

CHAPTER 3.20 -d DESIGN REVIEW COMBINING DISTRICTS

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§ 3.20.010 Purpose

The purpose of the -d Design Review combining districts is to designate certain visually and environmentally sensitive areas as requiring design review, with the intention of mitigating adverse visual impacts of development and encouraging quality design.

§ 3.20.020 Applicability

The regulations set forth in this chapter shall apply as indicated, and shall supersede any conflicting regulations of the base zoning district. A designator “-d” is added to the base zoning designator for properties to which these combining districts apply. Where adopted area-specific policies and criteria are meant to be implemented through the design review procedure, the “-d” designator shall be accompanied by a numerical subscript (e.g.: -d₁, -d₂, etc.).

§ 3.20.030 Design Review Required

Development within areas zoned “-d” shall be subject to the provisions of Chapter 5.50: Design Review.

§ 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:** Projects where gross floor area (see § 1.30.030) of primary dwelling is 5,000 square feet or smaller, and cumulative gross floor area of primary dwelling and detached accessory buildings and/or secondary dwellings constructed after September 28, 2006 (ordinance effective date) does not exceed 6,500 square feet. Additions to existing primary dwelling resulting in total floor area of 5,000 square feet or smaller shall also be reviewed as Tier 1.
 - a. **Administrative Review.** Building projects classified as Tier 1 shall normally be reviewed without a public hearing. Such projects shall be subject to a discretionary design review exemption (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.
 - b. **Color; Light Reflectivity Value (LRV).** The provisions of subsection B shall apply to Tier 1 projects.
 - c. **Grading.** Except where subsection G, *Exemption for Sites Not Visible*, applies, Tier 1 projects requiring a grading permit shall not be eligible for a discretionary exemption when:
 - i. Earthwork quantities exceed 1,500 cubic yards (excepting excavation quantities for foundations, basements and pools), or
 - ii. Retaining walls where elevations exceeding five (5) vertical feet extend more than 80 horizontal feet.
 - d. **Other Circumstances Requiring a Hearing.** When an exception is proposed to deviate from the massing or retaining wall standards of subsections C or D, the standard design review procedure shall be required.
2. **Tier 2:** Projects where gross floor area (see § 1.30.030) of the primary dwelling is between 5,001 square feet and 12,500 square feet. Additional buildings (secondary dwellings, accessory buildings, others) shall be subject to the standard design review procedures and exemptions of Chapter 5.50.
 - a. **Design Review Required.** Building projects classified under Tier 2 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption 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, at least seven (7) days prior to the scheduled hearing.

3. **Tier 3:** Projects where gross floor area (see § 1.30.030) of any proposed dwelling, accessory building or other building exceeds 12,500 square feet.
 - a. **Design Review Required.** Building projects classified under Tier 3 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption 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 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, 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 Massing.** Buildings with moderate to high visibility 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 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 (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 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 a discretionary design review exemption (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 standard procedures and requirements of this section.

§ 3.20.050 -d₂ District (Milpitas Hillside)

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.