing any damaged City equipment or property.
- (c) Person Responsible for Event. “Person responsible for event” means the person who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place. If the person in charge of the premises and/or the person responsible for the event is a minor, then the parents or guardians of that minor will jointly and severally liable for the costs incurred for police services pursuant to Sections 12.10, 12.11 and 12.12 of the Code; where they or either of them knew or should have known that such party, gathering or event would take place. (Ord. 608 N.S. 9/99, previous section repealed by Ord. No. 517 N.S., 3/90)

## SEC. 12.10 POLICE SERVICES AT PARTIES, GATHERING OR EVENTS REQUIRING A RESPONSE

When a party, gathering or event occurs on public or private property and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person or persons responsible for the event shall be held liable for the cost of providing police services by the police. (Ord. 608 N.S. 9/99, previous section repealed by Ord. 517 N.S. 3/90)

SEC. 12.11 POLICE SERVICES FEE.

The police services fee shall include the cost of personnel and equipment, but shall not exceed One Thousand Dollars (\$1,000) for a single incident; provided however that the City does not hereby waive its right to seek reimbursement for actual costs exceeding One Thousand Dollars (\$1,000) through other legal remedies. The amount of such fees shall be deemed a debt to the City of the person responsible for the event. Any person owing such fees shall be liable in an action brought in the name of the City for recovery of such fees, including reasonable attorney's fees. (Ord. 608 N.S. 9/99, previous section repealed by Ord. 517 N.S., 3/90)

SEC. 12.12 EXCEPTIONS

An exception to the provisions of Section 12.10 and/or Section 12.11 hereof will apply to a person who make all reasonable good faith efforts to prevent the activities or situations described in Section 12.10 and/or Section 12.11, such as calling the Piedmont Police Department in timely fashion for assistance. (Ord. 608. N.S. 9/99, previous section repealed by Ord. 569 N.S., 5/97)

SEC. 12.13 REPEALED (Ord. No. 569 N.S., 5/97)SEC. 12.14 WATER-DIVERTING OF STORM OR SURFACE WATER<sup>3</sup>

It shall be unlawful for any person owning or having control of any premises in the City to divert, direct or drain storm or surface water, by means of the use of a ditch, conduit, trough, pipe or subdrain, to empty into or upon any portion of that area between the property line of such premises and the street curb immediately adjacent to the property line of such premises. (Ord. No. 95 N.S., 5/41)

SEC. 12.15 NUMBERING BUILDINGS

The owners and occupants of each house in the City shall install and maintain the street number thereof, either on such house or on some other structure or a plaque located between the house and the street. Such number shall be located and maintained so that it will be clearly visible from the street in front of such house at all times and shall be in contrast with the color of the background upon which it appears. A number painted or affixed to the curb, although not illegal, shall not meet the requirements of this section. (Ord. No. 215 N.S., 10/60)

SEC. 12.16 PICKETING

12.16.1 Picketing Prohibited. It is unlawful for any person to picket in front of or about the residence or dwelling of any individual in the City of Piedmont. A separate offense shall occur for each day of picketing.

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3 In connection with this section, see ●18.6.

12.16.2 Picketing Defined. "Picketing" is defined as posting one or more persons for a demonstration or protest which is focused on and taking place in front of or about a particular residence or dwelling, without invitation from the resident or residents.

12.16.3 Violation of a Misdemeanor. Violation of this prohibition against picketing is a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or imprisonment for a term not to exceed six months, or by both such fine and imprisonment for each offense. (Ord. No. 509, N.S., 3/89)

SEC. 12.17 REPEALED BY ORDINANCE NO. 266 N.S.

SEC. 12.18 WILD OR VICIOUS ANIMALS<sup>4</sup>-KEEPING, ETC., PROHIBITED

No person shall have, keep, maintain or have in his possession or under his control, within the City, any elephant, bear, hippopotamus, rhinoceros, lion, tiger, leopard, wolf, ape, cheetah or chimpanzee, or any poisonous reptile or serpent, or any wild animal or reptile commonly considered dangerous, or any wild animal or reptile of wild or vicious or dangerous propensities. (Ord. No. 262 N.S., 3/66; Ord. No. 263 N.S. 6/66)

SEC. 12.19 SAME-RUNNING AT LARGE

No person owning or having charge, custody, control or possession of any animal known by such person to be vicious or dangerous, or commonly so known, shall permit or allow the same to run at large upon any highway, street, lane, alley, court, park or other public place, or upon any private property, or on or within the premises of such person or organization in such manner as to endanger the life or limb of any person lawfully entering such premises. Domesticated dogs are specifically excluded from this section. (Ord. No. 263 N.S., 6/66)

SEC. 12.20 SAME-ANIMALS CAUSING NOISE, OFFENSIVE ODORS, ETC.

No person shall have, keep, possess, maintain or control within the City any animal not mentioned in Sections 12.18 and 12.19 in such a manner as to cause or permit the making of excessive noise or offensive odors, damage to property, or a clear or present danger to the public health, safety and general welfare. (Ord. No. 263 N.S., 6/66)

SEC. 12.21 SAME-DISPOSITION OF ANIMALS IN VIOLATION OF SECTIONS 12.18 to 12.20

Any animal whose presence in the City is in violation of Sections 12.18, 12.19, and 12.20 may be taken into custody by a police officer or any other agency or agent authorized by the police department or the City. Any such animal taken into custody may be disposed of by the City by such means as are reasonable under the circumstances. (Ord. No. 263 N.S. 6/66)

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4 As to animals generally, see Chapter 4 of this Code.

SEC. 12.22    CORPUS VIOLATIONS

Any unauthorized person who willfully and maliciously obtains personal data from the Criminal Oriented Records Production Unified System (CORPUS) is guilty of a misdemeanor.

Any person who willfully and maliciously provides or has provided personal data from the Criminal Oriented Records Production Unified System (CORPUS) to any unauthorized person is guilty of a misdemeanor. (Ord. No. 327 N.S., 4/75)

SEC. 12.23    PROHIBITING POSSESSION OF ALCOHOLIC BEVERAGES ON THE PUBLIC STREETS AND SIDEWALKS

No person shall drink or have in his possession an open container of any alcoholic beverage (1) on any public street, sidewalk or other public way; (2) within fifty (50) feet of any public way while on private property open to public view without the express permission of the owner, his agent, or the person in lawful possession thereof. This ordinance shall be enforced by the issuance of citations by law officers, and fines for the violation of this ordinance shall be as follows:

First offense	\$25.00
Second offense	\$40.00
Third offense or more	\$50.00

Bail for violations shall be \$25.00. Exemptions to the provisions of this ordinance may be provided by resolution of the City Council. (Ord. No. 386 N.S., 6/79)

SEC. 12.24    DISCHARGE OF FIREARMS-PROHIBITED

No person shall discharge or fire any firearm within the City of Piedmont, except as otherwise provided herein. For purposes of this Section 12.24, "firearm" is defined as a gun, pistol, revolver, rifle, shotgun, BB gun, air gun, pellet gun, or any other weapon of a similar nature designed to discharge a projectile propelled by the expansion of a gas or a spring.

- a) Exceptions. The provisions of Section 12.24 shall not apply to the following:
1. To police officers, sheriffs, constables, marshals or other police officers, or any person summoned by any such officers to assist in making arrests or preserving the peace, or persons who are members of the armed services of the United States, or in the National Guard, while such persons are acting in the lawful discharge of their duties.
  2. To persons using firearms in the lawful defense of self, third persons, or the user's property.
  3. To persons discharging or firing such firearms or causing them to be discharged or fired at a firing, shooting or target range authorized,



established or maintained by a governmental entity with the consent of the operator and under supervision of a person qualified to be in charge of such range. (Ord. No. 402, N.S. 7/80)

- (b) Violation a misdemeanor. Violation of this Section 12.24 is a misdemeanor and shall be punishable by a fine not exceeding \$1,000.00 or imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment for each offense, or such maximum fine or such maximum term of imprisonment as may be established from time to time by the State legislature for a misdemeanor offense. (Ord. No. 578 N.S., 9/96)

## **ARTICLE II REGULATION OF TOBACCO PRODUCTS**

### **SEC. 12.25    DEFINITIONS**

The following words and phrases, whenever used in this article shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) “Business” means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making or non-profit purposes that is open to and accessible to the general public, not including home occupations as defined and regulated under Section 17B of the Piedmont Municipal Code.
- (b) “Characterizing Flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.
- (c) “Common Area” means any Enclosed Area of Multiple Dwellings that residents are entitled to enter or use, including, for example, halls, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.
- (d) “Dwelling Unit” means independent living quarters as defined in Chapter 17 of the Piedmont Municipal Code.
- (e) “Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. “Electronic Smoking Device” includes any such electronic smoking device, whether manufactured, distributed, marketed, or

sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vapor cigarette or any other product name or descriptor. “Electronic smoking device” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for that approved use in the mitigation, treatment, or prevention of disease.

- (f) “Employee” means any Person who is employed or retained as an independent contractor by any Employer or Nonprofit Entity in consideration for direct or indirect monetary wages or profit, or any Person who volunteers his or her services for an Employer or Nonprofit Entity.
- (g) “Employer” means any Business or Nonprofit Entity that retains the service of one or more Employees.
- (h) “Enclosed Area” means any covered or partially covered area having more than fifty (50) percent of its perimeter walled or otherwise closed to the outside (for example, a covered porch with more than two walls) irrespective of whether said overhead covering, walls or other vertical boundaries include vents or other openings.
- (i) “Flavored Tobacco Product” means any Tobacco Product that imparts a Characterizing Flavor.
- (j) “Multiple Dwelling” means a residential structure containing more than one dwelling unit as defined in Chapter 17 of the Piedmont Municipal Code. Multiple Dwelling does not include a single-family home or a single-family home with a detached or attached in-law or second unit.
- (k) “Nonprofit Entity” means any entity that meets the requirements of California Corporations Code section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A government agency is not a Nonprofit Entity within the meaning of this article.
- (l) “Outdoor Dining Area” means an unenclosed area that is open to the general public, or closed to the public for a private function, where food and/or beverages are offered, served, or consumed, regardless of whether compensation is offered or given in exchange. Outdoor dining areas do not include any unenclosed dining area at a private residence.
- (m) “Person” means any natural person.
- (n) “Place of Employment” means any area under the legal or de facto control of an

Employer that an Employee or the general public may have cause to enter in the normal course of the operations, regardless of the hours of operation, and includes a private residence licensed as family day care home under California law, but does not otherwise include single-family properties. Place of Employment includes schools, preschools and day care centers.

- (o) “Public Place” means any place, publicly owned, with the exception of streets, sidewalks or rights of way, which is open to the general public regardless of any fee or age requirement.
- (p) “Reasonable Distance” means a distance of twenty (20) feet in any direction from an area in which Smoking is prohibited.
- (q) “Recreational Area” means an area that is owned, controlled or used by the City of Piedmont and is open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes but is not limited to parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, swimming pools, and skateboard parks.
- (r) “School Site Buffer Area” means the public rights-of-way adjacent to any property used as a school for the K-12 education of minors from the property line of the school to the nearest curb.
- (s) “Service Area” means the reasonable distance area of any publicly or privately owned area that is designed to be used or is regularly used by one or more Persons to receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes the exchange of money. The term “Service Area” includes but is not limited to areas including or adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, casual carpool line, or mobile vendor lines.
- (t) “Single Family Dwelling” or “Single Family Residence” means a residential structure containing one dwelling unit as defined in Chapter 17 of the Piedmont Municipal Code. Single Family Dwelling includes a single-family home with an approved detached or attached in-law or second unit.
- (u) “Single Family Property” means a residential lot containing a Single Family Dwelling as defined above.
- (v) “Smoke” means the gases, or particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke and marijuana smoke.

- (w) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates a vapor or aerosol, in any manner or in any form.
- (x) “Tobacco Product” means:
  - (1) Any product containing, made or derived from tobacco or contains nicotine from any source that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and
  - (2) Any electronic device that delivers nicotine and other substances to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, pipe, or hookah;
  - (3) Notwithstanding any provision of subsections (a) and (b) to the contrary, “tobacco product” includes any component, part or accessory of a tobacco product, whether or not sold separately. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for that approved purpose.
- (y) “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia.
- (z) “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.
- (aa) “Unenclosed Area” means any area that is not an Enclosed Area. (Ord. 755 N.S., 10/2022)

SEC. 12.26     PROHIBITION OF SMOKING IN ENCLOSED PLACES

- (a) Smoking is prohibited in the Enclosed Areas of the following places within the City of Piedmont, except places where Smoking is already prohibited by state or federal law, in which case those laws apply:
  - (1) Places of Employment;
  - (2) Public Places, except for outdoor unenclosed areas at the Piedmont

Community Hall that are used for private purposes under a rental or lease agreement with the City, provided that the area is more than 20 feet from any entry to the Community Hall; and

- (3) Common Areas of Multiple Dwellings
- (b) Any places exempted by the California smokefree workplace law (Labor Code section 6404.5(d)) except as provided below.
  - (1) Single Family Dwellings and Single Family Properties;
  - (2) Smoking at theatrical production sites is not prohibited by this subsection if Smoking is an integral part of the story and the use of a fake, prop, or special effect cannot reasonably convey the idea of Smoking in an effective way to a reasonable member of the anticipated audience. (Ord. 715 N.S., 12/14)

SEC. 12.27     PROHIBITION OF SMOKING IN UNENCLOSED AREAS

- (a) Smoking is prohibited in the Unenclosed Areas of the following places within the City of Piedmont, except places where Smoking is already prohibited by state or federal law, in which case those laws apply:
  - (1) Recreational Areas, except for outdoor unenclosed areas that are used for private purposes under a rental or lease agreement with the City;
  - (2) Outdoor Dining Areas;
  - (3) Places of Employment;
  - (4) Common Areas of Multiple Dwellings, provided that a Person or Business with legal control over a Common Area may designate a portion of the Unenclosed Area of the Common Area as a designated Smoking area if the area meets all of the following criteria:
    - a. the area must be located a Reasonable Distance from any Enclosed Area where Smoking is prohibited by this article or other law; by binding agreement relating to the ownership, occupancy, or use of real property; or by designation of a Person or Business with legal control over the property. In the case of a nonsmoking area created by agreement or designation, this provision does not apply unless the Person or Business designating the Smoking area has actual knowledge of, or has been given notice of, the agreement or designation. A Person or Business with legal control over a designated Smoking area may be obliged to modify, relocate or eliminate that as laws change, as binding agreements are created,

and as nonsmoking areas on neighboring property are established.

- b. the area must not include, and must be a Reasonable Distance from, Unenclosed Areas primarily used by children and Unenclosed Areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, school campuses, and sandboxes;
  - c. the area must be completely within an Unenclosed Area; and
  - d. the area must not overlap with any Enclosed or Unenclosed Area in which Smoking is otherwise prohibited by this article or other provisions of this Code, state law, or federal law; and
- (5) Other Public Places, when being used for a public event, including but not limited to a farmers' market, parade, craft fair, festival, or any other event open to the general public, provided that Smoking is permitted on streets and sidewalks used only as pedestrian or vehicular thoroughfares;
- (6) Service Areas;
- (7) School Site Buffer Areas.
- (b) Nothing in this article prohibits any Person, Business, Employer, or Nonprofit Entity with legal control over any property from prohibiting Smoking on any part of such property, even if Smoking is not otherwise prohibited in that area. (Ord. 715 N.S., 12/14)

SEC. 12.28 REASONABLE SMOKING DISTANCE REQUIRED

- (a) Except as otherwise exempted or excepted under this Article, smoking in all Unenclosed Areas of public places shall be prohibited within a Reasonable Distance from any doorway, window, or vent into an Enclosed Area in which Smoking is prohibited, except while the Person Smoking is actively passing on the way to another destination and provided Smoke does not enter any Enclosed Area in which Smoking is prohibited.
- (b) Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any Unenclosed Areas in which Smoking is prohibited under Sec. 12.3 of this article, except while the Person Smoking is actively passing on the way to another destination and provided Smoke does not enter any Unenclosed Area in which Smoking is prohibited.
- (c) The prohibitions in subdivisions (a) and (b) shall not apply to Unenclosed Areas of private residential properties that are not Multi-Unit Residences. (Ord. 715 N.S., 12/14)

SEC. 12.29 PROHIBITION OF THE SALE OF FLAVORED TOBACCO

No person, business, tobacco retailer, or any other legal entity, shall sell or offer for sale, or possess with intent to sell or offer for sale, any flavored tobacco product.

- (a) Presumptions for flavored tobacco products. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has:
  - (1) Made a public statement or claim that the tobacco product imparts a Characterizing Flavor.
  - (2) Used text and/or images on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a Characterizing Flavor, including, but not limited to, use of descriptive terms such as “sweet” or “spicy” that imply a Characterizing Flavor; or
  - (3) Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a Characterizing Flavor. (Ord. 755 N.S., 10/2022)

SEC. 12.30 PENALTIES AND ENFORCEMENT

Violations of Sections 12.26 through 12.29 of this Article shall be an infraction. The City Council shall set the fine for violations from time to time by resolution. (Ord. 755 N.S., 10/2022)

Rev. 2022-10-19 (Ordinance 755 N.S.)