

Ordinance No. NS-1200.336

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA CLARA AMENDING APPENDIX I, ZONING,
OF THE COUNTY OF SANTA CLARA ORDINANCE CODE TO
UPDATE AND IMPLEMENT MINOR REVISIONS TO THE
COUNTY'S VIEWSHED PROTECTION REGULATIONS**

SUMMARY

This ordinance updates and implements minor improvements and clarifications to Appendix I, Zoning, of the County of Santa Clara Ordinance Code relating to Design Review regulations of the Santa Clara County Zoning Ordinance.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: Section 3.20.040 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 3.20.040 -d₁ District (Santa Clara Valley Viewshed)

The -d₁ combining district is intended to conserve the scenic attributes of those hillside lands most immediately visible from the valley floor. It is intended to minimize the visual impacts of structures and grading on the natural topography and landscape, using a combination of supplemental development standards, design guidelines, design review, and use of process incentives for smaller and less visible projects.

- A. **Project Classifications:** Development standards and procedures shall utilize a tiered regulatory structure based primarily on building size, as follows:
1. **Tier 1:** A building or structure where gross floor area (see § 1.30.030) is 5,000 square feet or less. Additions to an existing primary dwelling resulting in total floor area of 5,000 square feet or less after the addition shall also be reviewed as Tier 1 or applicable exemption.
 - a. **Administrative Review.** Except for projects ineligible on the basis of subsection c or d below, a building or structure classified as Tier 1 shall be subject to administrative design review approval with no public hearing required (see § 5.50.060), the review of which shall focus on the project's

compliance with color standards, and any other Tier 1-applicable standards of this section.

- b. **Color; Light Reflectivity Value (LRV).** The provisions of subsection B shall apply to Tier 1 projects.
 - c. **Retaining Walls Requiring a Public Hearing.** Except where subsection G, *Exemption for Sites Not Visible*, applies, Tier 1 projects shall not be eligible for administrative design review approval when the project involves retaining walls with elevations exceeding five (5) vertical feet that extend more than 80 horizontal feet. ÷
 - d. **Other Circumstances Requiring a Public Hearing.** When an exception is proposed to deviate from the massing or retaining wall standards of subsections C or D, design review shall be required.
2. **Tier 2:** A building or structure where gross floor area (see § 1.30.030) of is between 5,001 square feet and 12,500 square feet. Additions to an existing building resulting in total floor area of 12,500 square feet or less after the addition shall be reviewed as Tier 2 or per applicable exemptions or administrative design review approval of § 5.50.050 and 5.50.060.
- a. **Design Review Required.** A building or structure classified under Tier 2 shall be subject to design review, per Chapter 5.50, and will not be eligible for a discretionary exemption or administrative design review approval except when subsection G, *Exemption for Sites Not Visible*, applies.
 - b. **Siting.** A Tier 2 category building should, to the extent possible and practical, be sited where natural topography, or a combination of topography and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.
 - c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 2 design review. Story poles shall be fully erected, per the County's story poles standards, and approved by the Zoning Administrator at least seven (7) days prior to the scheduled hearing.
3. **Tier 3:** A building or structure where gross floor area (see § 1.30.030) exceeds 12,500 square feet.
- a. **Design Review Required.** A building or structure classified under Tier 3 shall be subject to design review, per Chapter 5.50, and will not be eligible for a discretionary exemption or administrative design review approval except when subsection G, *Exemption for Sites Not Visible*, applies. The Planning Commission shall be the approving authority for all Tier 3 design review applications.
 - b. **Low Visibility Siting.** Tier 3 review is intended to ensure that very large buildings are sensitively sited and designed such that they do not result in

viewshed impacts greater than what might result from a sensitively designed Tier 2 or Tier 1 building. A Tier 3 category building must be sited in an area of the subject property where natural topography, or a combination of topography and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.

- c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 3 design review. Story poles shall be fully erected, per the County's story poles standards, and approved by the Zoning Administrator at least seven (7) days prior to the scheduled hearing.

- B. **Color; Light Reflectivity Value (LRV).** The light reflectivity value (LRV) of exterior surfaces shall not exceed 45. The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this LRV requirement for minimal trim or other minor architectural features. LRV restrictions may be waived entirely when subsection G, *Exemption for Sites Not Visible*, applies.

- C. **Building Form and Massing.** Buildings not deemed exempt under subsection G shall be designed following the massing guidelines within the adopted Design Review Guidelines. In addition, the following specific limitations on wall dimensions shall apply to all Tier 1, Tier 2 and Tier 3 projects not deemed exempt under subsection G:

1. Maximum horizontal length of a continuous wall plane shall be 80 feet.
2. Maximum height of a wall plane, including foundation and other continuous components, shall be 24 feet, with the following exceptions: (a) Any architectural component where façade dimension does not exceed 18 horizontal feet, or (b) multiple such components (18 horizontal feet maximum) where combined horizontal dimension does not exceed 25% of the total horizontal dimension of the façade. This limitation may be varied through the design review process for wall planes not facing the valley floor or otherwise having demonstrably low visibility.
3. Portions of a wall plane must be offset by at least five (5) horizontal feet to be deemed discontinuous for the purposes of this provision.

Massing restrictions may be waived when subsection G, *Exemption for Sites Not Visible*, applies.

- D. **Retaining Walls.** Retaining walls visible from the valley floor shall not exceed 10 feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds 10 feet must each be offset by at least six (6) horizontal feet. Visible walls shall be colored and textured to complement the background land and vegetation, per the adopted Design Review Guidelines.

- E. **Ridgeline Development.** The ridgeline protection policies of the General Plan Growth and Development chapter shall be applied to any project situated on or adjacent to a ridgeline.
- F. **Design Review Guidelines.** All projects subject to design review shall comply with applicable provisions of the adopted Design Review Guidelines document.
- G. **Exemption for Sites Not Visible.** Any project where buildings or structures would be situated on portions of a lot outside of the visible viewshed area (based on GIS visibility analysis) shall be eligible for a discretionary exemption or administrative design review approval (see § 5.50.060). Additional visibility analysis tools and methods may be utilized by staff to further evaluate the potential visibility of a project proposed on such a site. The exemption may not be approved for Tier 3 projects if it is determined that any portion of the proposed building would be visible from the valley floor.
- H. **Ongoing Compliance.** All conditions of approval established through the design review procedure shall be the ongoing obligation of the property owners, including future property owners. A copy of the design review permit and conditions applicable to the property shall be recorded with the Recorder's Office, to ensure that present and future property owners are aware of the conditions and their obligation to uphold them.
- I. **Rebuilding.** A building in the -d₁ district may be rebuilt in the same location as the original structure (regardless of visibility) if it is destroyed by earthquake, fire or other casualty event, provided the following provisions are met:
 - 1. The original building was lawfully constructed with all appropriate County permits required at the time of construction.
 - 2. The floor area of the replacement building does not exceed the legally established (permitted, if applicable) floor area of the original structure.
 - 3. The application for a building permit to construct the new building is filed within two years of the date of the casualty event. The Director shall be authorized to extend this deadline when warranted by special circumstances.
 - 4. A replacement building designed according to the approved building plans for the original building shall be exempt from the massing standards of subsection C. Where original building plans cannot be produced, massing standards shall apply.
 - 5. The replacement building shall be subject to an administrative design review approval (see § 5.50.060), which shall focus on the project's compliance with color standards, and any other Tier 1-applicable standards of this section.

A replacement building that is sited in a different location than the original, or is larger in floor area, or both, shall be subject to the applicable design review procedures and requirements of this section.

SECTION 2: Section 3.20.050 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 3.20.050 -d₂ District (Milpitas Hillsides)

The purpose of establishing the -d₂ zoning district is to maintain the predominantly natural appearance of the Milpitas hillside areas to which the -d₂ zoning district is applied. In furtherance of that objective, the following supplementary development standards shall apply to structures, including new construction and exterior modifications/additions to existing structures, on properties zoned -d₂. In addition, the provisions contained within the adopted design review guidelines shall be appropriately applied as part of the design review process.

- A. **Maximum House Size.** For lots that are less than 10 acres, the gross floor area of dwellings shall not exceed 6,000 square feet. For lots that are 10 acres or greater, gross floor area of dwellings shall not exceed 8,000 square feet.
- B. **Height.** The maximum height of dwellings shall be 27 feet and two (2) stories. The maximum height of accessory structures shall be in accordance with Section 4.20.020, except that in no case shall the height of any accessory building or structure exceed 27 feet.
- C. **Color.** The light reflectivity value (LRV) of the exterior surfaces of any structure shall not exceed 45. The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this light reflectivity requirement for minimal trim or other minor architectural features.
- D. **Crestline Area Development Restrictions.** Placement and height of any proposed structure may be restricted to ensure that no structure protrudes above the perceived crestline, as delineated on the official City of Milpitas zoning map. To ensure that proposed structures, whether east or west of the crestline, do not protrude above the crestline, story poles, line-of-sight analyses, or other visualization methods may be required for each project subject to design review. Story poles shall be the preferred means of evaluating potential impacts to the crestline and the basis for necessary determinations that the structures do not protrude above the perceived crestline.

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- E. **Story Poles.** Story poles shall be required of all new buildings subject to a design review hearing. Story poles shall be fully erected, per the County's story poles standards, and approved by the Zoning Administrator at least seven (7) days prior to the scheduled hearing.

SECTION 3: Section 5.50.040 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.040 Scope of Review

Design Review shall include consideration of, but shall not be limited to the following:

- A. Mitigation of any adverse visual impacts from proposed structures, grading, vegetation removal and landscaping;
- B. Compatibility with the natural environment;
- C. Conformance with the "Design Review Guidelines," adopted by the Board of Supervisors;
- D. Compatibility with the neighborhood and adjacent development;
- E. Compliance with applicable zoning district regulations; and
- F. Conformance with the general plan, any applicable specific plan, or any other applicable guidelines adopted by the Board of Supervisors or Planning Commission.

SECTION 4: Section 5.50.050 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.050 Exemptions

The following types of buildings and structures are deemed minor in character and are exempt from design review, except where any superseding "-d₁" provisions (§ 3.20.040), "-sr" provisions (§ 3.30.030) or "-h₁" provisions (§ 3.50.030) apply.

- A. Additions to existing buildings or structures where new floor area does not exceed 1,000 square feet;
- B. Detached secondary dwellings, accessory buildings, and structures 1,000 square feet or less in floor area;

- C. Decks whose floor surface is 30 inches or less above final grade, and grade-level pavement for which grading performed prior to paving does not require a grading permit;
- D. Any decks (regardless of height), carports, arbors, or other similar structures attached to a building that are 1,000 square feet or less in floor area;
- E. Fences three (3) feet or less in height;
- F. Open fences, having a composition (solid components vs open “gap” components) where not more than 25% of the surface area is solid when viewed from a position perpendicular to the fence; and that meet the applicable fence height requirements of Section 4.20.050;
- G. Retaining walls that are not subject to a grading permit;
- H. Solar energy conversion systems accessory to a principal structure or use;
- I. Swimming pools, and;
- J. Small wind energy systems, private antennas, and similar structures.

The cumulative construction of multiple exempt projects on a lot may, at the discretion of the Zoning Administrator, be subject to design review, based upon the characteristics and visibility of the property, the potential visual impact of the buildings or structures, and any other relevant considerations as defined in §5.50.040, Scope of Review.

SECTION 4: Section 5.50.060 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.060 Administrative Approvals and Discretionary Exemptions

The following types of buildings and structures may, at the discretion of the Zoning Administrator, be considered minor and eligible for design review administrative approval or a discretionary exemption from the design review process, except where any superseding “-d₁” provisions (§ 3.20.040), “-sr” provisions (§ 3.30.030) or “-h₁” provisions (§ 3.50.030) apply. An administrative design review approval shall be granted without a public hearing, based on applicable standards and guidelines for design review. Except for buildings or structures qualifying as Tier 1 and “Sites Not Visible” pursuant to subsection E below, the Zoning Administrator’s decision to grant either administrative approval or discretionary exemption will be based upon the characteristics and visibility of the property, the potential visual impact of the buildings or structures, and any other relevant considerations as defined in §5.50.040, Scope of Review.

- A. Additions to existing buildings and structures, including attached carports, arbors, and similar unenclosed structures, where new floor area is between 1,001 and 2,000 square feet;
- B. Detached secondary dwellings, buildings, and structures with floor area between 1,001 and 2,000 square feet;
- C. Decks that exceed 1,000 square feet in area;
- D. Fences in “-d” combining districts or along designated scenic roads listed in §3.30.050 which conform to the provisions of this ordinance regulating fence height (excluding certain “open” fences, see subsection 5.50.050(F)), and fence enclosures for tennis courts or other outdoor sports courts that exceed applicable fence height requirements of §4.20.050 in any zoning district that are setback from property lines, easements, and rights-of-way a distance equal to their height;
- E. Projects in “-d₁” zoning districts meeting the criteria specified in Section 3.20.040 for “Tier 1” and “Sites Not Visible”, regardless of any conflicting standards within this section, and;
- F. Other minor construction similar in scale to the above categories and having low potential for visual impact, including retaining walls, except where subsection 3.20.040 applies.

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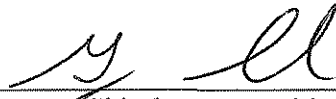
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on DEC 18 2012 by the following vote:

AYES: CORTESE, KNISS, SHIRAKAWA, WASSERMAN, YEAGER


NOES: NONE

ABSENT: NONE

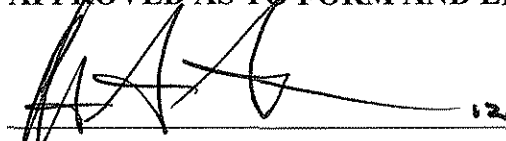
ABSTAIN: NONE


George Shirakawa, President
Board of Supervisors

ATTEST:


Lynn Regadan
Interim Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

 12/4/2012
Elizabeth G. Pianca
Deputy County Counsel