

**Ordinance No. NS-1200.339**

**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 IMPLEMENT REVISIONS RELATED TO THE ADOPTION OF UPDATED REGULATIONS FOR ONSITE WASTEWATER TREATMENT SYSTEMS**

**Summary**

This ordinance amends Appendix I, Zoning, of the County of Santa Clara Ordinance Code to eliminate the 5 acre minimum lot size for establishment of new secondary dwellings in the San Martin Planning Area and to eliminate a reference to the Lexington Basin Private Sewage Disposal Ordinance, consistent with provisions of the County Ordinance Code for Onsite Wastewater Treatment Systems.

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

**SECTION 1:** Section 2.20.070 of Chapter 2.20, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

**§ 2.20.070 HS Districts: Supplemental Development Standards**

- A. **Setbacks – Substandard Named Subdivisions.** Setbacks may be reduced on lots less than one acre in identified substandard subdivisions as specified in Table 2.20-6 below. The substandard subdivisions to which this provision applies are Aldercroft Heights, Chemeketa Park, Call of the Wild, Lake Canyon, Mountain Spring, Oakmont and Redwood Estates.

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**Table 2.20-6**

**SETBACKS ON LOTS OF ONE (1) ACRE OR LESS  
IN SUBSTANDARD SUBDIVISIONS**

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<b>Yard</b>	<b>Setbacks</b>
Front	20 ft.
Side	20 ft., or 10% of lot width to minimum of 5 ft.
Side, Exterior (corner lot)	20 ft., or 10% of lot width to minimum of 10 ft.
Rear	20 ft.

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~~B. **Development Limitations within Lexington Reservoir Watershed.** Development within the area defined by the Lexington Reservoir watershed (Lexington Basin) shall be subject to the limitations of the Lexington Basin Private Sewage Disposal Ordinance (Ordinance Code Sections B11-90 through B11-95). These provisions generally prohibit most types of development on lots smaller than one acre, and may also restrict or prohibit development on certain lots whose area is between one (1) and 20 acres.~~

~~C.~~ **B. Special HS Subdivision Regulations.** A cluster permit is required for subdivision of land into lots of less than 160 acres within the HS zoning district, except as specified for a two-lot subdivision below. The following provisions apply only to the subdivision of land in the HS district. Provisions for application of the 20-160 acre slope density formula are provided in §2.20.040, Slope Density Requirements.

1. For any two-lot subdivision of a parcel legally created prior to November 22, 1983, the minimum parcel size shall be determined through the use of the 20-160 acre slope density formula. Minimum lot size shall be the same as the land area per dwelling unit figure determined by the slope density formula. No clustering of development or permanent dedication of open space shall be required. However, any subsequent land division of either of the two lots so created shall be required to meet the cluster permit and open space dedication requirements applicable to land division in the HS district set forth below.
2. A cluster permit is required for the division of land into lots of less than 160 acres, except as specified above (subsection 2.20.070(B)(1)). A cluster arrangement of residential home sites shall achieve economy of land use and efficiency of access, while avoiding or minimizing impact to the natural environment to the extent feasible. Defined development areas shall include no more than 10% of the total land area subject to the land division, with at least 90% of the remaining land area preserved in permanent open space by means of dedication of development rights which prevents future subdivision of such lands. Cluster development proposals may be arranged in more than one cluster provided that the multiple cluster arrangement achieves economy of land use and efficiency of access intended by this ordinance and the applicable provisions of the Hillside general plan land use designation.
3. The land area per dwelling unit shall be determined by the use of the 20–160-acre slope density formula. The permissible density or number of dwellings may be limited through subdivision approval to less than the maximum number of dwellings indicated by the slope-density equation if deemed necessary to ensure the public health, safety, and general welfare or to achieve consistency with any applicable goal or policy of the general plan.
4. The minimum parcel size for any lot created as part of a cluster is no less than two (2) acres. Land area to achieve the minimum requirement of 90% permanent open space may be arranged as portions of parcels or as a single parcel, provided that the maximum density of development permitted by the slope-density formula is not exceeded and the land devoted to open space is configured as large, contiguous, usable areas.

5. Land uses permitted on lands dedicated as permanent private open space are limited to the following uses:
  - a) Agriculture.
  - b) Agricultural accessory structures, including windmills (not residential accessory structures).
  - c) Wood cutting and commercial timber harvest.
  - d) Outdoor recreation, non-commercial, including riding stables, corrals, trails, and other similar uses intended for residents of homes within the cluster subdivision.
  - e) Utilities, wells, and water storage and distribution facilities.

**SECTION 2:** Section 4.10.340 of Chapter 4.10, Article 4 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

#### **§ 4.10.340 Secondary Dwellings**

This section refers to uses classified as *Secondary Dwellings* as described in § 2.10.030. Such uses are subject to all of the following provisions:

- A. **Intent.** The intent of this section is to provide a valuable and relatively affordable form of housing for family members, the elderly, students, in-home health care providers, the disabled, and others, within existing neighborhoods. It is intended to regulate such housing units to ensure that they are relatively unobtrusive on the site, do not significantly impact adjacent properties, and do not diminish neighborhood character. This section implements Section 65852.2 of the California Government Code.
- B. **Residential Density Exemption.** As secondary dwellings are considered substantially different in nature and lesser in intensity than primary dwellings, secondary dwellings will not be taken into consideration for the purposes of residential density requirements.
- C. **Secondary Dwellings in Urban Districts.** Secondary dwellings within R1, R1E, RHS, R1S and R3S districts, and A1 districts within urban service areas, are subject to all of the following:
  1. **Dwelling size/configuration:** The regulations for maximum dwelling size and configuration vary by lot size as follows:
    - a. **Lots smaller than 10,000 square feet:** Secondary dwellings may have a maximum floor area of 640 square feet. Such dwellings must be attached to the primary dwelling by a common wall no less than eight (8) horizontal feet in length that is Uniform Building Code compliant for fire separation.

- b. **Lots 10,000 square feet or larger:** Secondary dwellings may have a maximum floor area of 800 square feet. Such dwellings may be attached or detached. Attached dwellings must be Uniform Building Code compliant for fire separation. Detached dwellings must comply with all of the following additional requirements:
- i. May not contain more than one story, and may not exceed 21 feet in height;
  - ii. Must comply with the residential setbacks prescribed by the applicable zoning district regulations. Setback variances are not allowed.
  - iii. May be no nearer to the primary dwelling than six (6) feet. Minimum separation between certain buildings may be greater if so required by the California Building Code for fire separation.
  - iv. Separation between the primary dwelling and secondary dwelling may not exceed 50 feet unless problematic lot-specific circumstances (e.g., topography, geology, significant legal existing structures or improvements) necessitate greater separation; or if demonstrably superior, more practical and efficient site design can be achieved. A special permit (see Chapter 5.60) is required for any proposal where the distance between the primary dwelling and secondary dwelling exceeds 50 feet; and
  - v. Where an attached garage is incorporated into the design, up to 200 additional square feet of floor area is allowed if: (a) the cumulative area of the building does not exceed 1,000 square feet, and; (b) the dwelling (non-garage) portion does not exceed 800 square feet.
2. **Owner occupancy:** At least one (1) of the two dwellings (primary or secondary, or both) must be owner-occupied. A deed restriction must be recorded prior to issuance of building permit for the secondary dwelling to ensure understanding of and compliance with this requirement. This owner-occupancy provision does not apply to R1S or R3S districts, or any land owned by Stanford University.
3. **Parking:** A minimum total of three (3) off-street parking spaces must be provided to accommodate the primary and secondary dwellings on the lot, and at least one (1) space must be covered. One additional space is required for secondary dwellings with more than one bedroom.
4. **Driveway limitation:** A separate driveway providing exclusive access to the secondary dwelling from a street or road shall not be allowed, unless problematic lot-specific circumstances (e.g., topography, significant existing structures or improvements) necessitate separate driveway access, or if demonstrably superior and more efficient site design can be achieved. A special permit shall be required where separate driveway access is being proposed. A special permit is not required for corner or double-frontage lots where a separate driveway for the secondary dwelling is proposed to take access from a different street than the street or road providing driveway access to the primary dwelling.

5. **Deck/porch limitation:** Decks and porches, covered or uncovered, that are attached to a secondary dwelling are limited to 200 square feet beyond the applicable maximum dwelling size. This limitation does not apply to any portion of an uncovered deck that is less than 30 inches above finish grade.
6. **Density conformance:** A secondary dwelling may not be established on any lot where the existing density exceeds that permitted by the applicable zoning district. For example, no secondary dwelling may be established on a lot zoned for single-family residential uses that contains two dwellings (one conforming, one nonconforming).
7. **Building site approval:** Establishment of a secondary dwelling is subject to the applicable building site approval requirements of Chapter II, Division C12 of the Ordinance Code.

D. **Secondary Dwellings in Rural Districts.** Secondary dwellings within A, AR, HS, RR and RS districts, and A1 districts outside of urban service areas, are subject to all of the following, which include specific provisions based on lot size.

1. **Lots 1 – 2.5 acres:** The minimum lot size for secondary dwellings is one (1) acre. On lots greater than or equal to one (1) acre gross, but less than two and one-half (2.50) acres gross, all of the following provisions apply:
  - a. The secondary dwelling may have a maximum floor area of 640 square feet. It may not contain more than one (1) bedroom;
  - b. The secondary dwelling must be attached to the main residence by a common wall no less than eight (8) horizontal feet in length that is Uniform Building Code compliant for fire separation;
  - c. At least one (1) of the two dwellings (primary or secondary, or both) must be owner occupied. A deed restriction must be recorded prior to issuance of the certificate of occupancy for the secondary dwelling to ensure understanding of and compliance with this requirement; and
  - d. ~~A secondary dwelling shall not be allowed on lots smaller than five (5) acres (gross) within San Martin General Plan Area; and~~
2. **Lots 2.5 – 20 acres:** On lots greater than or equal to two and one-half (2.50) acres gross, but less than 20 acres gross, all of the following provisions apply:
  - a. The secondary dwelling may have a maximum floor area of 1,000 square feet;
  - b. The secondary dwelling may be attached or detached;
  - c. Detached dwellings may not be located more than 100 feet from the primary dwelling, unless problematic lot-specific circumstances (e.g., topography, geology, significant existing structures or improvements) necessitate greater separation; or if demonstrably superior, more practical and efficient site design

can be achieved. A special permit (see Chapter 5.60) shall be required where the proposed distance between the primary dwelling and secondary dwelling exceeds 100 feet.

- d. At least one (1) of the two dwellings (primary or secondary, or both) shall be owner occupied. A deed restriction shall be recorded to ensure understanding of and compliance with this requirement; and,
  - e. ~~A secondary dwelling is not allowed on any lot smaller than five (5) acres (gross) within the San Martin General Plan Area;~~
3. **Lots 20 acres or larger:** On lots greater than or equal to 20 acres gross, all of the following provisions apply:
    - a. The secondary dwelling may have a maximum floor area of 1,200 square feet;
    - b. The secondary dwelling may be attached or detached; and
    - c. Detached secondary dwellings may not be located more than 200 feet from the primary dwelling, unless problematic lot-specific circumstances (e.g., topography, geology, significant existing legal structures or improvements) necessitate greater separation; or if demonstrably superior, more practical and efficient site design can be achieved. A special permit (see Chapter 5.60) shall be required where the proposed distance between the primary dwelling and secondary dwelling exceeds 200 feet.
  4. **Setbacks:** Secondary dwellings must comply with the residential setbacks prescribed by the applicable zoning district regulations. Setback variances are not allowed for detached secondary dwellings.
  5. **Parking:** A minimum total of three (3) off-street parking spaces must be provided to accommodate the primary and secondary dwellings on the lot, and at least one (1) space must be covered. One additional space is required for secondary dwellings with more than one bedroom.
  6. **Driveway limitation:** Any driveway access to the secondary dwelling must be via a branch driveway off the driveway that serves the primary dwelling. A separate driveway providing exclusive access to the secondary dwelling from a road shall not be allowed, unless problematic lot-specific circumstances (e.g., topography, significant existing structures or improvements) necessitate separate driveway access, or if demonstrably superior, more practical and efficient site design can be achieved. A special permit shall be required where separate driveway access is being proposed.
  7. **Deck/ porch limitation:** Decks and porches, covered or uncovered, that are attached to a secondary dwelling are limited to 200 square feet beyond the applicable maximum dwelling size. This limitation does not apply to any portion of an uncovered deck that is less than 30 inches above finish grade.



**SECTION 3: Severability.** This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California on \_\_\_\_\_ by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Ken Yeager, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

**ATTEST:**

\_\_\_\_\_  
Lynn Regadanz  
Clerk of the Board of Supervisors

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Elizabeth G. Pianca  
Deputy County Counsel