



THE CITY OF
NOVATO
CALIFORNIA

Community Development Dept.
75 Rowland Way, #200
Novato, CA 94945-5054
(415) 899-8989
FAX (415) 899-8216
www.ci.novato.ca.us

PLANNING COMMISSION STAFF REPORT

MEETING

DATE: September 17, 2012

STAFF: Robert Brown, Interim Community Development Director

SUBJECT: **CONSIDERATION OF MUNICIPAL CODE AMENDMENTS**

REQUESTED ACTION

Consider adoption of a resolution recommending to the City Council approval of numerous amendments to the Novato Municipal Code Chapters 9 (Land Subdivisions), 17 (Trees and Shrubs) and 19 (Zoning).

BACKGROUND

At its August 20, 2012 meeting the Planning Commission held a workshop to review a package of Municipal Code updates which are intended to:

1. Make numerous corrections and clarifications to the Zoning Code, which was adopted in 2001, and
2. Streamline several permit processes to reduce staff workload to focus efforts on the General Plan/Housing Element Update and to reduce time and costs for property owners who wish to pursue minor modifications to existing developed sites and buildings.

The staff report prepared for that meeting which describes the more substantive of the proposed code changes is included as Attachment 1.

The Commission raised several questions and offered some suggestions for revisions to the package of proposed amendments, which are discussed below.

Tree Permits (Pages 2-5 and 95 of Attachment 3)

Chapter 17 of the Municipal Code requires the issuance of permits for the removal or significant alteration of any “heritage” tree (24” or greater diameter at 2’ above grade) on a single-family or condominium property or any tree 6” or greater diameter on an apartment or non-residential property. Public noticing is required to property owners within 600 feet.

Staff had recommended that tree permits be required only for removal of native trees (all species of oak, tanbark oak, and madrone), and lower the regulated tree diameter to 20”. Tree removal permits would still be required for removal of any tree wider than 6” on undeveloped properties to keep natural sites from being denuded prior to development proposals. Additionally, staff proposed that the existing tree permit public notice radius of 600’ be reduced to 300’ to reduce noticing requirements for an action that has limited direct impacts on neighbors.

Based upon public input and commission input, staff now proposes to retain the current tree removal/alteration requirements for previously developed single-family and condominium properties, and to make the requirements for commercial, industrial and apartment projects consistent with those for single-family and condominium sites. This would increase the minimum diameter for requiring a tree removal/alteration permit from 6” to 24”. Staff believes this would eliminate some permit workload, would be much easier to explain to the public, and would likely result in more tree companies actually applying for permits for non-residential properties.

In addition, the Planning Commission asked that criteria be developed for when tree permits should be issued. The proposed criteria can be found in subsection 17-1.4c (see Page 4 of the proposed ordinance, Attachment 3). They would allow removal or alteration of heritage trees which, due to their size, type, condition and location are determined to be:

1. a hazard to individuals or existing structures or to the reasonable use of the subject property due to poor health or physical instability; or
2. a nuisance by causing damage to improvements, such as building foundations, retaining walls, utilities, drainage facilities, roadways, sidewalks, driveways, patios, and decks.

In many cases it will be necessary for a property owner to submit an arborist’s report to document and justify these findings.

The following additional language is proposed to this section:

“The permit may be issued subject to such conditions as are deemed reasonably necessary to accomplish the objectives of this chapter, including, without limitation, requirements for protecting and maintaining the trees to be saved by: establishing root protection zones, grading limits, cut and fill restrictions, installing temporary barricades, special provisions for drainage, special construction measures, on-site inspections by tree specialist during construction, and requirements for replacing removed trees with trees of reasonably comparable quality.”

Exceptions are also proposed in subsection 17-1.4e (Page 4, Attachment 3) for removal of trees which are dead, diseased or substantially damaged and are an imminent hazard, for removal of certain identified pyrophytic trees (Monterey Pine, Bishop Pine, Acacia species, and Eucalyptus species) as recommended by the Fire Marshal, and for landscape maintenance projects by public agencies.

The North Marin Unit of the Marin Conservation League was asked to provide input on the proposed changes. They initially expressed concerns about limiting tree permits to native trees only, but now state that the revised proposal to make the permit standards consistent among all zoning districts for developed properties is preferable to the original amendments.

Commercial Use Tables (Table 2-7) – Reference to “Related Uses” to General Retail (Page 20 of Attachment 3)

In the version of proposed ordinance amendments considered by the Planning Commission on August 20 staff had proposed to eliminate a footnote in the Commercial Use Tables which stated

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that staff could allow “related uses” to permitted general retail uses in the downtown districts. These “related uses” must be open on weekdays between 10am and 5pm and some hours on Saturday, has changing window displays and have two-hour customer turnover.

The Commission questioned staff’s rationale for suggesting that this footnote be removed from the code. Staff has not been requested to use this allowance since the zoning ordinance was written, and frankly is not certain why the language was added to the code. However, staff also sees no difficulties in retaining the current wording, and in the attached version of the code updates has retained the footnote (see Page 20 of Attachment 3).

Mixed Use District (Pages 24-27 of Attachment 3)

A number of changes were being proposed to the Mixed Use District in the amendments reviewed by the Planning Commission on August 20, including the addition of three sentences to the purpose statement in Section 19.14.020. The Commission questioned the first proposed sentence, which stated, “The combination and intensity of land uses shall be compatible with the development pattern and character of the surrounding neighborhood and existing adjacent land uses.” The concern stated was that the City will be considering the appropriate use of mixed use districts in the General Plan update for the North Redwood Corridor, and that language regarding land use intensity and neighborhood compatibility should be adopted at that time. The Chair suggested that no changes be made to the Mixed Use District regulations as a result.

Staff recommends eliminating the sentence of concern from the Mixed Use District purpose statement. The other two sentences seem appropriate, factual and are consistent with language in the General Plan describing Mixed Use designations: “Commercial and/or office land uses are permitted. Housing development may be permitted only in conjunction with either commercial and/or office uses.”

Staff also suggests that changes be made in the table of allowable uses (Table 2-9) for consistency with other commercial districts. These changes include:

- Adding Private Schools as a Conditional Use,
- Clarifying that duplexes may be allowed as a Conditional Use, but eliminating a single-family home as a permitted use,
- Including a provision for sales of alcoholic beverages with a Use Permit, and including the exception for on-site consumption at a restaurant,
- Including marijuana dispensary as a use specifically not allowed, and
- Adding the same provisions for wireless telecommunication facilities that will be in other zoning districts.

Fences, Walls and Hedges (Pages 28-29 of Attachment 3)

Staff had previously proposed additional detailed language concerning fence height and setbacks abutting a street frontage in Section 19.20.040(D)(1). The Commission requested more detail and a diagram to assist in understanding the proposals. Staff has reconsidered the practicality of the proposed changes and has withdrawn them from the latest draft.

Parking in Setbacks (Page 31 of Attachment 3)

The Commission asked for additional clarity regarding proposed amendments to Section 19.20.100(E) which describes allowances for parking in residential setbacks. The current regulations state that parking is only allowed in residential front or street sideyard setback areas on paving, precluding parking on landscaped areas. The proposed changes would clarify that required parking spaces (two spaces, at least one covered) cannot be located within the street setback areas, which has been staff practice in administration of the code. Setbacks are intended to be open areas, and therefore mandated parking of vehicles would defeat the purpose of the open setback and place parking next to the street. Parking on driveways is allowed, but not for required parking within the setback. It is hoped that this extra parking will be used on an occasional, not continuous basis.

Design Standards for Solar Collectors (Page 32 of Attachment 3)

Staff has recommended that design standards for solar collectors (Section 19.20.110C) be removed from the code due to California Government Code Section 65850.5 which allows only nondiscretionary permitting of solar collectors and revisions to the California Building Code which seem to specifically preclude design review processes. The City Attorney indicates that the City still possesses design review authority, but staff recommends the elimination of these regulations since building permits for new solar panels have not previously been reviewed by Planning staff except when part of design review of a new building. Staff believes that issuance of building permits for solar panels should be made as easy as possible to encourage this technology and to not increase staff responsibilities since permit streamlining and reduction of staff workload is an objective of these code amendments.

Art Program (Pages 33-37 and 51 of Attachment 3)

The provision of art in conjunction with new development projects has been required since 2003. All new or expanded non-residential and residential development of 5 or more units must devote one-third of one percent of construction cost to on-site art, or pay an in-lieu fee equal to one-third of one percent of construction cost for residential projects and one-half of one percent of construction cost for non-residential projects. In-lieu fees are used to fund art installations in public locations.

Section 19.21.060 requires review of all proposed art installations by both the Recreation, Cultural & Community Services Advisory Commission (RCCSAC) and the Design Review Commission (DRC). The art selection and review process sometimes occurs after the project entitlements, requiring a second round of review by two bodies.

Staff has recommended that the review of art proposed on private property be done by the DRC only in conjunction with the project design review, and that review of art proposed on public property be done by the RCCSAC only. The RCCSAC would still be responsible for making recommendations on art purchased with in-lieu fees.

The RCCSAC will discuss this proposal at their September 13 meeting, and their recommendation will be shared orally with the Planning Commission.

Noise Standards (Page 38 of Attachment 3)

The version of amendments reviewed by the Planning Commission on August 20 included new language in Table 3-5 Allowable Exterior Noise Levels which would clarify which noise standards apply to Mixed Use Districts. The previous language indicated that the commercial noise standards apply to Mixed Use Districts, but those abutting a residential district would have to comply with the lower residential noise standards. The Commission questioned whether this standard would restrict the ability of Mixed Use Districts to function next to residential districts. The Chair suggested that this, along with other proposed modifications to the Mixed Use District regulations be held off until after the General Plan update has been completed and new Mixed Use Districts considered.

Staff has modified its proposal to now only state that Mixed Use Districts are subject to the commercial noise standards. Staff believes it is important to clear up this ambiguity in the current code. The additional language pertaining to sites abutting residential districts has been removed, since this lower noise standard has not been applied to commercial districts which abut residential land uses.

Exception to Hillside Design Review Requirements (Pages 39 and 75 of Attachment 3)

Currently any minor modifications to existing homes or non-residential structures subject to the hillside regulations require the filing of a design review application. Very minor structures (e.g., retaining walls, storage buildings, trash enclosures, etc.) or building modifications (small additions, façade changes) may not warrant the time and expense of a design review application filing.

Staff proposed to add an exemption provision to the review requirements of Division 19.26 to allow the Community Development Director to waive application filings and public hearings on “new structures, additions to existing structures, including accessory structures, or other improvements that are determined by the director to be visually or functionally insignificant.” This language is consistent with that existing in Table 4-2 (Applicability of Design Review) which gives the Director authority to waive design review for ground floor and second story additions in non-hillside areas deemed to be visually or functionally insignificant.

The Commission questioned the meaning of “functionally insignificant,” and this phrase has been removed from both this section and from Table 4-2. In addition, staff now proposes to limit the extent of this exemption to apply only to new accessory buildings, not new structures in general, and to limit exempted additions of existing residential buildings to a maximum of 10% of the square footage of the original building being expanded. In both cases the Director would have to determine that the additions are visually insignificant. Staff believes these modifications would limit the potential impact of the exception process and thus potential environmental impacts of larger new structures or additions that could be waived by staff without a public review process.

Signs (Pages 47-54 of Attachment 3)

A number of minor edits were proposed to the sign regulations, primarily adding references to clarifying regulations found elsewhere in the code. Two of the more substantive changes included changing the deadline for action on a sign permit or Master Sign Plan from 30 to 60

days and a clarification regarding allowances for freestanding signs for multi-tenant buildings. The Commission asked for additional rationale for both changes.

The 30-day action requirement for sign permits and Master Sign Plans is unique in the Novato code for permit processing. Decision deadlines for all other types of permit processes are controlled by the State Subdivision Map Act and the Permit Streamlining Act. It is unclear from the current code language what would occur if a decision is not made within 30 days (e.g., if the application would be “deemed approved” without any formal processing or noticing.

Staff had previously recommended increasing the deadline from 30 to 60 days, but now suggests that all references to a processing deadline be eliminated from this section, and reference be added to the general processing timelines in Section 19.40.070 of the code, which repeats the Permit Streamlining Act’s requirement for conclusion of the completeness review of an application within 30 days, but does not establish a deadline for an application decision. Mandating a decision date has the potential for unintended consequences. First, it is unlikely that review by the Design Review Commission could occur within 30 days of application if the Director would choose to make such a referral. Second, the hard deadline does not take into account any time necessary for an applicant to resubmit design changes or additional data that might be required to reach closure on an application process. While staff attempts to process sign permits in a very expeditious manner, we would prefer to not include a hard deadline in the code that may result in undesirable signs being approved by default.

Pools/Hot Tubs and Spas (Page 56 of Attachment 3)

Staff has proposed the addition of clarifying language to the code regulating to pools, spas and hot tubs. There has been confusion as to whether such facilities constitute accessory structures, with the associated restrictions on setbacks, lot coverage and maximum number of accessory structures (limited to two per lot). Most jurisdictions exempt pools, hot tubs and spas from accessory structure limitations since they do not have the visual impacts of above-ground structures such as detached garages, workshops, patio covers, etc.

The Commission questioned the proposed language, which staff has modified to retain the current definition of accessory structures as including pools, hot tubs and spas, but clarifying that these may be located in rear or side setback areas and do not count towards lot coverage or number of accessory structure limitations.

Dwelling Groups (Pages 59-60 and 100 of Attachment 3)

Staff has proposed to eliminate the definition and regulations pertaining to “Dwelling Groups.” These provisions were added to the Zoning Code in 1996 based on a property owner’s inability to legalize a second dwelling unit and applied only to the Northwest Quad Planning Area (west of Grant Avenue). Dwelling Groups are described as groupings of dwelling units on a property under common ownership. Since 1996 these provisions have never been utilized and predated the current regulations for second dwelling units. Staff therefore recommends these provisions and definition be deleted.

Definitions (Pages 98-107 of Attachment 3)

The Assistant City Attorney requested that staff review the various use tables within the Zoning Code to verify that all of the listed uses had associated definitions in the Zoning Code. As a

result, staff has added definitions of: animal grooming, assembly, broadcasting studio, cemetery, check cashing service, crematory, extended hours business, farm labor housing, farm produce stand, florists, primary building frontage, gun sales, hiking trails, large item retail, marinas, docks and piers, outdoor display retail sales, real estate office, travel agency, and upholstery shop.

Key to Substantive Code Amendments

The proposed code amendments are presented in Attachment 3 in a strikeout/underline version to allow comparison of revised with existing text. The majority of the proposed code amendments are very minor corrections and clarifications that staff has accumulated over a period of eleven years in working with the new Zoning Code. To assist in identifying and explaining the more substantive amendments, staff has prepared a list (Attachment 4) which is keyed to the large bold numerals on the far right margin of the code amendment text (Attachment 3).

ENVIRONMENTAL ASSESSMENT

The proposed Zoning Ordinance changes are not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because there is no possibility that the proposed amendments which are minor corrections and procedural changes will have a significant effect on the environment.

COMMISSION ALTERNATIVES

1. Recommend that the City Council approves the amendments to the Municipal Code by adoption of the attached resolution.
2. Modify any of the proposed amendments and recommend approval to the City Council by adoption of the modified resolution.
3. Require additional environmental review be completed prior to recommendation.
4. Do not recommend that the City Council approve the amendments and direct staff to prepare any necessary resolution.
5. Continue consideration of the amendments for more information or revisions.

RECOMMENDATION

Approve the attached resolution recommending that the City Council approve the proposed amendments to the Municipal Code.

FURTHER ACTION

The Planning Commission recommendation on the Municipal Code amendments will be forwarded to the City Council for consideration.

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ATTACHMENTS

1. August 20, 2012 Planning Commission staff report
2. Resolution
3. Text of Proposed Code Amendments (in strikeout/underline format)
4. List of Substantive Code Amendments
5. Descriptions of H.R. 3630 – amendments to the Telecommunications Act
6. Summary of Tree Permit Requirements in Marin Jurisdictions
7. E-mail from Susan Stompe of Marin Conservation League
8. Summary of Regulation of Medical Marijuana Dispensaries in Marin
9. August 20, 2012 letter from Maggie Rufo re: Tree Permits
10. August 20, 2012 letter from Eleanor Sluis



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PLANNING COMMISSION STAFF REPORT

MEETING

DATE: August 20, 2012

STAFF: Robert Brown, Interim Community Development Director *RB*

SUBJECT: **CONSIDERATION OF MUNICIPAL CODE AMENDMENTS**

REQUESTED ACTION

Consider numerous amendments to the Novato Municipal Code Chapters 9 (Land Subdivisions), 17 (Trees and Shrubs) and 19 (Zoning). The Commission is requested to review, discuss and raise questions regarding the proposed amendments, which will return for formal adoption of a recommendation to the City Council in September.

BACKGROUND

The proposed code amendments are intended to:

1. Make numerous corrections and clarifications to the Zoning Code, which was adopted in 2001, and
2. Streamline several permit processes to reduce staff workload to focus efforts on the General Plan/Housing Element Update and to reduce time and costs for property owners who wish to pursue minor modifications to existing developed sites and buildings.

May 1, 2012 City Council meeting

At the May 1, 2012 City Council meeting, staff identified several potential changes to existing permit processes which can reduce the workload of the Planning Division, which experienced the loss of four planning positions over the past three years, to allow the remaining staff to devote more internal resources to the General Plan and Housing Element updates. The Council concurred that staff should develop the proposed code amendments and bring them to the Planning Commission for recommendation. Their discussion can be viewed at: http://novato.granicus.com/MediaPlayer.php?view_id=4&clip_id=635

Key to Substantive Code Amendments

The proposed code amendments are presented in Attachment 1 in a strikeout/underline version to allow comparison of revised with existing text. The majority of the proposed code amendments are very minor corrections and clarifications that staff has accumulated over a period of eleven years in working with the new Zoning Code. To assist in identifying and explaining the more substantive amendments, staff has prepared a list (Attachment 2) which is keyed to the large bold numerals on the far right margin of the code amendment text (Attachment 1). The following discussion with expand upon the permit streamlining proposals.

Wireless Communications Facilities (Pages 10, 20, 25 and 60-66 of Attachment 1)

The City currently requires a Use Permit issued by the Zoning Administrator or Planning Commission and Design Review for a new telecommunication antenna, either freestanding on a pole or tower, or mounted on a building. The Federal Telecommunications Act precludes a city from basing a decision on an antenna on possible health concerns related to radio frequency emissions (which is typically the issue of most interest to the public), leaving local discretion only on design/visual issues. SB 1627, adopted in 2006, requires cities to administratively approve collocated antenna proposals. Federal HR 3630, adopted in February, 2012, further restricts a locality's ability to deny collocated facilities (see Attachment 3 for explanation of HR 3630).

Telecommunication providers have become very adept at "stealth" design techniques, such as incorporating antennas into building parapets or false chimneys, steeples, etc., eliminating many design concerns. Staff processes about 10 telecommunication permits each year and 8 annual permit renewals.

Proposal: Modify Division 19.38 (Wireless Communication Facilities) of the Zoning Code to provide for ministerial approvals (staff approvals without a public hearing/noticing) for collocated building-mounted antennas (on buildings which already have permitted antenna placements) or the addition of antennas to existing poles/towers previously permitted for telecommunication devices. Zoning Administrator approval of a Use Permit would be needed for new building/roof mounted antennas, and Planning Commission approval would be required for any new pole/tower mounted antennas or any new antenna which would cause cumulative radio frequency emissions in the vicinity to exceed 75 percent of the federal RF standard. For the administrative approval of collocated facilities, staff would utilize the existing Zoning Clearance (described in Section 19.42.020) which is "used by the city to verify that a proposed structure or land use complies with the permitted list of activities allowed in the applicable zoning district, and the development standards applicable to the type of use." Staff review would continue to evaluate both design and technical studies to assure that radio frequency (RF) emissions remain within federal limits.

Modify Division 19.42 (Design Review) to allow the Community Development Director to waive the requirement to submit a Design Review application for building/roof mounted antennas and collocated antennas on existing towers/poles if they meet the "stealth" design criteria in Section 19.38.130.

In addition to the permit streamlining proposals described above, staff also proposes a "clean up" revision to the residential land use tables (Table 2-4 in Section 19.10.030). Telecommunication antennas have been allowed in residential districts as a "Public Utility" use, the definition of which does not specifically include telecommunication facilities. The non-residential use tables specifically list "Telecommunication Facilities" as a separate use category. Section 19.38.060 (the General Location Standards for Wireless Communication Facilities) indicates that poles/towers "should avoid sites within residential, agricultural, or designated open space or conservation areas" unless findings are made that the facility is needed to meet the service demands of a carrier and that adverse visual/land use compatibility/public safety impacts are minimized. Staff therefore suggests that the residential use tables be modified to clearly identify

telecommunication facilities as a permissible use, subject to all the locational, design and technical criteria contained in Division 19.38.

Tree Permits (Pages 3 and 96 of Attachment 1)

Chapter 17 of the Municipal Code requires the issuance of permits for the removal or significant alteration of any "heritage" tree (24" or greater diameter at 2' above grade) on a single-family or condominium property or any tree 6" or greater diameter on an apartment or non-residential property. Public noticing is required to property owners within 600 feet.

Staff spends a great deal of time both processing an average of 40 tree permits each year and explaining the regulations to property owners. In many cases, trees are removed without receipt of permits by owners unaware of the regulations. Staff cannot recall when a tree permit application was denied. The fee for a tree removal permit is \$100, which covers only 11% of staff costs, not including public information inquiries. The cost of tree removal for property owners is significant since a report from an arborist is often required to justify removal. The Public Works Department and utility companies do not require tree permits for their tree removal or trimming work.

All jurisdictions in Marin County have some form of tree removal permit except for the City of San Rafael which does not regulate tree removal or trimming. Some jurisdictions limit the application of tree removal restrictions to native trees (Marin County, Mill Valley, Sausalito). Other jurisdictions' requirements are summarized in Attachment 4.

Proposal: Require tree permits only for removal of native trees (all species of oak, tanbark oak, and madrone), and lower the regulated tree diameter to 20". Tree removal permits would still be required for removal of any tree wider than 6" on undeveloped properties to keep natural sites from being denuded prior to development proposals. Additionally, staff proposes that the existing tree permit public notice radius of 600' be reduced to 300' to reduce noticing requirements for an action that has limited direct impacts on neighbors.

Staff does not believe this change would have any noticeable effect on either visual or environmental resources in Novato since:

- Regulating removal of an average of 40 trees per year is inconsequential given the number of existing trees in the community. While it is impossible to estimate the hundreds of thousands of trees in the community, the Public Works Department reports that we have approximately 23,000 street trees alone.
- It is likely that the majority of property owners and tree companies significantly prune or remove trees without application for tree permits.
- Native trees are the most valuable tree resources in our more natural settings and should be preserved.

The North Marin Unit of the Marin Conservation League was asked to provide input on the proposed changes. They recommend retaining the current requirements but reducing the notice radius to 300 feet (see Attachment 5).

Minor Amendments to Planned Development Districts (Pages 69 & 81 of Attachment 1)

A large proportion of Novato is zoned Planned Development, which provides the City with greater control over the details of a development and developers with some flexibility in development regulations. The greater specificity of Planned Development districts also makes it more difficult to make even minor architectural or site changes to an approved project without a full review process by the Design Review Commission, Planning Commission and the City Council.

Proposals:

1. Eliminate the necessity of review by the Design Review Commission for changes to Planned Development Master Plans (which establish the use and site regulations for PDs), forwarding such applications only to the Planning Commission and City Council (referral to the DRC could occur for modifications which entail major changes in building volume).
2. Clarify that changes to Planned Development Precise Development Plans (detailed project plans) would be reviewed by the DRC, Planning Commission and City Council.
3. Allow the Community Development Director to approve "minor architectural and site changes that are consistent with the adopted Master Plan." Examples include minor landscape changes, small building additions, or minor elevation changes. The Director would have the ability to refer applications to the DRC for modifications which have the potential for changing the character of the development. Director actions are subject to public noticing (600' radius) and the holding of a public hearing if requested.

Exception to Hillside Design Review Requirements (Page 38 of Attachment 1)

Currently any minor modifications to existing homes or non-residential structures subject to the hillside regulations require the filing of a design review application. Very minor structures (e.g., retaining walls, storage buildings, trash enclosures, etc.) or building modifications (small additions, façade changes) may not warrant the time and expense of a design review application filing.

Proposal: Add an exemption provision to the review requirements of Division 19.26 to allow the Community Development Director to waive application filings and public hearings on "new structures, additions to existing structures, including accessory structures, or other improvements that are determined by the director to be visually or functionally insignificant." This language is consistent with that existing in Table 4-2 (Applicability of Design Review) which gives the Director authority to waive design review for ground floor and second story additions in non-hillside areas deemed to be visually or functionally insignificant.

On-Sale Alcohol Permits for Restaurants (Pages 18 & 56 of Attachment 1)

A Use Permit is now required for any restaurant wishing to serve alcoholic beverages.

Proposal: Exempt restaurants from the Use Permit requirement for "the incidental sale and serving of alcoholic beverages for on-premise consumption in conjunction with a restaurant. This exemption does not apply to uses classified as night clubs and bars."

Art Program (Pages 32-36 of Attachment 1)

The provision of art in conjunction with new development projects has been required since 2003. All new or expanded non-residential and residential development of 5 or more units must devote one-third of one percent of construction cost to on-site art, or pay an in-lieu fee equal to one-third of one percent of construction cost for residential projects and one-half of one percent of construction cost for non-residential projects. In-lieu fees are used to fund art installations in public locations.

Section 19.21.060 requires review of all proposed art installations by both the Recreation, Cultural & Community Services Advisory Commission (RCCSAC) and the Design Review Commission (DRC). The art selection and review process sometimes occurs after the project entitlements, requiring a second round of review by two bodies.

Proposal: Require review of art proposed on private property by the DRC only in conjunction with the project design review, and require review of art proposed on public property by the RCCSAC only. The RCCSAC would still be responsible for making recommendations on art purchased with in-lieu fees.

Medical Marijuana Dispensaries (Pages 9, 18 and 25 of Attachment 1)

The City Council adopted a moratorium ordinance on December 6, 2010 preventing the issuance of any approval or permit for a medical marijuana dispensary in Novato. The moratorium ordinance was extended twice, in January and November of 2011, and is set to expire on December 4, 2012.

Since enacting the moratorium the legal ability of cities to restrict or preclude medical marijuana dispensaries has been clarified by the California Court of Appeals in *Riverside v. Inland Empire Patient's Health and Wellness Center* which upheld Riverside's authority to prohibit dispensaries in every zoning district in the city.

In addition, the two unauthorized medical marijuana dispensaries which were located in Novato have been closed through pressure imposed by the Federal Department of Justice.

All jurisdictions in Marin either prohibit dispensaries or have a moratorium in place, with the exception of Fairfax, which has a detailed permitting process (see Attachment 6).

Proposal: Specifically preclude medical marijuana dispensaries in all zoning districts.

Tentative Map Automatic Extensions (Pages 1-2 of Attachment 1)

Due to the economic downturn the State legislature has approved automatic time extensions to valid subdivision maps. AB 333 in 2009 and AB 208 in 2011 granted two-year extensions to valid maps. However, other approved project entitlements expire within two years after the approval date, and then may be extended by the original approval body in two one-year increments.

Proposal: Allow other entitlements associated with a valid subdivision map to be automatically extended to match tentative map extensions granted by the state legislature so that all entitlements are valid for the same period of time.

Public Outreach

Staff shared the proposed streamlining amendments with the Novato Chamber of Commerce's Government Affairs Committee which was supportive and the proposed tree permit modifications with the North Marin Chapter of the Marin Conservation League which recommends against changing the tree permit process other than reducing the notice radius from 600 to 300 feet.

ENVIRONMENTAL ASSESSMENT

While most of the code amendments are minor adjustments in regulations or procedures which would have no material effect on the environment, staff is considering the level of environmental analysis appropriate for any of the more substantive changes, such as changes to the tree permit process.

RECOMMENDATION

Review, discuss and raise questions regarding the proposed amendments, which will return for formal adoption of a recommendation to the City Council in September.

ATTACHMENTS

1. Draft Code Amendments in *strikeout/underline* version
2. List of Substantive Changes
3. Descriptions of H.R. 3630 – amendments to the Telecommunications Act
4. Summary of Tree Permit Requirements in Marin Jurisdictions
5. E-mail from Susan Stompe of Marin Conservation League
6. Regulation of Medical Marijuana Dispensaries in Marin

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 12-08

RESOLUTION OF THE PLANNING COMMISSION
RECOMMENDING AMENDMENTS TO CHAPTER IX (LAND
SUBDIVISION), CHAPTER XVII (TREES AND SHRUBS),
AND CHAPTER XIX (ZONING) OF THE NOVATO
MUNICIPAL CODE

WHEREAS, the City of Novato Zoning Ordinance was revised and adopted in April 2001;
and

WHEREAS, from time to time it is necessary to amend the Municipal Code to reflect
changes in laws and local philosophies towards land use and development controls; and

WHEREAS, the Zoning Code is enacted based on the authority vested in the City of
Novato by the State of California, including but not limited to: the State Constitution; the
Planning and Zoning Law (Government Code Section 65000 et seq.); the Subdivision Map Act
(the "Map Act" - Government Code Sections 66410 et seq.); and the California Health and Safety
Code; and

WHEREAS, the Zoning Code is the primary tool used by the City of Novato to implement
the goals, objectives, policies and programs of the Novato General Plan, which is the overall
policy document of the City; and

WHEREAS, the proposed amendments, as described in Exhibit A, incorporated herein by
reference, are consistent with the goals, objectives, policies, and programs of the Novato General
Plan and Downtown Novato Specific Plan; and

WHEREAS, the Environmental Coordinator has reviewed the proposed Municipal Code
revisions and made a determination that the proposed Zoning Ordinance changes are not subject to
the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because there
is no possibility that the proposed amendments which are minor corrections and procedural
changes will have a significant effect on the environment as documented in the Planning
Commission staff report incorporated hereby by reference; and

WHEREAS, the Planning Commission has held a public workshop review on the proposed
amendments on August 20, 2012 and held the required public hearing on the proposed
amendments on September 17, 2012.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
approve and recommends that the City Council approve the proposed Municipal Code revisions,
as described in Exhibit A, based on the following findings:

1. The proposed Municipal Code amendments, the great majority of which are non
substantive clarifications of existing regulations and permit review procedures, are

consistent with the policies and programs of the General Plan and Downtown Specific Plan as most currently amended and further the following goals and objectives to:

- a. Provide standards for the orderly growth and development of the City, and guide and control the use of land to provide a safe, harmonious, attractive and sustainable community;
 - b. Implement the uses of land designated by the Novato General Plan and avoid conflicts between land uses;
 - c. Maintain and protect the value of property;
 - d. Conserve and protect the open space, scenic beauty, and other natural resources of the City;
 - e. Protect the character, and social and economic stability of residential, commercial and industrial areas;
 - f. Assist in maintaining a high quality of life without causing unduly high public or private costs for development or unduly restricting private enterprise, initiative or innovation in design; and
 - g. Provide for appropriate citizen participation in the decisions made in compliance with the Zoning Ordinance.
2. The Zoning Districts, Allowable Land Uses, and Zone-Specific Standards (Article 2 of the Zoning Ordinance) establish allowable uses applicable to property throughout the City and establishes general permit requirements for development and new land uses to implement the goals and policies of the General Plan and Downtown Specific Plan. The proposed amendments include allowances, with the issuance of a conditional use permit, for:
- private schools in several commercial districts which also allow similar educational uses such as colleges, elementary and secondary schools or specialized education and training;
 - mortuaries and funeral homes in the General Commercial, Business and Professional Office and Light Industrial/Office districts, where an existing funeral home exists in the Business and Professional Office District, but limit crematoria to the Light Industrial/Office District with minimum distance requirements from sensitive receptors to potential air quality impacts; and
 - museums in the Public Facilities District, where an existing museum currently exists in a City park.

Any proposed establishment of one of these uses in the applicable zoning district would require detailed project review for potential environmental impacts and land use compatibility and public notification.

The proposed amendments would allow the sale of alcoholic beverages as an ancillary service in conjunction with restaurant uses, subject to state licensing provisions for alcohol sales. Public safety would not be compromised by this administrative change since police services are rarely required as a result of activities associated with the consumption beverages at facilities principally

providing food service. The proposed amendment would be consistent with the objectives of the Downtown Specific Plan and the City Council's Strategic Plan to incentivize the location of restaurants in the downtown area by reducing permit costs and delays.

The proposed amendments would also allow the location of wireless telecommunication facilities being placed on existing towers or buildings which already have such facilities, but would continue to require staff evaluation of the proposals for conformance with adopted design and radio frequency emission standards. This amendment would constitute an incentive for applicants to collocate antennas to minimize potential land use conflicts and visual impacts consistent with the stated purposes of Division 19.38 of the Zoning Code.

The proposed amendments would specifically prohibit the use of any real property within the City of Novato for the establishment or operation of any marijuana dispensaries, cooperatives, collectives, operators, establishments or providers, consistent with existing zoning regulations which do not list such uses as allowable within the various zoning districts applicable to properties throughout the community as described in the Novato Municipal Code, Chapter 19, Article 2.

3. The General Property Development and Use Standards Division (Article 3 of the Zoning Ordinance) expands upon the standards of Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) by addressing the details of site planning and project design. These standards are intended to ensure that all development:
 - a. Produces an environment of stable and desirable character;
 - b. Is compatible with existing and future development; and
 - c. Protects the use and enjoyment of neighboring properties, consistent with the General Plan.

The proposed amendments make no substantive changes in development standards.

4. The Land Use and Development Permit Procedures (Article 4 of the Zoning Code) and Zoning Ordinance Administration (Article 5) describes the authority and responsibilities of City staff and official bodies in the administration of the Zoning Ordinance, as delegated by the City Council. The proposed changes in administrative review procedures are minor modifications intended to streamline the review process but will not result in new potential environmental or visual impacts or land use conflicts, and include the following:
 - a. the potential to waive the filing of a design review application for wireless telecommunication facilities being placed on existing towers or buildings which already have such facilities, but would continue to require staff evaluation of the proposals for conformance with adopted design standards. This amendment would constitute an incentive for applicants to collocate antennas to minimize potential visual impacts consistent with the stated purposes of Division 19.38 of the Zoning Code.
 - b. the potential to waive the filing of an amendment to an adopted Planned Development Precise Development Plan for minor building or site modifications to existing developed properties or a design review

application for new residential accessory buildings or small building additions not exceeding 10 percent of the existing building floor area on existing developed properties subject to the Hillside and Ridgeline Protection provisions of Division 19.26 of the Zoning Code.

5. The proposed Municipal Code amendments are not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because there is no possibility that the proposed amendments will have a significant effect on the environment. The proposed amendments are for the most part clarifications of existing regulations and permit review procedures which not constitute substantive changes and have no effect on the physical environment. The proposed revisions to Chapter 17 of the Novato Municipal Code would change administrative procedures for issuance of permits for removal or alteration of trees on previously developed property. Discretionary permits would no longer be required for removal or alteration of trees with a diameter of between 6 and 24 inches on property developed with commercial, industrial or residential apartment projects. Issuance of permits would still be required for heritage trees with diameters of 24 inches or larger. The proposed administrative changes would decrease the number of tree permits issued per year only slightly. Since only 40 tree removal/alteration permits are issued each year in a community with hundreds of thousands of existing trees, over 23,000 of which exist as street trees alone, the effect of the proposed changes would not constitute a significant impact on the environment.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 17th day of September, 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 17th day of September, 2012.

Planning Commission Chair

Attachment: Exhibit A - Proposed Municipal Code Amendments

Exhibit "A"
PROPOSED MUNICIPAL CODE AMENDMENTS
October 2012

Chapter IX - LAND SUBDIVISION

9-7 - Tentative Maps.

9-7.002 *Tentative Map for Which a Final Map is Required — Requirements.*

- f. Expirations and Extensions of Tentative Map.
1. The approval or conditional approval of a tentative map shall expire 24 months from the date the map was approved or conditionally approved except as provided in Section 66452.6 of the Subdivision Map Act.
 2. The subdivider may request a time extension for tentative map approval or conditional approval by written application to the community development director, such application to be filed at least ten days before the approval or conditional approval is due to expire. The application shall state the reasons for requesting the extension. Any such extension request requires planning commission action with findings pursuant to subsection 9-7.002e,2; e,3 or e,4.
 3. Any extension or extensions of tentative map approval or conditional approval shall not exceed an aggregate of three years.
 4. The previous conditions of approval may be changed or new conditions added if all of the following occur:
 - (a) The subdivider consents in writing to the altered conditions.
 - (b) Circumstances have arisen which did not exist at the time the tentative map was approved.
 - (c) The extension would otherwise be denied.
 - (d) Any new conditions are necessary to protect the public health, safety and welfare.

5. In the event of extensions to approved and unexpired tentative maps and vesting tentative maps enacted by the state legislature, including, but not limited to, the extensions enacted by Assembly Bill 333 on July 15, 2009, the extensions granted by Sections 9-7.002f,2 and f,3 of this code shall be further extended to match such extensions granted by the state legislature. In addition, all other land use entitlements and approvals required by Chapter 19 (Zoning Ordinance) of this Code that were granted in

connection and concurrent with the original grant of approval to the subdivision maps shall also be extended by action of the Community Development Director to be co-terminus with the date of expiration of the tentative map. At the discretion of the community development director, the extension of the city land use entitlements authorized herein may be conditioned upon compliance with interim property maintenance requirements such as weed abatement, site fencing for security and graffiti control, where deemed appropriate and necessary.

Chapter XVII - TREES AND SHRUBS

17-1 - Regulating Alteration or Removal of Trees on Private Property.

17-1.1 *Purpose.* The city recognizes that trees contribute in many important ways to the health, safety, and welfare of all of Novato's citizens. Besides their aesthetic benefits, they offer windbreaks, act as filters for airborne pollutants, absorb carbon dioxide and release oxygen, provide erosion control, and prevent bank and slope failure through their extensive root systems. All trees perform these functions not only for the property on which they occur but for all people living in their vicinity. They are key elements in a living system whose boundaries do not conform to the arbitrary boundaries of private property. Trees of significant size or age are part of the natural heritage of all Novato's citizens upon which the continued health and welfare of the community depends. Also part of such valued natural heritage are other trees, not necessarily as large, which form an important element of the community's history.

Significant portions of the city are covered by oak, madrone and other trees which contribute greatly to the scenic beauty of the city. The majority of property within the city is on hillside and sloping terrain. The indiscriminate removal of trees would destroy the scenic beauty, contribute to erosion and stream sedimentation, increase slope hazards, reduce property values, increase the cost of construction and maintenance of drainage systems through the increased flow and diversion of surface waters and adversely affect the local economy by reducing the attractiveness and desirability of the area as a place to live, work and visit.

For these reasons, the city finds it necessary to protect the public health, safety and welfare to enact regulations controlling the removal of trees within the city protect certain trees that are an essential part of Novato's natural heritage.

17-1.2 *Definitions.* As used in this chapter:

- a. "Alter" shall mean to take action in a way that could reasonably be said to diminish the vigor of the tree.
- b. "Director" shall mean the director of the Novato department of community development or authorized representative.
- c. "Heritage tree" shall mean any woody: (1) characterized by having a major trunk or trunks of a diameter of 24 inches (circumference of 75 inches) or more measured at 24 inches above existing grade; or (2) any other so designated by the city council based upon a finding that it has special historical associations due to its age, character, species, or location.
- d. "Income Parcel" shall mean every lot or parcel zoned for multifamily residential, commercial, industrial or office use.
- e. "Tree" shall mean any woody plant characterized by having a major trunk or trunks of a diameter of six inches (circumference of 19 inches) or more, measured at 24 inches above existing grade.
- f. "Undeveloped Parcel" shall mean every lot or parcel irrespective of zoning which meets one of the following factors:
 - 1. Is able to be further subdivided or developed, as defined in the city's zoning and land subdivision ordinances; or
 - 2. Is not occupied by a primary structure as defined in the zoning ordinance.

17-1.3 *Alteration of ~~Heritage Trees~~ or Removal of Heritage Trees Prohibited Without a Permit.*

It shall be unlawful for any person or group of persons to alter or remove or cause to be altered or removed, one or more heritage trees on any parcel in the city without a permit-
~~or remove, or cause to be removed, any tree from any income parcel or undeveloped parcel without a permit, as provided herein.~~ These provisions do not apply to trees which are dead or fallen or to activities undertaken or authorized by local, state and federal agencies to control sudden death oak syndrome or other similar vectors.

17-1.4 *Tree Permits.*

- a. Any person desiring to alter or remove a heritage tree on any parcel or remove one or more trees on any undeveloped parcel in the city shall apply in writing to the director for a permit to do so. Such application shall contain a site plan identifying the location of the trees to be altered or removed; the number and species of the trees; size of each tree trunk's diameter, as measured 24 inches above existing grade; a statement of the reason for alteration or removal; and, identification of the person or company who will do the work. The director may also require documentation from a licensed tree surgeon, certified arborist,

landscape architect or similarly licensed professional as to the health, quality and desirability of the tree or trees in question, and any other information determined relevant by the director.

b. Upon receipt of a complete application, the director shall determine whether the application presents issues of sufficient public concern to warrant a public hearing by the planning commission in lieu of the action by the director. Prior to any action on a tree removal permit, public noticing shall be required in compliance with the procedures as set forth in section 19.58 of the zoning ordinance.

c. The permit may be ~~denied-granted~~ if it is determined that the subject tree (or trees) is, due to its affected are of a size, type, condition and location, and in such surroundings that:

1. a hazard to individuals or existing structures or to the reasonable use of the subject property due to poor health or physical instability; or
2. a nuisance by causing damage to improvements, such as building foundations, retaining walls, utilities, drainage facilities, roadways, sidewalks, driveways, patios, and decks.

~~their removal would significantly frustrate the purposes of this section, as set forth in subsection 17-1.1; and that prohibiting the removal or alteration of the tree would not prevent all economically viable use and/or reasonable development of an undeveloped parcel or substantially interfere with the continued use and enjoyment of an existing developed parcel.~~

The permit may be issued subject to such conditions as are deemed reasonably necessary to accomplish the objectives of this chapter, including, without limitation, requirements for protecting and maintaining the trees to be saved by: establishing root protection zones, grading limits, cut and fill restrictions, installing temporary barricades, special provisions for drainage, special construction measures, on-site inspections by tree specialist during construction, and requirements for replacing removed trees with trees of reasonably comparable quality.

d. If the permit is granted, there shall be no alteration or removal undertaken for a ten calendar day period during which time the decision may be appealed in accordance with the provisions of this section.

- e. The director may waive public notice and the appeal process otherwise required by this chapter, and immediately issue the permit with a finding that the tree constitutes a hazard or threat to the public health and safety or property in the vicinity in cases where:
1. Whenever The tree (or trees) in question is dying, diseased or has been substantially damaged and will imminently threaten the health, safety, or property improvements in the immediate vicinity and such disease or threat is verified in writing by a licensed tree surgeon, certified arborist, landscape architect or similar licensed professional,
 2. The tree (or trees) in question is classified as a pyrophyte, including Monterey Pine, Bishop Pine, Acacia species, and Eucalyptus species, or
 3. Tree removal or alteration is by a public agency to provide for the routine maintenance of public land.
- f. Public noticing shall not be required for maintenance or minor pruning of heritage trees or when tree removal or alteration has been considered as part of an otherwise noticed director action or public hearing or as part of an approved fire management plan.

17-1.5 *Appeal.* Any decision on a tree permit made by the director of planning commission may be appealed by any interested party to the city council. Such appeal shall be submitted and reviewed in compliance with section 19.54 of the zoning ordinance.

17-2 - Removal or Alteration of Native Trees.

The removal or alteration of native trees and woodlands shall also be in conformance with the definitions and provisions of chapter 19, section 19.39 (Woodland and Tree Preservation).

ARTICLE 5

Zoning Ordinance Administration

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19.01.020 - Purpose and Intent of Zoning Title

- E. Protect the character, and social and economic stability of residential, commercial, and industrial areas;

19.01.050 - Responsibility for Administration

This Zoning Ordinance shall be administered by: the City Council, hereafter referred to as the “Council;” Planning Commission, hereafter referred to as the “Commission;” Design Review Committee Commission, hereafter referred to as the “DRC;” Zoning Administrator; Community Development Director, hereafter referred to as the “Director;” and the Community Development Department, hereafter referred to as the “Department;” in compliance with Chapter II of the Municipal Code and Division 19.50 of this Zoning Ordinance (Administrative Responsibility).

19.02.020 Rules of Interpretation.

C. Calculations -- Rounding. Where provisions of this title require calculations to determine applicable requirements, any fractional/decimal results of the calculations shall be rounded as provided by this subsection.

- 1. **Residential density, minimum lot area, number of lots and number of units.** The fractional/decimal results of calculations of the number of dwelling units allowed on a parcel based on maximum density requirements of the General Plan, and the number of parcels or dwelling units allowed through either subdivision based on a minimum lot area requirement or number of units allowed based on minimum site area from the Zoning Ordinance, shall be rounded down to the next lowest whole number. For example, the R1-7.5 zoning district allows a minimum lot area of 7,500 square feet for new subdivisions. Therefore, a parcel of 21,000 square feet could be subdivided into a maximum of two parcels, if approved by the review authority (21,000 / 7,500 = 2.8, rounded down to 2).

19.04.030 - Zoning Map Adopted.

The Council hereby adopts the City of Novato zoning map (hereafter referred to as the "zoning map"), which is on file with the department. The zoning map is hereby incorporated into this title by reference as though it were fully included here. The boundaries of the zoning districts established by section 19.04.020 (Zoning Districts Established) shall be shown upon the zoning map.

Table 2-1
Zoning Districts

Zoning District Symbol	Zoning District Name	General Plan Land Use Classification Implemented by Zoning District
Agricultural and Resource Districts		
A	Agricultural	Agricultural
OS	Open Space	Open Space
ROS	Restricted Open Space	Open Space
C	Conservation	Conservation
Residential Districts		
RR	Rural Residential	Rural Residential
RVL	Very Low Density Residential	Very Low Density Residential
R1	Low Density Residential	Low Density Residential
R4	Medium Density Detached Residential	Medium Density Detached Residential
R5	Medium Density Residential	Medium Density Residential
R10	Medium Density Multi-Family Residential	Medium Density Multi-Family Residential
R20	High Density Multi-Family Residential	High Density Multi-Family Residential
Commercial and Industrial Districts		
BPO	Business and Professional Office	Business and Professional Office
CN	Neighborhood Commercial	Neighborhood Commercial
CG	General Commercial	General Commercial
CDR	Downtown Core Retail	Downtown Core
CDB	Downtown Core Business	Downtown Core
CI	Commercial/Industrial	Commercial/Industrial
LIO	Light Industrial/Office	Light Industrial/Office
Special Purpose Districts		
MU	Mixed Use	Mixed Use
PD	Planned Development District	All

CF	Community Facilities	Community Facilities, Public Utilities, and Civic Uses
PL	Parkland	Parkland
REI	Research/Education-Institutional	Research/Education-Institutional
Overlay Districts		
B	Baylands	All
D	Downtown Novato Specific Plan	All
F	Flood Hazard	All
H	Historic	All

DIVISION 19.10 - RESIDENTIAL ZONING DISTRICTS

Sections:

- 19.10.010 - Purpose of Division
- 19.10.020 - Purposes of Residential Zoning Districts
- 19.10.030 - Residential Zoning District Land Uses and Permit Requirements
- 19.10.040 - Residential Zoning District General Development Standards
- 19.10.050 - Residential Density

19.10.030 – Residential Zoning District Land Uses and Permit Requirements

TABLE 2-4 Allowed Uses and Permit Requirements for Residential Zoning Districts		P	Permitted Use (2)			
		UP	Use Permit required (3)			
		—	Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	RR	<u>RVL</u> , R1	R4, R5	R10	R20	
AGRICULTURE, RESOURCE & OPEN SPACE USES						
Animal keeping	P (4)	P (4)	P (4)	P (4)	P (4)	19.34.060
Crop production & horticulture, community gardens	P	UP	—	—	—	
Kennel	UP	<u>UP, (5)</u>	—	—	—	<u>19.34.060</u>
Livestock raising, small	P	UP	—	—	—	19.34.060
Nature preserves	P	P	P	—	—	
<u>Plant Nurseries</u> and greenhouses, with on-site retail	UP	UP	UP	—	—	
<u>Plant Nurseries</u> and greenhouses, without on-site retail	P	UP	—	—	—	
RECREATION, EDUCATION & ASSEMBLY USES						
Clubs, lodges and membership meeting halls	UP	UP	—	—	—	
Community centers	UP	UP	UP	UP	UP	
Equestrian facilities	UP	—	—	—	—	
Golf courses and country clubs	UP	UP	—	—	—	
Libraries and museums	UP	UP	UP	UP	UP	
Outdoor recreation facilities - active ¹	UP	UP	UP	UP	UP	
Outdoor recreation facilities - passive ¹	P ¹	P ¹	P ¹	P ¹	P ¹	
Private residential recreational facilities	UP	UP	UP	UP	UP	
Religious facilities	UP	UP	UP	UP	UP	
Schools - Public and private	UP	UP	UP	UP	UP	

3

4

RESIDENTIAL USES

Accessory dwelling units	UP	UP	—	—	—	19.34.030
Accessory residential uses and structures	P	P	P	P	P	19.34.032
Group homes, 6 or fewer persons	P	P	P	P	P	
Group homes, 7 or more persons	UP	UP	UP	UP	UP	
Home occupations	P	P	P	P	P	19.34.080
Mobile home parks	UP	UP	UP	UP	UP	19.34.120
Multi-family dwellings	—	—	—	P	P	
Rooming and boarding houses	UP	UP	UP	UP	UP	
Single-family dwellings	P	P	P	P	P	
Two-family dwellings, two single-family dwellings	—	—	P	P	P	

KEY TO ZONING DISTRICT SYMBOLS

RR	Rural Residential	R10	Medium Density Multi-Family Residential
RVL, R1	Very Low Density & Low Density Res.	R20	High Density Multi-Family Residential
R4, R5	Medium Density Multi-Family Residential		

Notes:

- (1) See Article 6 for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Standards and additional permit requirements determined by Section 19.34.060.
- (5) Kennel is not a permitted land use in an R1 Zoning District.

4

TABLE 2-4 Allowed Uses and Permit Requirements for Residential Zoning Districts		P Permitted Use (2) UP Use Permit required (3) — Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	RR	RVL, R1	R4, R5	R10	R20	

RETAIL USES

Accessory retail and service uses	—	—	—	—	P	19.34.034
<u>Marijuana Dispensaries</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	

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SERVICE USES

Bed and breakfast inns (B&Bs)	UP	UP	UP	UP	UP	
Child/adult day care, 14 or fewer persons	P	P	P	P	P	19.34.070
Child/adult day care, 15 or more persons	UP	UP	UP	UP	UP	19.34.070
Personal services, accessory, within housing complex	—	—	—	—	—	
Public utility facilities	UP	UP	UP	UP	UP	

Residential care facilities for the elderly	—	—	—	UP	UP	19.34.160
<u>Wireless communication facilities: New towers or monopoles or new building-mounted facilities</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>19.38</u>
<u>Wireless communication facilities: New facilities co-located on existing towers, monopoles or buildings with existing permitted antennas</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>19.38</u>

KEY TO ZONING DISTRICT SYMBOLS

RR	Rural Residential	R10	Medium Density Multi-Family Residential
RVL, R1	Very Low Density & Low Density Res.	R20	High Density Multi-Family Residential
R4, R5	Medium Density Multi-Family Residential		

19.10.040 - Residential Zoning District General Development Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in tables 2-5 and 2-6, in addition to the applicable development standards (e.g., landscaping, parking and loading, etc.) in article 3 (Site Planning and General Development Standards).

19.10.050 - Residential Density

The residential Zoning Map symbols shall include a suffix denoting the maximum allowable density and/or the minimum lot area. Maximum density is expressed as the minimum site area per dwelling unit, consistent with the density range provided for the subject residential area by the General Plan. For example, R1-20 requires a minimum lot area of 20,000 square feet, and R1-7.5 requires a minimum lot area of 7,500 square feet. The density suffix shall be applied to property through the rezoning process. See Tables 2-5 and 2-6.

**TABLE 2-5
RESIDENTIAL DISTRICT GENERAL DEVELOPMENT STANDARDS**

Development Feature	Required by Zoning District				
	RR Rural- Residential	RVL Very Low- Density- Residential	R1 Low Density- Residential	R4	R5
				Medium Density- Residential	
Minimum lot size	See Table 2-6, Section 19.10.050				
Maximum density					
Maximum number of dwellings per lot					
Setbacks	<u>Minimum setbacks required. See Table 2-6, Section 19.10.050. See Section 19.20.100 for setback measurement, allowed projections into setbacks, and</u>				

	<i>exceptions to setbacks.</i>				
Front	30 ft	30 ft	See Table 2-6	25 ft	20 ft
Sides (each)	25 ft	20 ft	See Table 2-6	5 ft	5 ft
Street side	25 ft	20 ft	See Table 2-6	—10 ft (4)	5 ft
Rear (1)	30 ft	30 ft	See Table 2-6	—20 ft	—10 ft (4)
Building coverage (2)(1)	20%	20%	40%	40%	40%
Height limit (3)(2)	—30 ft (5) (3)	30 ft			
Floor Area Ratio	n/a	n/a	50%	50%	n/a
Landscaping	As required by Division 19.28 (Landscaping).				
Parking	As required by Division 19.30 (Parking and Loading).				

(1) ~~— 10 ft setback allowed for a single story building element if it does not occupy more than 25 percent of the required rear setback.~~

(2)(1) ~~— Maximum percentage of site area that may be covered by structures.~~

(3)(2) ~~— Maximum allowed height of structures. See also Section 19.20.070 (Height Limits and Exceptions), and Division 19.26 (Hillside and Ridgeline Protection).~~

(4) ~~— 20 feet minimum for a garage using the side street for access.~~

(5)(3) ~~— 40 feet allowed for barns.~~

**TABLE 2-5
RESIDENTIAL DISTRICT GENERAL DEVELOPMENT STANDARDS (Continued)**

Development Feature	Requirement by Zoning District	
	R10 Medium Density Multi-Family	R20 High Density Multi-Family
Minimum lot size	See Table 2-6, <u>Section 19.10.050</u>	
Maximum density		
Maximum number of dwellings per lot		
Setbacks	<i>Minimum and maximum setbacks required. See Section 19.20.100 for setback measurement, allowed projections into setbacks, and exceptions to setbacks.</i>	
Front	20 ft	
Sides (each)	6 ft or 10 ft (3)	
Street side	10 ft or 20 ft (4)	
Rear	15 ft or 20 ft (5)	

Building coverage (1)	40%
Height limit (2)	35 ft
Multi-family dwelling standards	As required by Section 19.34.124 (Multi-Family Dwellings)
Landscaping	As required by Division 19.28 (Landscaping).
Parking	As required by Division 19.30 (Parking and Loading).

Notes:

- (1) Maximum percentage of site area that may be covered by structures.
- (2) Maximum allowed height of structures. See also Section 19.20.070 (Height Limits and Exceptions) and Division 19.26 (Hillside and Ridgeline Protection).
- (3) 10 feet minimum when building height exceeds 20 feet.
- (4) 20 feet minimum for a garage using the side street for access, or when the building exceeds 20 feet in height.
- (5) 20 feet minimum when the rear property line abuts a single family zone.

TABLE 2-5
RESIDENTIAL DISTRICT GENERAL DEVELOPMENT STANDARDS –
LOW DENSITY DISTRICTS

7

Residential Zoning District	Max. Number of Dwelling Units	Minimum Lot Size			Minimum Setbacks				Max. Building Coverage (1)	Height Limit (ft) (2)	Floor Area Ratio
		Area (sf)	Width (ft)	Depth (ft)	Front (ft)	Side (ft)	Street Side (ft)	Rear (ft)			
RR-80	1 dwelling unit (du).	80,000	150	150	30	25	25	30	20%	30 (3)	n/a
RVL-80	plus 1	80,000	150	150	30	25	20	30	20%	30	n/a
RVL-40	accessory	40,000	150	150	30	20	20	30	20%	30	n/a
R1-40	unit in compliance with 19.34.030	40,000	150	150	30	20	20	30	40%	30	50%
R1-20		20,000	100	100	30	15	15 (4)	30	40%	30	50%
R1-10		10,000	75	100	25	10	10 (4)	25	40%	30	50%
R1-7.5		7,500	60	100	25	6	10 (4)	20 (5)	40%	30	50%
Landscaping	As required by Division 19.28 (Landscaping)										
Parking	As required by Division 19.30 (Parking and Loading)										

Notes:

- (1) Maximum percentage of site area that may be covered by structures.
- (2) Maximum allowed height of structures. See also 19.20.070 (Height Limits and Exceptions), and Division 19.26 (Hillside and Ridgeline Protection).
- (3) 40 feet allowed for barns. 20 feet minimum for a garage using the side street for access.
- (4) 20 feet minimum for a garage using the side street for access, or when the building exceeds 20 feet in height.
- (5) 10 ft. setback allowed for an attached single story building element (e.g., room addition, patio cover) if it does not occupy more than 25 percent of the required rear setback.

TABLE 2-6
RESIDENTIAL ZONING DISTRICT ALLOWABLE DENSITIES, PARCEL SIZES & SETBACKS

Residential Zoning District	Maximum Number of Dwelling Units	Minimum Lot Size			Required Setbacks		
		Area	Width	Depth	Front	Side	Rear
RR-80	1 dwelling unit (du), plus 1 accessory unit in compliance with 19.34.030	80,000 sf	150 ft	150 ft	30 ft	25 ft	30 ft
RVL-80		80,000 sf	150 ft	150 ft	30 ft	25 ft	30 ft
RVL-40		40,000 sf	150 ft	150 ft	30 ft	20 ft	30 ft
R1-40		40,000 sf	150 ft	150 ft	30 ft	20 ft	30 ft
R1-20		20,000 sf	100 ft	100 ft	30 ft	15 ft(3)	30 ft
R1-10		10,000 sf	75 ft	100 ft	25 ft	10 ft(3)	25 ft
R1-7.5		7,500 sf	60 ft	100 ft	25 ft	6 ft (2)(3)	20 ft (4)
R4-6.0	1 du per 6,000 sf of site area	6,000 sf	50 ft	75 ft	25 ft	5 ft (2)(3)	20 ft (4)
R5-7.5	1 du per 7,500 sf of site area	7,500 sf	50 ft	75 ft	20 ft	5 ft- (2)(3)(4)	20 ft (4)
R5-4.5	1 du per 4,500 sf of site area	4,500 sf†	50 ft	75 ft	20 ft	5 ft- 2)(3)(4)	20 ft (4)
R10-4.5	1 du per 4,500 sf of site area (4)	6,000 sf	60 ft	100 ft	See Table 2-5		
R10-3.5	1 du per 3,500 sf of site area (4)	6,000 sf	60 ft	100 ft			
R10-2.5	1 du per 2,500 sf of site area (4)	6,000 sf	60 ft	100 ft			
R10-2.2	1 du per 2,200 sf of site area (4)	6,000 sf	60 ft	100 ft			
R20-2.0	1 du per 2,000 sf of site area (4)	6,000 sf	60 ft	100 ft			
R20-1.8	1 du per 1,800 sf of site area (4)	10,000 sf	60 ft	100 ft			
R20-1.5	1 du per 1,500 sf of site area (4)	10,000 sf	60 ft	100 ft			

Notes:

- (1) 10 feet setback for a an attached single-story building element (e.g., room addition, patio cover) if it does not occupy more than 25% of the required rear setback.
- (2) 10 feet minimum for street side yard; 20 feet minimum for a garage using the side street for access.
- (3) No setback required if attached units; 5 feet required for detached units.
- (3) 20 feet minimum for a garage using a side street for access.
- (4) Allowable density shall be reduced by 20% for lots less than 7,500 sf or width less than 60 ft.

TABLE 2-6
RESIDENTIAL DISTRICT GENERAL DEVELOPMENT STANDARDS –
MULTI-FAMILY DISTRICTS

7

Residential Zoning District	Max. Number of Dwelling Units	Minimum Lot Size			Minimum Setbacks				Max. Building Coverage (1)	Height Limit (ft) (2)	Floor Area Ratio
		Area (sf)	Width (ft)	Depth (ft)	Front (ft)	Side (ft)	Street Side (ft)	Rear (ft)			
R4-6.0	1 du per 6,000 sf of	6,000	50	75	25	5	10 (3)	20 (4)	40%	30	50%

	<u>site area</u>										
<u>R5-7.5</u>	<u>1 du per 7,500 sf of site area</u>	<u>7,500</u>	<u>50</u>	<u>75</u>	<u>20</u>	<u>5</u>	<u>10 (3)</u>	<u>20 (4)</u>	<u>40%</u>	<u>30</u>	<u>n/a</u>
<u>R5-4.5</u>	<u>1 du per 4,500 sf of site area</u>	<u>4,500</u>	<u>50</u>	<u>75</u>	<u>20</u>	<u>5</u>	<u>10 (3)</u>	<u>20 (4)</u>	<u>40%</u>	<u>30</u>	<u>n/a</u>
<u>R10-4.5</u>	<u>1 du per 4,500 sf of site area (5)</u>	<u>6,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R10-3.5</u>	<u>1 du per 3,500 sf of site area (5)</u>	<u>6,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R10-2.5</u>	<u>1 du per 2,500 sf of site area (5)</u>	<u>6,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R10-2.2</u>	<u>1 du per 2,200 sf of site area (5)</u>	<u>6,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R20-2.0</u>	<u>1 du per 2,000 sf of site area (5)</u>	<u>6,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R20-1.8</u>	<u>1 du per 1,800 sf of site area (5)</u>	<u>10,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>R20-1.5</u>	<u>1 du per 1,500 sf of site area (5)</u>	<u>10,000</u>	<u>60</u>	<u>100</u>	<u>20</u>	<u>6 or 10 (6)</u>	<u>10 or 20 (7)</u>	<u>15 or 20 (8)</u>	<u>40%</u>	<u>35</u>	<u>n/a</u>
<u>Landscaping</u>			<u>As required by Division 19.28 (Landscaping)</u>								
<u>Parking</u>			<u>As required by Division 19.30 (Parking and Loading)</u>								
<u>Multi-family Dwelling Standards</u>			<u>As required by Section 19.34.124 (Multi-Family Dwellings)</u>								

Notes:

- (1) Maximum percentage of site area that may be covered by structures.
- (2) Maximum allowed height of structures. See also 19.20.070 (Height Limits and Exceptions), and division 19.26 (Hillside and Ridgeline Protection).
- (3) 20 feet minimum for a garage using the side street for access.
- (4) 10 ft. setback allowed for an attached single story building element (e.g., room addition, patio cover) if it does not occupy more than 25 percent of the required rear setback.
- (5) Allowable density shall be reduced by 20 percent for lots less than 7,500 square feet or width less than 60 feet.
- (6) 10 feet minimum when building height exceeds 20 feet.
- (7) 20 feet minimum for a garage using the side street for access, or when the building exceeds 20 feet in height.
- (8) 20 feet minimum when the rear property line abuts a single family zone.

DIVISION 19.12 - COMMERCIAL/INDUSTRIAL ZONING DISTRICTS

Sections:

- 19.12.010 - Purpose of Division
- 19.12.020 - Purposes of Commercial/Industrial Districts
- 19.12.030 - Commercial/Industrial District Land Uses and Permit Requirements
- 19.12.040 - Commercial/Industrial District General Development Standards

19.12.030 - Commercial/Industrial District Land Uses and Permit Requirements

Table 2-7 identifies the uses of land allowed by this Zoning Ordinance in the commercial and industrial zoning districts, and the land use permit required to establish each use, in compliance with Section 19.06.030 (Allowable Land Uses and Permit Requirements). In addition to the land use permit required by Table 2-7, special provisions related to certain land uses may apply, and Design Review may also be required for certain uses in compliance with Section 19.42.030 (Design Review). A Building Permit shall be required prior to any construction.

Note: Where the last column in the tables (“Specific Use Regulations”) includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this Zoning Ordinance may also apply.

TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts		P Permitted Use (2) UP Use Permit required (3) — Use not allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
MANUFACTURING & PROCESSING USES								
Assembly of products from parts produced off-site	—	—	—	—	—	P	P	
Electronics, equipment, and appliance manufacturing	—	—	—	—	—	P	P	
Food and beverage product manufacturing	—	—	UP	—	—	P	P	
Furniture/fixtures manufacturing, cabinet shops	—	—	—	—	—	P	P	
Handcraft industries, small-scale manufacturing	—	—	UP	—	—	P	P	
Laundries and dry cleaning plants	—	—	—	—	—	P	P	
Metal products fabrication, machine/welding	—	—	—	—	—	P	P	

shops								
Printing and publishing	—	—	UP	—	—	P	P	
Quarry materials storage and processing	—	—	—	—	—	UP	UP	
Recycling facilities - Large collection facilities	—	—	—	—	—	UP	UP	19.34.150
Recycling facilities - Processing, light	—	—	—	—	—	—	UP	19.34.150
Recycling facilities - Reverse vending machines	P	P	P	P	P	P	P	19.34.150
Recycling facilities - Scrap and dismantling yards	—	—	—	—	—	—	UP	19.34.150
Recycling facilities - Small collection facilities	—	UP	UP	—	—	P	P	19.34.150
R&D (Research and development)	P	—	P	—	—	P	P	
R&D - Biotechnology, chemical, pharmaceutical	UP	—	UP	—	—	UP	UP	
Storage or use of hazardous materials as accessory use	UP (4)	—	UP (4)	—	—	UP (4)	UP (4)	
Warehouses, wholesaling and distribution	—	—	—	—	—	P	P	

KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

Notes: (Only the notes that apply to this page are shown. [A full list of notes is provided at the end of Table 2-7.](#))

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations.

TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts		P Permitted Use (2)		UP Use Permit required (3)		— Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	

RECREATION, EDUCATION & ASSEMBLY USES

Adult-oriented businesses	—	—	—	—	—	—	UP (5) (6)	19.23
Community centers	—	UP	UP	UP	UP	—	—	

Health/fitness facilities	UP	P	P	UP	P	P	P	
Indoor amusement/entertainment facilities	—	UP	UP	UP	UP	UP	UP	
Libraries, museums, galleries	UP	UP	UP	UP	UP	UP	UP	
Outdoor recreation facilities, active	—	UP	UP	—	—	—	UP	
Outdoor recreation facilities, passive	P	P	P	P	P	P	P	
Parks and playgrounds	—	—	—	P	P	—	—	
Religious Facilities ¹	— ¹	— ¹	— ¹	— ¹	— ¹	— ¹	— ¹	
Schools - Private	<u>UP</u>	—	<u>UP</u>	UP (4)(5)	UP	—	<u>UP</u>	
Schools - Specialized education and training	UP	UP	UP	UP (4)(5)	UP	—	P	
Studios - Art, dance, martial arts, music, etc.	UP	UP	P	UP (4)(5)	UP	P	P	
Theaters and auditoriums	—	—	UP	UP	UP	—	—	

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RESIDENTIAL USES

Caretaker quarters	UP	—	UP	—	—	UP	UP	
Residential shelters	—	—	UP	—	—	—	—	
Home occupations	P	P	P	P	P	—	—	19.34.080
Live/work projects	P	—	P	P	P	P	P	19.34.090
Multi family dwellings	—	—	—	—	—	—	—	
Multi-family dwellings <u>and duplexes</u> , in a mixed use project	—	UP	—	UP (4)(5)	UP (4)(5)	—	—	19.34.100
Single family dwellings	—	—	—	—	—	—	—	

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KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
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CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- ~~(4)(5)~~ Use allowed only on upper floors or rear of site, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- ~~(5)(6)~~ Permit requirement established by Division 19.23 (Adult-Oriented Businesses).

TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts		PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
LAND USE (1)		BPO	CN	CG	CDR	CDB	CI	LIO	

RETAIL USES

Accessory retail and service uses	P	P	P	P	P	P	P	P	19.34.034
Alcoholic beverage sales, on or off-site (9) (15)	UP	UP	UP	UP	UP	UP	UP	UP	19.34.050
Art, antique, collectible, and gift stores	—	P	P	P	P	<u>P</u>	—	—	
Auto parts sales	—	P	P	P	P	P	P	P	
Auto sales and rental	—	—	UP	—	—	UP	P	—	
Bars and night clubs (9) ⁺	—	—	UP	UP	UP	—	UP	—	
Book stores	—	P	P	P	P	P	P	P	
Building material stores	—	—	UP	—	—	UP	P	—	
Construction/heavy equipment sales and rental	—	—	—	—	—	UP	UP	—	
Convenience stores	—	UP	UP	UP	UP	—	—	—	
Drive-in and drive-through sales	—	UP	UP	— ¹	—	—	UP	—	
Equipment rental	—	—	UP	UP	UP	P	P	—	
Extended hour businesses (11 p.m. to 6 a.m.)	P (6) (9)	UP	P (6) (9)	P (6) (9)	P (6) (9)	P (6) (9)	P (6) (9)	P (6) (9)	—
Florists	—	P	P	P	P	P	P	P	
Furniture, furnishings & appliance stores	—	—	P	P	P	—	—	—	
General retail	—	P	P	P (8) 10 ⁺	P (8) 10 ⁺	P	P	P	
Grocery stores	—	UP	P ¹	P (4) (7)	P (4) (7)	—	—	—	
Gun sales	—	—	UP	—	—	UP	—	—	
Mobile home, RV, and boat sales	—	—	—	—	—	UP	P	—	
<u>Marijuana Dispensaries</u>	—	—	—	—	—	—	—	—	
Outdoor displays retail sales, temporary	—	P	P	P (7) (11)	P (7) (11)	P	P	P	19.34.130
Outdoor displays retail sales, permanent	—	UP	UP	UP	UP	UP	UP	UP	19.34.130
Plant nurseries and garden supply stores	—	UP	P	UP	UP	P	P	—	
Restaurants and outdoor dining areas, <u>including incidental on-site alcohol sales</u>	UP	P ¹	P ¹	P (5) (7) (8) (11)	P (5) (7) (8) (11)	UP	UP	UP	19.34.050 19.34.130 ¹
Tobacco product shops (9) ¹	—	—	—	UP ¹	UP ¹	—	—	—	19.34.166
Warehouse retail	—	—	UP	—	—	—	—	—	

KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

Notes: (Only the notes that apply to this page are shown. *A full list of notes is provided at the end of Table 2-7.*)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- ~~(4)~~(7) Use Permit required if shopping carts are proposed.⁺
- ~~(5)~~(8) Permitted if in compliance with the design standards of the Downtown Specific Plan.
- ~~(6)~~(9) Use Permit required if located within 300 feet of a residential zone.
- ~~(8)~~(10) Related uses are permitted which meet all of the following criteria: open during weekdays 10 a.m. to 5 p.m. and Saturday; provides window displays which are changed monthly; and has two-hour customer turnover.⁺

- ~~(7)~~(11) Also permitted in the public right-of-way with a license agreement pursuant to Section 15-4 of the Municipal Code.
- ~~(9)~~ Applications must be referred to the Commission on Drugs and Alcohol for comment.
- ~~(15)~~ Except for restaurants with incidental on-site alcohol sales.

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LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LI O	

SERVICE USES

LAND USE (1)	BPO	CN	CG	CDR	CDB	CI	LI O	Specific Use Regulations
Animal Grooming	—	UP	UP	UP (4) (5)	UP	UP	UP	
Auto repair and maintenance - Major	—	—	—	—	—	UP	UP	
Auto repair and maintenance - Minor	—	—	UP	—	—	P	P	
Automated teller machines (ATMs) (non-drive through) ¹	P	P	P	P	P	P	P	
Banks ²	P	P	P	UP (7) ² (14)	P(13)	—	P	
Financial Services	P	P	P	P (4) (5)	P (6) (13)	—	P	
Business support services	P	P	P	UP (4) (5)	UP (4) (5)	P	P	
Car wash	—	—	UP	—	—	—	UP	
<u>Check cashing</u>	—	—	UP	—	—	—	—	
Child/adult day care centers	UP	UP	UP	UP (4) (5)	UP	—	UP	19.34.070
Congregate care/group facilities	UP	—	UP	—	—	—	—	
Contractor storage yard	—	—	—	—	—	UP	UP	
Drive-in and drive-through services, including ATM ¹	—	UP	UP	UP ¹	UP (5) (12)	—	—	
Gas stations	—	UP	UP	—	—	—	UP	19.34.050.F
Hotels and motels	UP	UP	UP	UP	UP	UP	UP	
Kennels & boarding	—	—	UP	—	—	UP	UP	
Medical - Clinics, offices, and laboratories	P	P	P	P (4) (5)	P (6) (13)	—	—	
Medical - Extended care	UP	—	UP	—	—	—	—	
Medical – Hospitals	UP	—	UP	—	—	—	—	
<u>Mortuaries and Funeral Homes</u>	UP(17)	—	—	—	—	—	UP(17)	
Offices	P	P	P	P (4) (5)	P (6) (13)	P	P	
<u>Pawn Shops</u>	—	—	UP	—	—	—	—	
Personal services	P	P	P	P	P	P	P	
Public utility facilities	UP	UP	UP	UP	UP	UP	UP	
Residential care facility for the elderly (RCFE)	—	UP	—	—	—	—	—	19.34.160
Real Estate Offices	P	P	P	P	P	P	P	
Storage Facilities - Indoor	—	—	UP	—	—	UP	UP	
Storage - Outdoor	—	—	UP	—	—	UP	UP	
Tattoo Parlor ¹	—	—	—	—	—	—	UP	19.34.168
Travel Agency	P	P	P	P	P	P	P	
Upholstering shops	—	—	—	—	UP	P	P	
Veterinary clinics, outpatient treatment	—	UP	UP	—	UP	UP	UP	

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only								
Veterinary clinics, animal hospitals	—	—	UP	—	UP	UP	UP	

KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- ~~(4)(5)~~ Use allowed only on upper floors or rear of site, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- ~~(5)(12)~~ Drive-through banking services only.
- ~~(6)(13)~~ See Section 19.30.040, Table 3-7 for parking requirements of ground floor offices, medical, business and financial services in the Downtown Business Core shall provide required parking at 1 space per 250 sq. ft. of gross floor area.
- ~~(7)(14)~~ Use allowed only on upper floors and up to a maximum of 25% of the ground floor in rear of a building, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- (17) Crematories are not allowed in the BPO District, and in the LIO District must be located a minimum of 1,000 feet from residential uses, schools and day care centers.

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TABLE 2-7
Allowed Uses and Permit Requirements
for Commercial/Industrial Zoning Districts

P Permitted Use (2)
UP Use Permit required (3)
— Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	

TRANSPORTATION & COMMUNICATIONS USES

Broadcasting studios	UP	—	UP	UP (4)(5)	UP (4)(5)	P	P	
Heliports	UP	—	— ¹	—	— ¹	— ¹	— ¹	19.34.074
Parking facilities	—	—	P	P (5)(15)	P (5)(15)	P	P	
<u>Telecommunications facilities</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>19.38</u>
Truck and freight terminals	—	—	—	—	—	UP	UP	
Vehicle storage	—	—	—	—	—	UP	UP	
<u>Wireless communication facilities: New towers or monopoles or new building-mounted facilities</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>19.38</u>
<u>Wireless communication facilities: New facilities co-located on existing towers, monopoles or buildings with existing permitted antennas</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>P(2)</u>	<u>19.38</u>

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KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CD	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- ~~(4)~~(5) Use allowed only on upper floors or rear of site, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- ~~(5)~~(15) Parking facilities shall not front on Grant Avenue or Redwood Boulevard.¹

COMPLETE LIST OF NOTES FOR TABLE 2-7 (Reflects all revised notes above and highlighted as new addition to Ordinance).

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations.
- (5) Use allowed only on upper floors or rear of site, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- (6) Permit requirement established by Division 19.23 (Adult-Oriented Businesses).
- (7) Use Permit required if shopping carts are proposed.
- (8) Permitted if in compliance with the design standards of the Downtown Specific Plan.
- (9) Use Permit required if located within 300 feet of a residential zone.
- (10) Related uses are permitted which meet all of the following criteria: open during weekdays 10 a.m. to 5 p.m. and Saturday; provides window displays which are changed monthly; and has two-hour customer turnover.
- (11) Also permitted in the public right-of-way with a license agreement pursuant to Section 15-4 of the Municipal Code.
- (12) Drive-through banking services only.
- (13) Ground floor offices, medical, business and financial services in the Downtown Business Core shall provide required parking at 1 space per 250 sq. ft. of gross floor area.
- (14) Use allowed only on upper floors and up to a maximum of 25% of the ground floor in rear of a building, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- (15) Parking facilities shall not front on Grant Avenue or Redwood Boulevard.
- (16) Except for restaurants with incidental on-site alcohol sales.
- (17) Crematories are not allowed in the BPO and GC Districts, and in the LIO District must be located a minimum of 1,000 feet from residential uses, schools and day care centers.

DIVISION 19.14 - SPECIAL PURPOSE ZONING DISTRICTS

Sections:

- 19.14.010 - Purpose of Division
- 19.14.020 - Purposes of Special Purpose Zoning Districts
- 19.14.030 - Special Purpose District Land Uses and Permit Requirements
- 19.14.040 - Special Purpose District General Development Standards
- 19.14.050 - REI District Standards

19.14.020 - Purposes of Special Purpose Zoning Districts

- A. **MU (Mixed Use) District.** The MU zoning district is applied to areas surrounded by land currently developed with both commercial and residential land uses. ~~Typical land uses include retail, office and residential uses.~~ Commercial and/or office land uses are permitted. Housing development may be permitted only in conjunction with either commercial and/or office uses. The MU zoning district is consistent with the Mixed Use land use designation of the General Plan.
- B. **PD (Planned District).** The PD zoning district ~~is shall be~~ applied to ~~large parcel sites~~ capable of ~~being developing developed~~ as an integrated community neighborhood, with appropriate public services, infrastructure, and neighborhood convenience retail and services, and to sites with sensitive environmental resources or other unique constraints or where property owners wish to produce a comprehensive development of greater quality than that which might result from regulations of standard zoning districts. The PD zoning district allows flexibility in site planning and development standards to encourage developments that are sensitive to natural resources and surrounding community context. The PD zoning district may be applied to any land use designation of the General Plan.

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19.14.030 - Special Purpose District Land Uses and Permit Requirements

- B. **PD district allowable land uses and permit requirements.** Allowable land uses, building intensity and/or residential densities, and permit requirements within a PD (Planned) zoning district shall be determined by the Council through the adoption of a Master Plan in accordance with Section 19.42.060. Land uses established through the Master Plan shall be consistent with the General Plan. An approved Master Plan shall constitute a rezoning and zoning text amendment for a particular site. Where provisions of the Master Plan conflict with other provisions of this Zoning Ordinance, the Master Plan shall control pursuant to Section 19.02. PD zoned property, which does not have an approved Master Plan and Precise Development Plan, may be used for agricultural activities as defined in Article 2 Section 19.098, Agricultural and Resource Zoning Districts.

TABLE 2-9 Allowed Uses and Permit Requirements for Special Purpose Zoning Districts	P Use Permitted (2)			Specific Use Regulations
	UP Use Permit required (3)			
	— Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY DISTRICT			
	MU	CF	PL	

AGRICULTURE & OPEN SPACE USES

Community gardens	P	P	P	
Nature preserves	P	P	P	

MANUFACTURING & PROCESSING USES

Recycling facilities - All types	—	UP	—	19.34.150
Recycling facilities - Reverse vending machines	P	—	—	
Recycling facilities - Small collection facilities	UP	UP	UP	
R&D (Research & Development)	P	UP	—	
R&D - Biotechnology, chemical, pharmaceutical	UP	UP	—	

RECREATION, EDUCATION & ASSEMBLY USES

Community centers	UP	UP	UP	
Golf courses, public	—	UP	UP	
Health/fitness facilities	UP	UP	UP	
Indoor amusement/entertainment facilities	UP	UP	—	
Libraries, museums, galleries	UP	UP	<u>UP</u>	
Outdoor recreation facilities - Active	UP	UP	UP	
Outdoor recreation facilities - Passive	P	P	P	
Parks and playgrounds	P	P	P	
Religious facilities	UP	UP	—	
<u>Schools - Private</u>	<u>UP</u>	<u>UP</u>	<u>—</u>	
Schools - Colleges and universities	UP	UP	—	
Schools - Elementary and secondary	UP	UP	—	
Studios - Art, dance, martial arts, music, etc.	UP	UP	—	
Theaters and auditoriums	UP	UP	—	

RESIDENTIAL USES

Accessory residential uses and structures	P	UP	—	19.34.032
Caretaker quarters	—	UP	—	
Live/work	P	—	—	19.34.090
Multi-family dwellings <u>and duplexes</u> , in a mixed use project	UP	UP	—	<u>19.34.100</u>
<u>Single family dwellings</u>	<u>P</u>	—	—	

KEY TO ZONING DISTRICT SYMBOLS

MU	Mixed Use	PL	Parkland
CF	Community Facilities and Parkland		

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TABLE 2-9 Allowed Uses and Permit Requirements for Special Purpose Zoning Districts	P	Use Permitted (2)		
	UP	Use Permit required (3)		
	—	Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	MU	CF	PL	
RETAIL TRADE				
Accessory retail and service uses	P	—	—	
<u>Alcoholic beverage sales, on or off-site (4)</u>	<u>UP</u>	<u>=</u>	<u>=</u>	<u>19.34.050</u>
Convenience stores	UP	—	—	
General retail	P	—	—	
Grocery stores	UP	—	—	
<u>Marijuana Dispensaries</u>	<u>=</u>	<u>=</u>	<u>=</u>	
Restaurants	UP	—	—	
SERVICES				
Automated teller machines (ATMs)	P	—	—	
Banks and financial institutions	P	—	—	
Bed and breakfast inns	UP	—	—	
Business support services	UP	UP	—	
Child/adult day care (small or large)	UP	—	—	19.34.070
Hotels and motels	UP	—	—	
Medical - Clinics, offices, and laboratories	UP	UP	—	
Medical - Hospitals	—	UP	—	
Offices	P	—	—	
Personal services	UP	UP	—	
Public utility or safety facilities	UP	P	—	
Residential care facilities for the elderly (RCFE)	—	—	—	
TRANSPORTATION AND COMMUNICATIONS USES				
Heliports	—	UP	—	19.34.074
Parking facilities	—	UP	—	
Vehicle storage	—	—	—	
<u>Telecommunications facilities</u>	<u>UP</u>	<u>UP</u>	<u>—</u>	<u>19.38</u>
<u>Wireless communication facilities: New towers or monopoles or new building-mounted facilities</u>	<u>UP</u>	<u>UP</u>	<u>=</u>	<u>19.38</u>
<u>Wireless communication facilities: New facilities co-located on existing towers, monopoles or buildings with existing permitted antennas</u>	<u>P(2)</u>	<u>P(2)</u>	<u>=</u>	<u>19.38</u>

KEY TO ZONING DISTRICT SYMBOLS

MU	Mixed Use
----	-----------

17

5

6

CF	Community Facilities and Parkland
PL	Parkland

Notes:

- (1) See Article 6 for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Except for restaurants with incidental on-site alcohol sales.

DIVISION 19.16 - OVERLAY ZONING DISTRICTS

Sections:

- 19.16.010 - Purpose of Division
- 19.16.020 - Applicability of Overlay Zoning Districts
- 19.16.030 - Baylands (B) Overlay District
- 19.16.040 - Downtown Novato Specific Plan (D) Overlay District
- 19.16.050 - Flood Hazard (F) Overlay District
- 19.16.060 - Historic (H) Overlay District

19.16.040 - Downtown Novato Specific Plan (D) Overlay District

- C. Allowed land uses and permit requirements.** Any land use normally allowed in the primary zoning district may be allowed within the D overlay district, subject to the land use permit required by the primary zoning district, except that multi-family dwellings shall not be allowed on First Street.

DIVISION 19.20 - GENERAL PROPERTY DEVELOPMENT AND USE STANDARDS

Sections:

- 19.20.010 - Purpose of Division
- 19.20.020 - Applicability
- 19.20.030 - Access
- 19.20.040 - Fences, Walls, and Hedges
- 19.20.050 - Grading
- 19.20.070 - Height Limits and Exceptions
- 19.20.080 - Scenic Resources Protection
- 19.20.090 - Screening
- 19.20.100 - Setback Requirements and Exceptions
- 19.20.110 - Solar Access and Solar Equipment
- 19.20.120 - Solid Waste and Recyclable Materials Storage

19.20.020 - Applicability

The provisions of this Division apply to all proposed development and new land uses, as follows.

- A. ~~These~~ standards of this Article (Article 3) shall be applied in combination with the standards for each zoning district in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards). If there is a conflict, between the standards of Article 2 and Article 3, the standards of Article 3 specific to the applicable zoning district shall override these general standards, except where these standards provide otherwise specified in Article 2.

19.20.040 - Fences, Walls, and Hedges

- B. **Height limitations.** Fences, walls, and hedges shall comply with the height limitations shown in Table 3-1. See also Figure 3-2. Perimeter fences and walls with a height greater than six feet and greater than 50 feet in length, adjoining a public right of way, shall require Design Review in accordance with Section 19.42.030. (See 19.20.040.D.1 below).

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**TABLE 3-1
MAXIMUM HEIGHT OF FENCES, WALLS, AND HEDGES**

Location	Maximum Height (1)
Within front yard setback	3 ft. within 15 ft. of the back of sidewalk, or the back of curb, if there is no sidewalk, or the edge of the improved roadway if there is no sidewalk or curb; 6 ft. elsewhere within front setback. See also Section 19.20.070.D (Sight Visibility Area

	Required).
Within side and rear yard setbacks	6 ft. (2) (3) ¹
Within street side setback	6 ft. and also See Section 19.20.070.D (Sight Visibility Area Required) and Section 19.20.040. <u>D (Specific Fencing and Wall Requirements).</u>
At intersections of alleys, streets, and driveways within sight visibility areas.	3 ft. and also See Section 19.20.070.D (Sight Visibility Area Required)
Outside of a required setback	As determined by the height limit for structures within the applicable zoning district.
Within a zone where no setback is required	8 ft.

Notes:

- (1) Additional height may be authorized through Design Review approval (Section 19.42.030).
- (2) Fences and walls may be allowed up to 8 feet in height within 3 feet of side or rear property line when the portions of the fence above six feet are of an open design (e.g., lattice, wrought iron or grille work that will allow visibility through 50% of the material).
- (3) Solid fences and walls set back greater than 3 feet from side or rear property line may be allowed up to 8 feet in height.

19.20.070 - Height Limits and Exceptions

D. Sight visibility area required. On properties within or adjacent to residentially zoned districts, property improvements, including structures, landscaping, materials, vehicles or any type of screening shall be designed, placed or maintained to provide a *sight visibility area* for all types of traffic, including but not limited to vehicles, pedestrians and bicycles. Structures, landscaping, materials, vehicles or any type of screening shall not be located in a manner which adversely affects the required sight visibility area for any public roadway, private roadway, alley, driveway, or pedestrian or vehicular access point.¹ Landscaping in all zoning districts shall also comply with the requirements of Municipal Code Section 17-3.8 (Trees and Shrubs – Obstructing Visibility).

- 1. Measurement of sight visibility area.** A sight visibility area is measured as follows, and may include private property and/or public right-of-way.
 - a. Corner lots.** The sight visibility area shall be defined as a triangle formed by measuring 50 feet from the extension of the front and side property lines and connecting the lines across the property. See Figure 3-4A.
 - b. At alleys, driveways, and other vehicular or pedestrian access points.** The sight visibility area shall be defined as the triangle(s) formed by measuring 15 feet extending outward from both sides of the edge of the driveway, path or easement along the street property line and extending 15 feet from the property line along each side of the alley, driveway or path and connecting the lines across the property. See Figure 3-4B.
 - c. Additional driveway visibility requirements.** Driveways and adjacent yard areas shall be designed, constructed and maintained to provide a sight

visibility area so that the driver of a passenger vehicle backing out of any driveway has an unobstructed view of the first 100 feet along the nearest traffic lane from either direction and has not encroached on any sidewalk, pedestrian path, equestrian path, bike path or street pavement.

2. **Additional area.** A sight visibility area larger than that specified by subsection D1 may be required where determined by the Director to be necessary because of topography, roadway geometrics or traffic characteristics.
3. **Height Limit.** No structure, landscaping, materials or other screening or visual obstruction shall exceed a height of 36 inches within the sight visibility areas defined above, except for:
 - a. Trees with their lower branches trimmed up to provide a minimum clearance of eight feet above grade; or
 - b. Structures, landscaping or other materials approved by the Director based on a determination that the specific geometrics or traffic characteristics of the intersection will accommodate the structure without compromising pedestrian or traffic safety.

~~4. **Additional driveway visibility requirements.** Driveways and adjacent yard areas shall be designed, constructed and maintained to provide a sight visibility area so that the driver of a passenger vehicle backing out of any driveway has an unobstructed view of the first 100 feet to the nearest travel lane from either direction and has not encroached on any sidewalk, pedestrian path, equestrian path, bike path or street pavement.~~

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19.20.100 - Limitations on Use of Setbacks

B. Exception from Setback Requirements. The minimum setback requirements of this Zoning Ordinance apply to all uses except the following:

1. Fences or walls in compliance with section 19.20.040 (Fences, Walls, and Hedges);
2. Decks, earthworks, free-standing solar devices, pavement, steps, terraces, and other site design elements which are placed directly upon the finish grade and do not exceed a height of 18 inches above the surrounding finish grade at any point; and
3. Pools, hot tubs, spas, and ponds less than 18 inches in height above finished grade, except as required by the building code. Any decking exceeding 18 inches above surrounding grade must comply with the standards contained in Section 19.34.032D4.

E. Limitations on the use of setbacks. Required setback areas shall only be used in compliance with the following requirements, and as provided by 19.34.130 (Outdoor Dining Display and Sales).

3. **Parking.** ~~Required Residential parking shall not be located within a front (or side on a streetside corner lot) setback area. Required parking for an accessory dwelling unit may be exempted from this standard, if it is determined to be appropriate by the Review Authority. Non-required residential parking (e.g., guests parking on a driveway) is allowable within required setback areas only on paved driveways, and within paved side yards, in compliance with Section 19.30.070 (Parking Design Standards) and 19.34.170 (Vehicle Parking in Residential Zones).~~
4. **Pavement.** Within a residential zoning district, pavement within a front yard setback shall be limited to no more than 50 percent of the area of the required setback, ~~configured as:~~ unless a greater percentage of paved area is approved through Design Review.
 - a. ~~A driveway together with a turnaround area, and/or a circular driveway, where determined by the Director to be appropriate because of larger parcel size and/or configuration; and~~
 - b. ~~A pedestrian walkway not more than five feet wide, unless more pavement is approved through Design Review.~~

19.20.110 - Solar Access and Solar Equipment

All projects requiring discretionary approval shall be reviewed for potential energy conservation measures. Passive heating and cooling opportunities should be incorporated into single-family residential subdivisions and multi-family residential projects whenever possible.

A. Energy conservation and solar orientation. Consideration of the following passive solar energy techniques is strongly encouraged.

1. **Street orientation.** Streets that run generally east and west are encouraged because they increase the likelihood and desirability of houses sited with solar access to the south. South-wall glass is important to providing maximum passive solar heating. Where streets do run primarily north and south, passive solar access can still be provided by creative parcel configuration, orientation of units on the parcels and/or increased side yard areas.
2. **Setbacks.** Placing the house near the north boundary of the parcel provides maximum southern exposure and open space to protect solar access controlled by the owner of the house rather than by an adjacent neighbor.

3. **Siting.** In general, houses should be sited so that south-facing glass is maximized, and east- and west-facing glass is minimized. Dwelling units that are attached in preferred east-west directions should not be staggered so as to block the south-facing glass collector surfaces of other units in the attached group. Also, individual and attached units should be separated from north to south so that no unit blocks the solar access of another.
4. **Compact design.** Minimize heat loss by reducing the area of exterior wall and roof surfaces. Use a compact design, (i.e., a two-story house) rather than have the same amount of floor space spread out on a single story.

B. Pools and spas. Pool or spa facilities owned and maintained by a homeowner's association or multi-family rental complex should be equipped with a solar cover and solar water heating system.

~~**C. Collector installation.** If required or provided, solar collectors shall be installed as follows:~~

- ~~1. **Location.** Roof mounted solar collectors shall be placed in the least conspicuous location without reducing the operating efficiency of the collectors;~~
- ~~2. **Screening.** Wall mounted and ground mounted collectors shall be screened from public view, to the maximum extent feasible;~~
- ~~3. **Roof pitch.** Roof mounted collectors shall be installed at the same angle or as close as possible to the pitch of the roof;~~
- ~~4. **Appurtenant equipment.** Appurtenant equipment, particularly plumbing and related fixtures, shall be installed in the attic whenever possible or screened from public view, to the maximum extent feasible; and~~
- ~~5. **Colors.** Exterior surfaces of the collectors and related equipment shall have a matte finish and shall be color coordinated to harmonize with roof materials and other dominate colors of the structure.~~

DC. Obstruction of solar access. Structures (building, wall, fence, etc.) should not be constructed or vegetation placed or allowed to grow, so as to obstruct solar access on an adjoining parcel.

DIVISION 19.21 - ART PROGRAM

Sections:

- 19.21.010 - Purpose of Division
- 19.21.020 - Definitions
- 19.21.030 - Applicability
- 19.21.040 - Non-Residential Requirements
- 19.21.050 - Residential Requirements
- 19.21.060 - General Requirements
- 19.21.070 - In-Lieu Fees
- 19.21.080 - Maintenance and Removal of Works of Art

19.21.010 - Purpose of Division

This Division sets forth requirements for art to enrich the lives of residents and visitors, create a unique sense of place and enhance the attractiveness and quality of life within the community. Art helps make our City more livable and more visually stimulating. The experience of art makes the public areas of buildings and their grounds more welcoming, and it creates a deeper interaction with the places we visit and in which we work and live.

To achieve these goals, art should be integrated into project planning at the earliest possible stage. If ~~the option of~~ providing art is selected required instead of paying an in-lieu fees, the selected an artist should become a member of the project's design team early in the design process.

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19.21.020 - Definitions

As used in this Division:

A. “Art” shall mean, but is not limited to, all paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs, or other sculpture, monuments, fountains, arches, or other structure intended for ornament, commemoration, or display. Carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints and work in clay, fiber, wood, metal, glass, plastics and other materials are also included. Landscape items including the artistic placement of natural materials or other functional art objects may be included. Works of art may be portable as well as permanent.

AB. “Construction Cost” shall be determined by the Chief Building Official in accordance with the most recent building valuation data published ~~in the~~ by the International Code Council Building Standards for use as provided in Section 223 of the California Building Code.

BC. “Construction or Alteration” shall means the construction of a new residential dwelling

unit(s) or nonresidential the construction of a new nonresidential structure(s) or the rehabilitation, renovation, remodeling or improvement resulting in an increase of the gross square footage of an existing non-residential building.

ED. “Art Project” shall means the development, acquisition, and installation of the art required by this Division.

DE. “Residential Development” shall mean all residential development of five (5) or more units.

EF. “Nonresidential” shall mean every land use other than a residential development, including a mixed-use project with residential units.

19.21.030 - Applicability

This division shall apply to all new residential developments of five or more units and construction or alteration of nonresidential structures. This division also applies to all new residential development (of five or more units). This division shall not apply to accessory dwelling units and renovations, remodels or additions to existing residences, the residential portion of a mixed use project when four (4) or fewer units are proposed, or affordable housing components of residential and nonresidential mixed-use projects.

19.21.040 - Non-Residential Requirements

In the case of eConstruction or alteration of a nonresidential building or the addition of floor area to an existing non-residential building, art shall require that an Art Project be installed and maintained as part of the project. The Art Project shall cost an amount have a value of not less than one-third of one percent of the construction cost of the completed development project.

19.21.050 - Residential Requirements

In the case of Construction of a residential development, art shall require that an Art Project be installed and maintained as part of the public improvements required for the project. The Art Project shall cost an amount have a value of not less than one-third of one percent of the construction cost of the completed development project.

19.21.060 - General Requirements

A. Design Review. An Art Project proposed to satisfy the requirements of this Division shall be subject to Design Review for approval of the scale and location of the proposed Art.

B. Recreation, Cultural & Community Services Advisory Commission. Art proposed to satisfy the requirements of this Division which is to be located on public property shall be

referred to the City's Recreation, Cultural & Community Services Advisory Commission for consideration as to context, scale, artistic quality, media, permanence, durability, and public safety. The Commission shall provide a recommendation to the Review Authority who will take final action on the Art Project.

C. Design Review Commission. Art proposed to satisfy the requirements of this Division which is to be located on private property shall be reviewed by the City's Design Review Commission in conjunction with Design Review of the structure or site where the Art is proposed to be located. The Design Review Commission shall provide a recommendation to the Review Authority, and shall consider the context, scale, artistic quality, media, permanence, durability, public safety and relationship to the building or site where the Art is proposed to be located. The Design Review Commission may request review and recommendation from the Recreation, Cultural & Community Services Advisory Commission where warranted.

AC. Location. Art shall be displayed in a manner that will enhance its enjoyment by the general public. Works of Art may be located (1) in areas on the site of the building or addition clearly visible from the public street or sidewalk, or (2) on the site of the approved open space feature of the project, or (3) on adjacent public property upon the approval of any relevant public agency, (4) in a publicly accessible lobby area of an office building or hotel, (5) public park, (6) entry to residential development, (7) common area of a residential development, (8) or as otherwise determined appropriate by the Design Review ~~Committee~~ ~~Commission~~ ~~Authority~~ with the recommendation of the Civic Arts Recreation, Cultural & Community Services Advisory Commission.

BD. Timing of Installation. The works of Art shall be installed prior to the issuance of the first certificate of occupancy provided for any building ~~on the project site or in the in nonresidential development or residence in a~~ residential development. However, if the Community Development Director concludes that it is not feasible to install the works of art within the time allotted and adequate assurance (which the Director may require to be in the form of a letter of credit or bond) is provided that the works will be installed in a timely manner, the Community Development Director may extend the time for installation for a period of not more than 12 months.

~~C. Art may include, but is not limited to all paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs, or other sculpture, monuments, fountains, arches, or other structure intended for ornament, commemoration, or display. Carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints and work in clay, fiber, wood, metal, glass, plastics and other materials are also included. Landscape items including the artistic placement of natural materials or other functional art objects may be included. Works of art may be portable as well as permanent. Art or architectural features with an art component shall be displayed in a manner that will enhance its enjoyment by the general public.~~

~~D. The works of art shall be subject to Design Review approval of the scale and location of the artwork with recommendations from the City's Civic Arts Commission on the artwork. During project review the artwork shall be referred to and reviewed by the City's Civic Arts Commission. The selection criteria may include, but is not limited to, context, scale, artistic quality, media, permanence, durability and public safety.~~

19.21.070 - In-Lieu Fees

~~A. In lieu of meeting all or a portion of the requirement imposed by Division 19.21.040 for non-residential development, a developer may elect to pay to the City a fee equal to half of one percent of the construction cost, or the difference between the cost of art installed and half of one percent of the construction cost, subject to approval of the Director of Parks, Recreation and Community Services.~~

~~B. In lieu of meeting all or a portion of the requirement imposed by Section 19.21.050 for residential development, a developer may, with the approval of the Director of Parks, Recreation and Community Services, elect to pay to the City a fee equal to one-third of one percent of the construction cost, or the difference between the cost of art installed and one-third of one percent of the construction cost.~~

CA. The Director of Parks, Recreation and Community Services (DPRCS) may allow payment of an in-lieu fee ~~where he/she for all or a portion of the art requirement if the DPRCS finds that the location, siting or scale makes the provision of art inappropriate or impossible, infeasible~~ or whether for other reasons, ~~he/she agrees the DPRCS agrees~~ with the developer's preference request not to integrate an art element into the project. The in-lieu fee shall be calculated in the following manner:

1. Nonresidential Development. A fee equal to one-half of one percent of the construction cost, or the difference between the cost of the art installed and one-half of one percent of the development's construction cost. The fee shall be paid prior to the issuance of a building permit for a nonresidential development.
2. Residential Development. A fee equal to one-third of one percent of the construction cost, or the difference between the cost of art installed and one-third of one percent of the construction cost. The fee shall be paid prior to the issuance of the first certificate of occupancy in a residential development.
3. In-lieu fees shall be placed in an art fund to be administered by the City. In-lieu fees collected by the City shall be used for City-owned art or City-sponsored exhibitions. The fund shall be used exclusively to (1) provide sites for works of art, (2) acquire and install works of art, (3) maintain works of art, or (4) support the exhibition of art which is publicly accessible.

~~D. In lieu fees shall be placed in an art fund. The fund shall be used for City owned art or City sponsored exhibitions. The fund shall be used exclusively to (1) provide sites for works of art, (2) acquire and install works of art, (3) maintain works of art, or (4) support the exhibition of art which is publicly accessible.~~

~~E. In lieu fees shall be paid prior to the issuance of a building permit on all non-residential construction. For residential development, in lieu fees shall be paid prior to issuance of a certificate of occupancy.~~

19.21.080 - Maintenance, and Removal, and Replacement of Works of Art

The owner of the real property on which art is located shall maintain the art installed pursuant to this Division. No work of art may be removed unless a replacement work of art is approved pursuant to the procedures in Section 19.21. Artwork that has been damaged, destroyed, or stolen shall be replaced by the owner in compliance with this Division.

DIVISION 19.22 - GENERAL PERFORMANCE STANDARDS

Sections:

- 19.22.010 - Purpose of Division
- 19.22.020 - Applicability
- 19.22.030 - Electrical Interference
- 19.22.040 - Electrical and Mechanical Equipment
- 19.22.050 - Explosive or Fire Hazard
- 19.22.060 - Light and Glare
- 19.22.070 - Noise and Construction Hours
- 19.22.080 - Odor
- 19.22.090 - Vibration

19.22.040 - Electrical and Mechanical Equipment

Electrical and mechanical equipment (e.g., air conditioners, antennas, filters, heating and ventilation equipment, pumps, transformers, etc.) shall not be located and operated to disturb adjoining uses or activities. Typical electrical and mechanical equipment used exclusively for residential purposes, installed and operated in compliance with the manufacturer's directions shall be exempt. Electrical and mechanical equipment located within 15 feet of a side property line in a residential zoning district shall be sound attenuated to the maximum noise levels described in Table 3-5 in a manner acceptable to the Director.

19.22.070 - Noise and Construction Hours

- C. **Noise measurement.** Exterior noise levels shall be measured at the property line of the noise source. Noise measurement shall be made with a sound level meter using the “A” weighted scale at slow meter response. Fast meter response shall be used only for an impulsive noise.

**TABLE 3-5
ALLOWABLE EXTERIOR NOISE LEVELS**

Type of Land Use	Allowable Exterior Levels (1)	
	Time Interval	Maximum Noise Level (2)
Residential (3)	10 p.m. to 6 a.m.	45 dBA
	6 a.m. to 10 p.m.	60 dBA
Commercial (4)	10 p.m. to 6 a.m.	60 dBA
	6 a.m. to 10 p.m.	70 dBA
Industrial or manufacturing (4)	Any time	70 dBA

Notes:

- (1) Each of the noise limits specified in Table 3-5 shall be reduced by 5 dBA for impulse or simple tone noises. If the ambient noise exceeds the resulting standard, the ambient shall be the standard.
- (2) Maximum noise levels shall not be exceeded for an aggregate period of more than three minutes within a one-hour time period or by more than 20 dBA at any time.
- (3) Residential standards apply to sensitive receptors such as schools, hospitals, libraries, group care facilities, and convalescent homes. These uses may require special mitigations.
- (4) Commercial standards apply to Mixed Use Districts.

DIVISION 19.26 - HILLSIDE AND RIDGELINE PROTECTION¹

Sections:

- 19.26.010 - Purpose of Division
- 19.26.020 - Applicability
- 19.26.030 - Permit Process and Application Requirements
- 19.26.040 - Hillside Development Design Criteria
- 19.26.050 - Hillside Project Development Standards
- 19.26.060 - Supplemental Design Review Findings Required for Hillside Development

19.26.020 - Applicability

The standards in this division apply to subdivisions, uses, new structures, additions to existing structures including accessory structures and to all other development on parcels with an average slope of 10 percent or greater. See also Section 19.20.080 (Scenic Resource Protection), and General Plan Exhibit EN - Map 3 in Chapter IV: Environment. (Ord. No. 1441 § 2(A); Ord. No. 1461 § 2(A))

19.26.030 - Permit Process and Application Requirements

Design Review approval shall be required for all development subject to the provisions of this division, except for new accessory structures, additions to existing residential structures which are less than ten percent of the square footage of the structure to be expanded, retaining walls or other improvements that are determined by the director to be visually insignificant. See also Section 19.42.030 (Design Review). The Design Review application and review process for all hillside development shall include the following procedures and application submittal requirements:

- A. As part of the design review process, a Design Review CommitteeCommission workshop shall be held as described by the procedure in Section 19.42.030 (D)(1) for all hillside development projects. However, applications for individual single family homes, minor additions and accessory structures may be exempted from the workshop requirement as determined by the director.

19.26.050 - Hillside Project Development Standards

- I. **Single Family Residential Building Size Limits.** A limitation on home size is required in hillside areas to ensure that the home is compatible with the hillside conditions and the scale of development in the community. Residential building sizes for new homes and

additions to existing homes shall be limited by floor area ratio, utilizing a sliding-scale, that is based on the average slope of the lot and the lot size. As the average slope of a lot increases by one percent, the allowable floor area ratio is decreased by one percent. The floor area ratio limits are presented in Tables 3-6.1 and 3-6.2. This resulting allowable floor area ratio represents a maximum limit subject to the following conditions and allowances:

4. The floor area ratio limits presented in Table 3-6.1 apply to existing lots (existing prior to the enactment of this ordinance) with average slopes in excess of 25 percent. New residential lots created after the enactment of this ordinance (Ordinance No. 1480, enacted 1/13/04) are not permitted in areas where the average slope is in excess of 25 percent.

DIVISION 19.28 - LANDSCAPING

19.28.040 - Landscape Standards

- C. **Planting Material.** Where landscape is required, it shall include trees, shrubs, and ground covers, as follows.
 1. **General Requirements.**
 - a. Plant materials shall be selected for: energy efficiency and drought tolerance; adaptability and relationship to Novato environment; color, form, and pattern; ability to provide shade; soil retention, fire resistiveness, etc. Overall landscape plan shall be integrated with all elements of the project (e.g., buildings, parking lots, and streets) to achieve desirable microclimate and minimize energy demand.
 - b. Plant materials shall be sized and spaced to achieve immediate effect and shall not be less than a 15-gallon container for trees, five-gallon container for specimen shrubs and a one-gallon for mass planting, unless otherwise approved by the review authority on the basis that the alternate size will achieve the desired immediate effect equally well.
 2. **Trees.** Tree planting shall comply with the following standards. Existing trees shall be retained and preserved in compliance with Municipal Code Chapter XVII, Shrubs and Trees, and Zoning Code Ssection 19.28.05039.040 (Tree and Woodland and Tree Preservation).

DIVISION 19.30 - PARKING AND LOADING

Sections:

- 19.30.010 - Purpose of Division
- 19.30.020 - Applicability
- 19.30.030 - General Parking Regulations
- 19.30.040 - Number of Parking Spaces Required
- 19.30.050 - Adjustments to Parking Requirements
- 19.30.060 - Disabled/Handicapped Parking Requirements
- 19.30.070 - Parking Design Standards
- 19.30.080 - Driveways and Aisles
- 19.30.090 - Bicycle Parking and Support Facilities
- 19.30.100 - Motorcycle Parking
- 19.30.110 - Loading Space Requirements
- 19.30.120 - Trip and Travel Demand Reduction Measures

19.30.030 General Parking Regulations.

A. Parking Spaces to be Permanent. Parking spaces shall be permanently available, marked and maintained for parking purposes for the use they are intended to serve. ~~The Director may approve the temporary reduction of parking spaces in conjunction with a seasonal or intermittent use.~~ Required parking spaces shall be independently accessible such that a vehicle may enter or exit any space without the necessity of moving another vehicle.

19.30.040 Number of Parking Spaces Required.

E. Uses Not Listed. Land uses not specifically listed in table 3-7, shall provide parking as required by the director. The director shall use the requirements of table 3-7 as a guide in determining the minimum number of parking spaces to be provided and may require the applicant fund a parking study. ~~The Director may approve the temporary reduction of parking spaces in conjunction with a seasonal or intermittent use.~~

**TABLE 3-7
PARKING REQUIREMENTS BY LAND USE**

Land Use Type: Residential Uses	Number of Parking Spaces Required
Accessory dwelling units	1 space in addition to that required for a single-family unit.
Duplexes	2 spaces for each unit, 1 in a garage and located within 100 feet of the unit it serves; ¹ <u>Downtown (D) overlay</u> - 1 space for each unit in a garage and located within 100 feet of the unit it serves.
Group quarters (including boarding houses, rooming houses, dormitories, and organizational houses)	1 space for each bed, plus 1 space for each 8 beds for guest parking, 1 space for each employee on largest shift; <u>Downtown (D) overlay</u> - 1 space for each bed, plus 1 space for each employee on largest shift.
Mixed-use developments	Determined by type of use.
Mobile home parks	Two spaces for each mobile home (tandem parking allowed in an attached carport), plus 1 guest parking space for each two units. (1) (2) Recreational vehicle parking shall be provided at the rate of 1 space for every 5 units.
Multi-family dwellings, condominiums and other attached dwellings (2)	Studio unit - 1.2 spaces per unit; <u>Downtown (D) overlay</u> - 1 space per unit.
	1-bedroom unit - 1.5 spaces per unit; <u>Downtown (D) overlay</u> - 1 space per unit.
	2-bedroom unit - 2 spaces per unit; <u>Downtown (D) overlay</u> - 1.5 spaces per unit.
	3-bedroom unit - 2.2 spaces per unit; <u>Downtown (D) overlay</u> - 2 spaces per unit.
	Additional guest parking - 1 space for each 3 units (1); <u>Downtown (D) overlay</u> - 1 space for each 4 units (1).
Residential care facilities for the elderly (RCFE)	The parking requirements for this use are in Table 3-7 under “Service Uses.”
Senior housing projects	1 space for each unit with half the spaces covered, plus 1 guest parking space for each 10

	units.
Single-family dwellings (3)	2 spaces, 1 in a garage. 3 enclosed spaces maximum unless approved through Design Review. ¹

Notes:

- (1) Guest parking shall be clearly marked for guests only and shall be evenly dispersed throughout the site. Appropriate signs shall be provided to direct visitors to the parking.
- (2) At least one space per unit shall be covered (i.e., within a garage or carport).
- (3) For any unit which is located farther than 150 feet from a street designed to accommodate parking, 4 spaces per unit.

**TABLE 3-7
PARKING REQUIREMENTS BY LAND USE (CONTINUED)**

Land Use Type:	Number of Parking Spaces Required
Retail Trade	
Appliances, building materials and furniture stores (large item retail)	1 space for each 600 sf of gross floor area, plus 1 space for each 1,000 sf of outdoor display area; <u>Downtown (D) overlay</u> - 1 space for each 1,000 sf of floor area.
Automobile, mobile home, vehicle, machinery and parts sales	1 space for each 350 sf, plus 1 space for each 3,000 sf of outdoor display; <u>and</u> service area, plus 1 space for each 300 sf for a parts department, plus 1 space for each 2 employees; <u>Downtown (D) overlay</u> - 1 space for each 350 sf, plus 1 space for each 8,000 sf of outdoor display, service area, plus 1 space for each 300 sf for a parts department, plus 1 space for each 2 employees.
Bars and night clubs	1 space for each 50 sf of seating area and waiting/lounge area exclusive of dance floor, plus 1 space for each 30 sf of dance floor.
Convenience stores	1 space for each 200 sf; <u>Downtown (D) overlay</u> - 1 space for each 250 sf.
General retail	1 space for each 200 sf, plus 1 space for each company vehicle, plus 1 space for each 1,000 sf of outdoor display area; <u>Downtown (D) overlay</u> - 1 space for each 300 sf, plus 1 space for each company vehicle, plus 1 space for each 1,000 sf of outdoor display area.
Hardware stores	1 space for each 300 sf, plus 1 space for each

	company vehicle, plus 1 space for each 1,000 sf of outdoor display area.
Restaurants	Note: within the Downtown (D) overlay, outdoor seating approved within the public right-of-way shall not be counted as floor area in parking calculations.
Table service with or without takeout	1 space for each 50 sf of indoor and outdoor seating area, and waiting/lounge area; <u>Downtown (D) overlay</u> - 1 space for each 250 sf of indoor and outdoor seating area, and waiting/lounge area.
Take-out only (e.g., delicatessens)	1 space for each 200 sf.
Shopping centers (shall use unsegregated parking area)	1 space for each 250 sf for centers of less than 30,000 sf, and 1 space for each 300 sf for centers of 30,000 sf or more, plus 1 space for each 1,000 sf of outdoor display area. <u>Downtown (D) overlay</u> - 1 space for each 300 sf for centers of less than 30,000 sf, plus 1 space for each 1,000 sf of outdoor display area.

**TABLE 3-7
PARKING REQUIREMENTS BY LAND USE (CONTINUED)**

<u>Land Use Type:</u> Services	Number of Parking Spaces Required
Banks and financial services	1 space for each 250 sf; <u>Downtown (D) overlay</u> - 1 space for each 500 sf.
Copy and reproduction centers	1 space for each 400 sf.
Consumer products - repair and maintenance	1 space for each 250 sf; <u>Downtown (D) overlay</u> - 1 space for each 300 sf.
Equipment rental	1 space for each 300 sf, plus 1 space for each 1,500 sf of outdoor use area.
Gas stations (including multi-use stations)	1 space for each 400 sf; plus 3 spaces for each service bay. 50% of pump island parking may be credited toward ancillary use parking requirements (convenience store, take-out restaurant, car wash).
Hotels and motels	1 space for each guest room, plus required spaces for accessory uses.
Kennels and animal boarding	1 space for each 500 sf, plus 1 space for each 1,000 sf of boarding area.

Medical services	
Clinics, medical/dental offices	1 space for each 250 sf; <u>Downtown (D) overlay</u> - 1 space for each 250 sf. for ground floor uses; 1 space for every 300 sf for uses on upper floors.
Board and care homes, group homes, and in-patient drug treatment facilities	Board and care homes - 1 space for each bed or sleeping room; Group home care facilities and in-patient drug treatment facilities - 1 space for each 3 beds.
Convalescent hospital	1 space for each 3 patient beds per facility license.
Hospitals	1 space for each patient bed per facility license, plus 1 space for each 400 sf of office area, plus required spaces for ancillary uses as determined by the Review Authority.
Medical/dental labs	1 space for each 250 sf; <u>Downtown (D) overlay</u> - 1 space for each 250 sf for ground floor uses; 1 space for every 300 sf for uses on upper floors.
Offices, administrative, corporate	1 space for each 275 sf; <u>Downtown (D) overlay</u> - 1 space for each 250 sf for ground floor uses; 1 space for every 300 sf for uses on upper floors.

19.30.050 - Adjustments to Parking Requirements

- A. **Shared on-site parking.** Where two or more adjacent nonresidential uses have distinct and differing peak parking usage periods (e.g. a theater and a bank), a reduction in the required number of parking spaces may be allowed through Use Permit approval. Approval shall also require a recorded covenant running with the land, recorded by the owner of the parking lot, guaranteeing that the required parking will be maintained exclusively for the use or activity served for the duration of the use or activity.

19.30.070 - Parking Design Standards

Parking areas shall be designed and constructed in compliance with the following standards.

- A. **Location of parking areas.**
2. Residential parking areas shall comply with the standards of Sections 19.020.100E.3 and E.4 and Section 19.34.170.¹

DIVISION 19.31 - PROPERTY MAINTENANCE

Sections:

19.31.010 - Purpose

19.31.020 - General Maintenance Requirements

19.31.030 - Specific Violations

19.31.040 - Abatement of Violations

19.31.030 - Specific Violations

D. Improper parking or storage of goods, equipment, and vehicles.

1. Using or allowing the use of any hardscape area for parking which prevents or hinders access to elevators, building entrances or exits, or trash receptacles or blocks access to any structure for emergency vehicles or personnel.
2. The keeping or storing of camper shells, inoperable vehicles, cargo containers, appliances, and other equipment and materials in yard areas or driveways in which storage is not allowed, where the items are not screened from view from public or private streets or highways.

DIVISION 19.32 - SIGNS

Sections:

- 19.32.010 - Purpose of Division
- 19.32.020 - Applicability
- 19.32.030 - Design Review and Sign Permit Requirements
- 19.32.040 - Prohibited Signs
- 19.32.050 - General Requirements for All Signs
- 19.32.060 - Zoning District Sign Standards
- 19.32.070 - Standards for Specific Types of Signs
- 19.32.080 - Exceptions to Sign Area Standards
- 19.32.090 - Nonconforming Signs
- 19.32.100 - Violations and Abatement
- 19.32.110 - Appeal
- 19.32.120 - Judicial Review

19.32.030 - Design Review and Sign Permit Requirements

No sign shall be installed, constructed, or altered unless it is first approved in compliance with this Section, or allowed without Sign Permit approval by Subsection ~~E F~~, below.

- A. Fees and plans required.** An application for a Sign Permit shall be filed and processed in compliance with Division 19.40 (Applications - Filing and Processing). The application shall also include architectural elevations and plans of all proposed signs drawn to scale, with all dimensions noted, and include illustrations of copy, colors, materials, and samples of the proposed colors and materials.
- B. Design review and approval.** The Director shall review all Sign Permit applications and approve only those that comply with the findings required in Subsection D. The Director may require conditions of approval as are reasonably necessary to achieve the purposes of this Division.

The Director may refer Sign Permit applications to the Design Review Committee Commission for action, either for the individual Sign Permit, or as part of a development project that is otherwise subject to Design Review Committee Commission review. ~~The Director shall take final action on a Sign Permit within 60 days of the receipt of a complete application, or shall refer the application to the Design Review Committee for action within the 60-day period.~~

C. Master Sign Plan.

1. **When required.** ~~The Director has the authority to approve or disapprove a Master Sign Plan.~~ A Master Sign Plan must be approved by the Director (or by the Design Review ~~Committee~~Commission upon referral by the Director) prior to the issuance of any Sign Permit for:

- a. A new nonresidential project with four or more tenants including four or more tenants located on a parcel zoned Planned District (PD) and subject to an approved Precise Development Plan; and
- b. Major rehabilitation work on an existing nonresidential project with four or more tenants, that involves exterior remodeling, and/or application requests to modify 50 percent or more of the existing signs on the site within a one year period. For the purposes of this Division, major rehabilitation means adding more than 50 percent to the gross floor area of the building/buildings, or exterior redesign of more than 50 percent of the length of any facade within the project.

All signs installed or replaced within the nonresidential project shall comply with the approved Master Sign Plan.

2. **Content of plan.** A Master Sign Plan shall provide standards for the uniform style, construction, size, and placement of signs within the proposed nonresidential project.

3. **Revisions.** Revisions to a Master Sign Plan may be approved by the Director if it is first determined that the revision is minor and that the intent of the original approval, and any applicable conditions are not affected. ~~A new Sign Permit shall be obtained for revisions that would substantially deviate from the original approval.~~

D. Findings for approval. The approval of a Sign Permit or Master Sign Plan shall require that the Review Authority first make all the following findings:

1. The proposed signs do not exceed the standards of Sections 19.32.060 (Zoning District Sign Standards) and 19.32.070 (Standards for Specific Types of Signs), and are of the minimum size and height necessary to enable motorists and pedestrians to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;
2. The size, location, and design of the signs are visually complementary and

compatible with the size and architectural style of the primary structures on the site, any prominent natural features of the site, and structures and prominent natural features on adjacent properties on the same street; and

3. The proposed signs are in substantial conformance with the design review criteria provided in Section 19.32.050 (General Requirements for All Signs).

E. Time limit for action. A Sign Permit or a Master Sign Plan shall be approved or disapproved by the Review Authority within ~~30~~ 60 days of the application being accepted as complete in compliance with Section 19.40.070 (Initial Application Review).

F. Signs and sign changes allowed without a Sign Permit. The following are permitted without a Sign Permit, provided that they comply with Section 19.32.050 (General Requirements for All Signs), and any required Building Permit is obtained.

1. Nonstructural modifications, and maintenance.

- a. Modifications to sign copy on conforming signs, or changes to the face or copy of conforming changeable copy signs;
- b. Nonstructural modifications of the face or copy of an existing conforming sign installed in compliance with a Master Sign Plan, provided that the modifications are consistent with the Master Sign Plan approved in compliance with Subsection C.;
- c. The normal maintenance of conforming signs, except as set forth in 19.32.090.C.

19.32.040 - Prohibited Signs

The following types of signs and devices shall be specifically prohibited:

- A. Abandoned signs;
- B. Animated signs, including electronic message display signs, and variable intensity, blinking, or flashing signs, except time and temperature displays (which are not considered signs);
- C. Balloons and other inflatable devices;
- D. Banners;
- E. Flags, except those allowed by Section 19.32.030.F;
- F. Illegal signs;
- G. Lightbulb strings, except for holiday decorations;

- H. Moving signs, except barber poles;
- I. Obscene signs;
- J. Permanent off-site signs, except as provided in Section 19.32.070.E.2;
- K. Pennants;
- L. Pole signs and other freestanding signs over six feet in height;
- M. Roof signs;
- N. Because of the City's compelling interest in ensuring traffic safety, signs that simulate in color, size, or design, any traffic control sign or signal, or that make use of words, symbols, or characters in a manner that interferes with, misleads or confuses pedestrian or vehicular traffic;
- O. Signs attached to or suspended from a vehicle parked within a public right-of-way, or in a location on private property that is visible from a public right-of-way, except a sign painted directly upon, magnetically affixed to, or permanently affixed to the body or other integral part of the vehicle; and
- P. Temporary and portable signs, except as allowed by Section 19.32.070.E & G.

19.32.060 - Zoning District Sign Standards

Only the signs and sign area authorized by this Section shall be allowed unless otherwise expressly provided in Section 19.32.030.D (Exempt signs) or Section 19.32.070 (Standards for Specific Types of Signs).

- A. **A, OS, C, and residential zoning districts.** Signs in the Agriculture (A), Open Space (OS), Conservation (C), and residential zoning districts established by Section 19.04.020 (Zoning Districts Established) shall not exceed the standards in the Table 3-10. Temporary construction, real estate and subdivision identification signs may be permitted in residential zoning districts in conformance with the requirements of Section 19.32.070.E., (Standards for Specific Types of Signs).

**TABLE 3-10
SIGN STANDARDS FOR A, OS, C,
AND RESIDENTIAL ZONING DISTRICTS**

Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Lighting Allowed
Wall or monument	1 of either allowed sign type per entrance or street frontage	32 sf maximum each; 64 sf total for all signs	Wall signs: below edge of roof; Monument: 6 ft	Indirect only

B. Commercial, office, and industrial zoning district sign standards. Signs in the Business and Professional Office (BPO), Neighborhood Commercial (CN), General Commercial (CG), Downtown Core (CD), Commercial/Industrial (CI), Light Industrial/Office (LIO), Mixed Use (MU), and Community Facilities and Parkland (CF) zoning districts established by Section 19.04.020 (Zoning Districts Established) shall comply with the following requirements.

1. **General sign area limitations.** Signs in the commercial, office, and industrial zoning districts established by Section 19.04.020 (Zoning Districts Established) shall comply with the requirements in Table 3-11.
2. **Multi-tenant sites and buildings.** In addition to the signage allowed by Table 3-11 for each occupant on the basis of frontage, multi-tenant sites and buildings may have a freestanding identification sign with an area equal to 1/4 square foot for each ground floor linear foot of total primary building frontage, up to a maximum of 200 sf.

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19.32.070 - Standards for Specific Types of Signs

C. Murals. Murals may be permitted only within the Downtown (D) overlay district, on public ~~or private~~ structures, subject to review by the Novato Civic Arts Recreation Cultural & Community Services Commission and approval by the City Council or on private structures by the Design Review ~~Committee~~Commission.

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E. Temporary Signs. Temporary signs are allowed subject to the following requirements, in addition to meeting the sight visibility requirements of Section 19.20.707D.

1. **Construction Signs.** Construction identification signs may be allowed in all zoning districts with sign permit approval, in compliance with the following standards:
 - a. Only one sign, located on-site, shall be allowed;

- b. The area of the sign shall not exceed 32 square feet;
 - c. Sign height shall not exceed six feet;
 - d. The sign shall not be illuminated;
 - e. A construction sign shall not be allowed if an on-site subdivision sign is approved.
 - f. Construction signs shall be removed within 30 days after completion of construction.
2. **Off-Site Directional Signs.** Because of the city's compelling interest in ensuring traffic safety, and the city's interest in improving public convenience, off-site directional signs may be allowed in compliance with the requirements of this subsection, and subject to the approval of a sign permit.
- a. **Where Allowed.** Directional signs may be approved within the commercial zoning districts, only on sites where:
 - (1) The review authority determines that a property owner has taken advantage of all permanent signs allowed by this division, and site visibility remains seriously impaired; and
 - (2) The structure to which directions are being provided is on a lot that is located more than 150 feet from a predominant public street frontage, the site is developed with all other signs allowed by this division, and the business entry and the other exterior signs allowed for the site by this division are not visible from the predominant public street. The "predominant public street" shall mean the major vehicular route that provides access to the site and surrounding area.
 - b. **Sign Standards.** An approved directional sign shall comply with all the following requirements.
 - (1) **Number, Size, and Height Limitations.** Only one off-site directional sign shall be allowed. The sign shall not exceed an area of four square feet, and the height shall not exceed six feet.
 - (2) **Design and Construction Standards.** The appearance of the sign, including any graphics and/or text, will reflect attractive, professional design, and that the sign will be durable and stable when in place.
 - (3) **Placement Requirements.** The sign shall be placed only on private property, at the location specified by the sign permit.
3. **Real Estate Signs.** Real estate signs are allowed without a sign permit in compliance with California Civil Code Section 713, and subject to the following requirements.
- a. **Commercial, Industrial, and Other Nonresidential Zoning Districts.** Properties within commercial, industrial, and other non-residential zoning districts shall be allowed one real estate sign of no more than six square

feet, with a maximum height for freestanding signs of six feet, for each parcel frontage.

b. **Residential Zoning Districts.**

(1) **On-Site Signs.** One residential real estate sign not more than six square feet in area, advertising the sale or lease of a parcel or structure, may be located on the property it advertises.

(2) **Off-Site Directional Signs.** Off-site real estate directional signs not more than six square feet in area may be located on private property, provided that they do not obstruct or impede safe pedestrian or vehicular movement and are not secured to prevent removal. No real estate sign shall be permitted within the public right-of-way.

4. **Subdivision Directional Signs, Off-Site.** Off-site signs providing directions to a new subdivision may be allowed with sign permit approval, and shall comply with the following standards:

- a. A maximum of two off-site signs may be located on private property (not within any public right-of-way);
- b. The total area of each sign shall not exceed 24 square feet;
- c. The height of each sign shall not exceed six feet;
- d. The signs shall not be illuminated;
- e. The signs may be displayed only during the two years following date of recordation of the final map, or until all of the units have been sold, whichever occurs first; and
- f. The signs shall not affect pedestrian or vehicular safety.

5. **Subdivision Signs, On-Site.** On-site subdivision identification signs may be allowed with sign permit approval, in compliance with the following standards:

- a. A maximum of two on-site signs may be located within the project boundaries, provided that no more than one sign per street frontage is allowed, and multiple signs shall be separated by a minimum of 75 feet.
- b. The area of each sign shall not exceed 32 square feet;
- c. Sign height shall not exceed six feet;
- d. The signs shall not be illuminated; and
- e. The signs may be displayed only during the two years following the date of recordation of the final map, or until all of the units have been sold, whichever occurs first.

6. **Temporary Signs Within Commercial Zoning Districts.** Temporary on-site signs are allowed within commercial zoning districts without a sign permit for a maximum of 30 days after the opening of a new business, provided that the area of

the temporary signs shall not exceed 50 percent of the total sign area allowed on the site by section 19.32.060 (Zoning District Sign Standards).

7. **Community Event Signs.** Temporary community event signs or banners ([see Section 19.60.020 Sign - Civic Event Sign](#)) may be located in the public right-of-way in accordance with the sight visibility area requirements of section 19.20.070D and the following standards: Community event signs shall not exceed 24 square feet each or be more than six feet in height. Community event signs are allowed for the duration of the event, but not more than 60 days, and shall be removed within 14 days after the event.

19.32.100 - Violations and Abatement

- C. **Removal of abandoned sign.** A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business that it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Director shall give the owner 30 days written notice to remove it. Upon failure to comply with the notice, the Director may have the sign removed at the owner's expense. Proceedings for the removal of signs and/or support structures shall comply with Division 19.~~6059~~ (Enforcement of Zoning Ordinance Provisions).

DIVISION 19.34 - STANDARDS FOR SPECIFIC LAND USES

Sections:

- 19.34.010 - Purpose of Division
- 19.34.020 - Applicability
- 19.34.030 - Accessory Dwelling Units
- 19.34.032 - Accessory Residential Uses and Structures
- 19.34.034 - Accessory Retail and Service Uses
- 19.34.050 - Alcoholic Beverage Establishments
- 19.34.060 - Animal Keeping
- 19.34.070 - Child Day Care Facilities
- ~~19.34.072 - Dwelling Groups~~
- 19.34.074 - Heliports
- 19.34.080 - Home Occupations
- 19.34.090 - Live/Work Projects
- 19.34.100 - Mixed-Use Projects
- 19.34.110 - Mobile Homes
- 19.34.120 - Mobile Home Parks and Mobile Home Subdivisions
- 19.34.124 - Multi-Family Dwellings
- 19.34.130 - Outdoor Dining, Display, and Sales
- 19.34.140 - Outdoor Storage
- 19.34.150 - Recycling Facilities
- 19.34.160 - Residential Care Facilities for the Elderly (RCFE)
- 19.34.164 - Residential Subdivision Architectural Design Standards
- 19.34.166 - Tobacco Product Shops
- 19.34.170 - Vehicle Parking and Storage in Residential Zones
- 19.34.180 - Vehicle Repair in Residential Zones

19.34.032 - Accessory Residential Uses and Structures

Where allowed in the applicable zoning district by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards), accessory residential uses and structures shall comply with the following criteria and standards. Accessory dwellings are instead subject to the provisions of Section 19.34.030 (Accessory Dwelling Units).

D. Location.

1. A structure greater than 18 inches in height above finished grade and attached to a main structure shall comply with the [setback](#) requirements for the main structure.
2. An accessory structure larger than 40 square feet shall not be located closer than 3 feet to a main structure or closer than 3 feet to any other accessory structure on the same property.

3. An accessory structure shall not be located closer than 3 feet to a rear or side property line. An accessory structure that is 40 square feet or less in size may be allowed within 3 feet of a side or rear property line provided that it does not exceed 6 feet in height.
4. A detached deck or patio greater than 18 inches in height measured from finished grade shall not be constructed in required yard areas unless design review approval is first obtained in accordance with Section 19.42.030 (Design Review).
5. An accessory structure shall not be located in a required front yard, except that decorative garden structures (e.g., small trellis or archway) shall be allowed.
6. Accessory structures may occupy up to a maximum of 25 percent of a required side yard and up to a maximum of 30 percent of a required rear yard.
7. Guest houses shall comply with the setback requirements of the main structure.
8. Mechanical equipment (i.e., air conditioning, heating unit, pool and spa pumps, etc.) located within 15 feet of a side property line shall be sound attenuated in a manner acceptable to the Director. Equipment enclosures shall not be included in the coverage and size limitations set forth in Section G. below. (*see 19.22.040 - Electrical and Mechanical Equipment*)

H. Pools, Hot Tubs and Spas. In- and above-ground pools, hot tubs, and spas are subject to the following standards:

1. May be located within rear or side yard areas. Any decking exceeding 18 inches above surrounding grade must comply with the standards contained in Section 19.34.032D4,
2. Shall not count towards lot coverage limitations or the maximum number of accessory structures otherwise specified in this Section.
3. Mechanical equipment shall comply with the requirements of Section 19.22.040 (Electrical and Mechanical Equipment).
4. Shall comply with all other applicable requirements of this Chapter.

19.34.050 – Alcoholic Beverage Establishments

~~**B. Review by Commission on Drugs and Alcohol (CDA).** Applicants for Use Permits for alcoholic beverage establishments are strongly encouraged to meet with the Commission on Drugs and Alcohol to review the proposal and obtain a list of their recommended conditions of approval, prior to filing the Use Permit application with the Department.~~

C. Exemption from Use Permit requirement. The Use Permit approval otherwise required by Article 2 (Zoning Districts and Allowable Land Uses) for alcoholic beverage establishments shall not be required for:

1. The incidental sale and serving of alcoholic beverages for on-premise consumption in conjunction with a restaurant. This exemption does not apply to uses classified as night clubs and bars.
2. The retail sale of alcoholic beverages for off-premise consumption, when the alcoholic beverages are packaged with non-beverage items as a minor component of the product being sold (for example, food gift baskets including wine); or
23. Wholesale-only operations (no direct sales to consumers).

These exemptions shall not apply where the State Department of Alcoholic Beverage Control (ABD) requires a Letter of Convenience and Necessity for the sales activity.

19.34.060 - Animal Keeping

C. Allowable animal keeping activities and permit requirements. Animals shall be kept within residential zoning districts only in compliance with the limitations on use and permit requirements in Table 3-13.

**TABLE 3-13
ALLOWABLE ANIMAL-KEEPING ACTIVITIES AND PERMIT REQUIREMENTS**

Type of animals	Permit Requirement by Zoning District (2)						
	<u>A</u>	RR	RVL	R1	R4/R5	R10	R20
Household pets - 5 or fewer total	<u>P</u>	P	P	P	P	P	P
Kennel or boarding	<u>UP</u>	UP	UP	—	—	—	—
Small animals - 12 or fewer total	<u>P</u>	P	P	P	P	P	P
Small animals - 13 or more total	<u>P</u>	UP	UP	UP	—	—	—
Large animals	<u>UP (3)</u>	P	P	P (1)	—	—	—
Hogs & swine	<u>P</u>	—	—	—	—	—	—
Fowl and poultry - 12 or fewer total	<u>P</u>	P	P	P	—	—	—
Fowl and poultry - 13 or more total	<u>P</u>	UP	UP	UP	—	—	—

Key to permit requirements:

P	Permitted animal keeping only in accordance with standards of Table 3-14, no City approval required.
UP	Use Permit approval required in compliance with Section 19.42.050.
—	Type of animal not allowed.

Notes:

- (1) Allowed in the R1 zoning district only when the where a lot contains 20,000 sq. ft. or more of land area that is not subject to restricted use (e.g., private open space easement).
- (2) Animal keeping within the PD (Planned Development) District shall be allowed in accordance with the standards of the applicable Precise Development Plan. If the Precise Plan is silent on animal keeping, the standards from the most comparable zoning district shall apply. Private homeowners associations may also have animal-keeping restrictions.
- (3) UP required for large animal livestock operations, see Table 2-2, Section 19.08.030

19.34.070 - Child Day Care Facilities.

This section provides location and operational standards for child day care facilities, in compliance with State law and in a manner that recognizes the needs of child care operators and minimizes effects on adjoining properties. These standards apply in addition to the other provisions of this title and the requirements of the California Department of Social Services. Licensing by the Department of Social Services is required for all facilities.

A. Applicability. Child day care facilities shall be allowed as follows.

1. **Small Family Day Care Homes (Eight or Fewer Children).** Allowed within a single-family residence located in a residential zoning district.
2. **Large family day care homes (Nine to 14 Children).** Allowed within a single-family residence located in a residential zoning district.
3. **Child Day Care Centers (15 or More Children).** Allowed in the zoning districts determined by article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards), subject to use permit approval, in compliance with section 19.42.050, and the standards in following subsection B of this section.

4.

B. Standards for Child Day Care Centers. The following standards shall apply to child day care centers.

- a.1. The minimum parcel size for a child day care center shall be 10,000 square feet;
- b.2. Off-street parking shall be as determined through use permit approval, but shall be a minimum of one space per employee on the largest shift.
- c.3. A safe area for picking up and dropping off children shall be provided. This activity shall only be allowed in a driveway, in an approved parking area, or in an area with direct access to the facility.
- d.4. Potential noise sources shall be identified during the use permit process, and noise attenuation and sound dampening shall be addressed. Noise levels shall comply with and section 19.22.060(Noise), and the safety and noise chapter of the general plan.

e.C. Alternative Standards. Alternatives to the standards of this section may be authorized through the use permit approval if the review authority determines that:

- (1). The intent of these standards is met; and
- (2). There will be no detriment to surrounding properties or residents.

19.34.072 - Dwelling Groups

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A. Purpose. This section provides development standards for the establishment of dwelling groups on sites designated Medium Density Multi-Family Residential (R10) within the Northwest Quad Planned District. These provisions for dwelling groups are intended to increase the variety and availability of housing opportunities in the community.

B. Applicability. The regulations of this section shall apply to all dwelling groups established in the Northwest Quad Planned District.

C. Permit requirement. A dwelling group shall be authorized through Use Permit approval. The Review Authority may refer plans for a dwelling group to the Design Review Committee for their review and approval.

D. Owner occupancy required. The applicant for the Use Permit for a dwelling group shall be the principal owner of the parcel and shall occupy one of the dwelling units.

E. Number of units allowed. The maximum number of units allowed in a dwelling group shall be one unit per 3,750 square feet of site area.

F. Design and development standards:

1. Setbacks. Dwelling group units shall be detached, with a minimum separation of six feet between structures. The Review Authority may reduce the side and rear yard setbacks otherwise required by the R10 zoning district, provided that no dwelling group unit shall be located closer than five feet to any side or rear property line.

2. Height limitations. A dwelling group unit shall not exceed 16 feet in height; provided that the Review Authority may allow second story or two-story units at the height limit of the applicable zoning district where the Review Authority determines that the design is compatible with the surrounding neighborhood and the rear and side yard setbacks for the primary zoning district are met.

3. Open space required. Each dwelling group unit shall have a minimum of 500 square feet of outdoor living space provided on site, exclusive of paved driveway and parking areas.

4. Coverage and size limitations:

~~a. Building coverage shall not exceed 40 percent of the site area.~~

~~b. Units constructed within the required side and rear yards of the primary zoning district shall be limited to a gross floor area of 1000 square feet.~~

~~5. **Parking.** Dwelling group units of 750 square feet or less shall require one parking space per unit on site. Dwelling group units of 751 square feet or larger shall require two parking spaces per unit on site.~~

~~6. **Design compatibility.** The site plan, exterior finishes, and dimensions of dwelling group units shall complement each other and be comparable in design. In addition, the dwelling group units shall be compatible with the general character of neighboring residential properties.~~

~~G. **Inspection required.** Existing units shall be inspected by the Building Division for conformance with building, fire and safety codes prior to issuance of a Use Permit.~~

~~H. **Separate sale prohibited.** No dwelling group unit shall be sold independently from the other units on the parcel, except through subdivision approval.~~

~~I. **Covenant.** A covenant approved by the City Attorney, shall be recorded with the County Recorder's Office, which shall include all of the pertinent restrictions and limitations of dwelling groups identified in this section, shall run with the land and shall be binding upon any successors in interest. A copy of the recorded covenant shall be filed with the Community Development Department prior to issuance of a building permit or certificate of occupancy.~~

~~J. **Findings for approval.** The approval of a dwelling group Use Permit shall require the Review Authority to make the following findings, in addition to those required for a Use Permit in Section 19.42.050:~~

~~1. The decision to approve the dwelling group is consistent with the goals, policies, and objectives of the General Plan;~~

~~2. Utility and public service levels are adequate to serve additional dwellings;~~

~~3. The dwelling group units are compatible in design with the surrounding neighborhood in terms of exterior treatment, (i.e. colors and materials) height, landscaping, scale, and setbacks; and that adequate outdoor living area is provided for each dwelling unit; and~~

~~4. The addition of a dwelling group will not contribute to an undue concentration of dwelling group units sufficient to change the character of the surrounding neighborhood.~~

19.34.090 - Live/Work Projects

This Section provides standards for the development of new live/work projects and for the reuse of existing commercial and industrial structures to accommodate live/work opportunities. Live/work facilities are intended to be occupied by business operators who live in the same structure that contains the commercial activity or industry.

- J. **Open space.** A minimum open outdoor space area of 150 square feet shall be required for each live/work unit in accordance with the standards in Section 19.34.~~130~~124B.2.

19.34.100 - Mixed-Use Projects

This Section provides standards for the design of mixed-use projects.

- D. **Location of units.** ~~Residential units shall not occupy ground floor space within the first 50 feet of a parcel measured from the front or street side property line, or any ground floor space in the CD zoning district.~~ Within the CDR and CDB Zoning Districts, residential units shall only be allowed on upper floors or at the rear of the ground level, with ground floor street frontage reserved for retail, entertainment, and personal service uses.
- E. **Setbacks.** Structures with heights greater than ~~two stories~~ 20 feet shall set back the upper portions of the structure a minimum of 10 feet from the side property lines for each additional story above two.
- J. **Open Space.** A minimum ~~open~~-outdoor ~~open~~ space area of 150 square feet shall be required for each live/work unit in accordance with the standards in Section 19.34.~~130B~~124B.

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19.34.170 - Vehicle Parking and Storage in Residential Zones

- B. **Outdoors.** A maximum of four vehicles including all types of operable or inoperable motor or recreational vehicles, motorcycles, campers, snowmobiles, jet skis, off-road vehicles, boats, and trailers may be parked or stored outdoors only under the following conditions:
 - 1. Only operable vehicles may be parked in the front_yard area. The parking area shall be on an improved a paved driveway in compliance with Division 19.30.070 (Parking ~~and Loading~~ Design Standards), Section 19.20.100E (Limitations on the Use of Setbacks), and where adequate sight distance is maintained in compliance

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with Section 19.20.070 D (Sight Visibility Area Required).

2. Inoperable vehicles shall not be stored or parked within the required parking areas, front yard or street side yard areas. A person may park or store inoperable or non-operable vehicles only if completely confined within a building, garage or accessory structure; or, in a rear or side yard area where the vehicles are screened from view from adjacent streets and properties.

C. Habitation Prohibited. Operable or inoperable motor or recreational vehicles, as described in 19.34.170A, stored or parked on a private parcel located in a residential zoning district, shall not be used as a temporary or permanent living quarters.

DIVISION 19.38 – WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 19.38.010 - Purpose of Division
- 19.38.020 - Applicability
- 19.38.030 – Approval Process
- 19.38.040 – Application Requirements
- 19.38.050 – Development Standards
- 19.38.060 – General Location Standards
- 19.38.070 – Co-location and Shared Locations
- 19.38.080 – Radio Frequency Radiation (RFR)
- 19.38.090 - Lighting
- 19.38.100 – Roads and Accessways
- 19.38.110 - Vegetation
- 19.38.120 – Noise and Traffic
- 19.38.130 – Visual Compatibility and Facility Site Design
- ~~19.38.140 – Performance Agreement Required~~
- 19.38.~~150-140~~ – Removal of Abandoned Wireless Communication Facilities
- 19.38.~~160-150~~ – Nonconforming Facilities
- 19.38.~~170-160~~ – Modifications to Existing Facilities
- 19.38.180 – Post Approval Procedures

19.38.020 – Applicability

- C. This Division does not apply to amateur ~~ratio-radio~~ station antennas which meet the height limits of the zoning district in which they are located. ~~Antennas or facilities exceeding the height limits may be approved with a Use Permit in compliance with Section 19.42.050 (Use Permits).~~

19.38.030 – Approval Process

~~Wireless communication facilities shall not be constructed, installed, or maintained without first obtaining a use permit in compliance with section 19.42.050 (Use Permits). The city encourages project proponents to submit a single application for multiple antenna sites. Applications for multiple sites shall be given priority in the review process.~~

- ~~A. **Zoning Administrator.** The zoning administrator shall have the authority to approve the following wireless communication facilities developed in compliance with the standards of this division:~~
- ~~1. A stealth facility, or alternative tower structure that minimizes visibility to substantially the same extent as a stealth facility;~~
 - ~~2. An attached or roof-mounted facility that is not located within 500 feet of a scenic resource as designated by the general plan;~~
 - ~~3. A collocated facility that is not located within 200 feet of a scenic resource as designated by the general plan;~~
 - ~~4. A facility located on property owned, leased, or otherwise controlled by the city; and~~
 - ~~5. Minor modifications in compliance with section 19.38.170 (Modifications to Existing Facilities).~~
- ~~B. **Planning Commission.** The planning commission shall have the authority to approve wireless communication facilities other than those listed in subsection A of this section.~~
- ~~C. **Master Use Permit.** In order to maintain control over the cumulative development on a parcel, a "master" use permit shall be required at the time a second facility is proposed on a parcel, or at the time an additional facility is proposed on a parcel that currently has two or more existing facilities.~~

A. **Use Permit Required.** A Use Permit issued in compliance with section 19.42.050 (Use Permits) shall be required for the following new wireless communication facilities, consistent with all other provisions of this section:

1. New ground-mounted facilities (on towers and monopoles);
2. New building-mounted facilities on buildings which do not have existing wireless communication devices;
3. Any facility which, in conjunction with existing wireless communication facilities in the area, exceeds seventy-five percent (75%) of the standards for permissible human exposure to radio frequency emissions as adopted by the Federal Communications Commission (FCC);

B. **Zoning Clearance Required.** A Zoning Clearance in compliance with Section 19.42.020 (Zoning Clearances) shall be issued for the following new wireless communication facilities, consistent with all other provisions of this section:

1. Co-located facilities on existing and approved ground-mounted facilities (towers and monopoles);
2. Co-located facilities on buildings which have previously permitted and legal wireless communication devices.

19.38.050 – Development Standards

- A. **Height.** The maximum height of wireless communication facilities shall be in compliance with the height limitations for the zoning district in which they are located. Antennas or facilities exceeding the height limits may be approved with a Use Permit in compliance with Section 19.42.050 (Use Permits).
- B. **Setbacks.**
 1. **Towers and support structures.** Towers, guys and accessory structures shall comply with the setback requirements of the applicable zoning district.
 2. **Attached facilities.** An attached wireless communication facility antenna array may extend up to five feet horizontally beyond the edge of the attachment structure regardless of setback requirements provided that the antenna array does not encroach over an adjoining parcel or public right-of-way.
 3. **Separation from off-site uses/designated areas.** Separation requirements for freestanding towers shall comply with the minimum standards established in Table 3-15. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated area.

19.38.130 – Visual Compatibility and Facility Site Design

Wireless communications facility structures and equipment shall be sited, designed, and screened to blend with the surrounding natural or built environment in order to reduce visual impacts to the extent feasible. Visual compatibility shall be accomplished through the following measures.

- A. **Visual Analysis.** Applications for wireless communications facilities shall include a visual analysis of the proposed facility at design capacity, including but not necessarily limited to a photo montage or photo simulation and/or story poles erected at the proposed site or other similar technique. The visual analysis shall address views from public vantage points and private residences if determined appropriate by the Director. The visual analysis shall also depict cumulative conditions by including information pertaining to existing, approved, and proposed telecommunications facilities that will be constructed at the site by all carriers, based upon permit applications which have been filed with or

approved by the City. The visual analysis may be expanded to include alternative locations within the proposed service area.

B. Stealth Design. To the extent feasible, all telecommunications facilities shall be designed to blend into the surrounding natural and built environment and be architecturally integrated into structures upon which such facilities are mounted ~~all building-mounted telecommunication facilities shall be sited and designed~~ to appear as an integral part of the structure or otherwise minimize their appearance. The following stealth design techniques are encouraged:

1. Wall-mounted antennas shall be integrated architecturally with the style, ~~and~~ character, materials and color of the structure or otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly-created architectural feature (e.g., cupolas, dormers, chimneys or steeples) so as to be completely screened from view. To the extent feasible, wall-mounted antennas should not be located on the front, or most prominent façade of a structure, and should be located above the pedestrian line-of-sight.
2. Roof-mounted antennas and associated equipment shall be located as far back from the edge of the roof as possible to minimize visibility from street level locations. Where appropriate, construction of a roof-top parapet wall to hide the facility may be required. To avoid or minimize the appearance of visual clutter on rooftops, proposed facilities should, to the extent possible, be located adjacent to existing rooftop antennas or equipment, incorporated into rooftop antenna or equipment enclosures, or otherwise screened from view. In addition, existing rooftop antenna and equipment should be consolidated where practical and shall be removed if not in active use for a period of six months or longer.
3. Whenever possible, base stations, equipment cabinets, back-up generators, and other equipment associated with building mounted antennas should be installed within the existing building envelope or underground. If this is not feasible, the equipment shall be painted, fenced, landscaped or otherwise treated architecturally to minimize its appearance from off-site locations and to visually blend with the surrounding natural and built environments. Equipment buildings should be designed in an architectural style and constructed of exterior building materials that are consistent with the surrounding development and/or land use setting.

4. In certain open space or hillside locations that would be generally viewed from a distance, it may be appropriate to design facilities to resemble a natural feature (e.g., tree or rock outcrop). Other innovative design solutions may be appropriate when the screening potential of a site is low (i.e., disguise facility as a landscape element, public art, etc.).

5. Facilities should not be located on historically or architecturally significant structures unless visually and architecturally integrated with the structure, and should not interfere with prominent vistas or significant public view corridors.

6. Antennas and associated structures and equipment shall be painted to blend with the structures, vegetation, sky, or landscape against which they will be primarily viewed.

HC. **View Impacts.** Facilities should be sited to avoid adverse impacts to existing views from surrounding residences.

ID. **Signage.** No advertising signage or identifying logos shall be displayed on any personal wireless communications facility, except for small identification plates used for emergency notification.

~~J. To avoid or minimize the appearance of visual clutter on rooftops, proposed facilities should, to the extent possible, be located adjacent to existing rooftop antennas or equipment, incorporated into rooftop antenna or equipment enclosures, or otherwise screened from view. In addition, existing rooftop antenna and equipment should be consolidated where practical and removed if abandoned.~~

KE. **Minimum Height.** Applicants shall demonstrate that facilities have been designed to attain the minimum height required from a technological standpoint for the proposed site.

~~L. Antennas and associated structures and equipment shall be painted to blend with the structures, vegetation, sky, or landscape against which they will be primarily viewed.~~

19.38.140 — Performance Agreement Required

~~A. Applicants for wireless telecommunications facilities shall be required to enter into a standard performance agreement with the City which stipulates that the applicant and~~

~~successors in interest shall properly maintain and ultimately remove, if required, the approved wireless telecommunications facilities in compliance with the provisions of this Division and any conditions of permit approval. The carrier shall provide financial security in a form acceptable to the City, to ensure that the approved facility is properly maintained and to guarantee that the facility is dismantled and removed from the premises if it has been inoperative or abandoned or upon expiration of the permit applications.~~

~~B. The posting of financial security may also be required as a condition of approval to pay the cost for preparation of electromagnetic frequency radiation reports evaluating the conformance of approved and operative facilities with applicable health standards adopted by the Federal Communications Commission. The applicant may post a single financial security in the amount equal to the cost of preparing the electromagnetic frequency radiation report for buildout of the applicant's network facilities plan.~~

19.38.150-140 – Removal of Abandoned Wireless Communication Facilities

A wireless communication facility that is not operated for a continuous period of six months shall be considered abandoned, and the property owner shall remove the facility within 90 days of notice from the City. If the facility is not removed within 90 days, the City may remove the facility at the property owner's expense. If there are two or more users of a single wireless communication facility, then these provisions shall not become effective until all users cease using the facility.

19.38.160-150 – Nonconforming Facilities

Nonconforming wireless communication facilities are subject to the requirements of Division 19.52 (Nonconforming Uses, Structures and Parcels).

19.38.170-160 – Modification to Existing Facilities

Modifications to existing facilities shall require Use Permit approval in compliance with Section 19.42.050 (Use Permits).

A. Minor modifications. Minor modifications to existing wireless communication facilities may be approved by the Zoning Administrator. Minor modifications include the following:

1. An increase of up to 10 feet above the allowed height limit of the particular zoning district for existing towers to accommodate co-location or to accommodate an attached facility on an existing structure.
2. A decrease of up to 10 percent in setback requirements.

B. Major modifications. Major modifications to wireless communication facilities shall require Planning Commission approval. Major modifications are any modifications that are not listed as minor modifications.

19.38.180-170 – Post Approval Procedures

~~A. Validation of proper operation. Within 90 days of commencement of operations, the applicants for the wireless communication facility shall provide the Department a report prepared by a qualified engineer, verifying that the operation of the facility is in compliance with the standards established by the American National Standards Institute (ANSI) and the Institute of Electrical and Electronic Engineers (IEEE) for safe human exposure to electromagnetic fields (EMF) and radio frequency radiation (RFR).~~

~~**B. Permit duration.** A Use Permit for a wireless communications facility shall be valid for one year from the date of approval. The Use Permit may be extended at the request of the applicant for additional one year increments at the discretion of the Review Authority.~~

~~1. Applications for renewal shall be submitted to the Department no later than 30 days prior to expiration of the one-year approval period.~~

~~2. Each extension may be granted if the Review Authority determines that the project is in compliance with the appropriate development standards and criteria.~~

~~3. At any time, the Review Authority may modify existing conditions or impose new conditions to protect the public health, safety and general welfare, as deemed necessary.~~

DIVISION 19.39 - WOODLAND AND TREE PRESERVATION

Sections:

19.39.010 - Purpose of Division

19.39.020 - Applicability

19.39.030 - Application Content

19.39.040 - Standards for Tree and Forest Retention and Mitigation

19.39.030 - Application Content

The land use permit application for any project that is subject to the provisions of this Section shall include the following information in addition to the information and materials required by Division 19.40 (Permit Application Filing and Processing).

- B. Woodland Conservation and Management Plan.** A Woodland Conservation and Management Plan shall be provided, prepared by a qualified forest management professional, based on the following principles, and shall comply with the standards in [Subsection D Section 19.39.040.](#)

DIVISION 19.40 - PERMIT APPLICATION FILING AND PROCESSING

Sections:

- 19.40.010 - Purpose of Article
- 19.40.020 - Authority for Land Use and Zoning Decisions
- 19.40.030 - Concurrent Permit Processing
- 19.40.040 - Application Preparation and Filing
- 19.40.050 - Indemnification
- 19.40.060 - Application Fees
- 19.40.070 - Initial Application Review
- 19.40.080 - Staff Report and Recommendations

19.40.030 - Concurrent Permit Processing

When a single project incorporates different land uses or features so that this Zoning Ordinance requires multiple land use permit applications, the Director may determine that all of the applications shall be reviewed, and approved or disapproved, by the highest level Review Authority assigned by Table 4-1 to any of the required applications. (For example, a project that requires a Zoning Map amendment and a Use Permit may be reviewed, and approved or disapproved by the Council (after a recommendation from the Commission), where a Use Permit application by itself may be reviewed and acted upon by the Zoning Administrator.)

**TABLE 4-1
REVIEW AUTHORITY**

Type of Decision	Role of Review Authority (1)				
	Director/Staff	Zoning Administrator	Design Review <u>Committee</u> <u>Commission</u>	Planning Commission	City Council

Land Use Permits and Other Development Approvals

Design Review – For single-family dwellings, minor additions, temporary or accessory structures and signs in all zones	Decision (2)		Appeal	Appeal	Appeal
Design Review – All other			Decision	Appeal	Appeal
Development Agreements				Recommend	Decision

Master Plan			Recommend	Recommend	Decision
<u>Master Plan Amendments</u>				<u>Recommend</u>	<u>Decision</u>
Precise Development Plan			Recommend	Recommend	Decision
<u>Precise Development Plan Amendments – Minor architectural and site changes consistent with adopted Master Plan</u>	<u>Decision (4)</u>				
<u>Precise Development Plan Amendments – All others</u>			<u>Recommend</u>	<u>Recommend</u>	<u>Decision</u>
Sign Permits	Decision (2)		Decision	Appeal	Appeal
Specific Plans				Recommend	Decision
Temporary Use Permits		Decision (2)		Appeal	Appeal
Use Permits		Decision (2)		Appeal	Appeal
Variances		Decision (2)		Appeal	Appeal
Zoning Clearances	Decision (2)			Appeal	Appeal

Notes:

- (1) “Recommend” means that the Review Authority makes a recommendation to a higher decision-making body; “Decision” means that the Review Authority makes the final decision on the matter; “Appeal” means that the Review Authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Division 19.54 (Appeals).
- (2) The Director or Zoning Administrator may defer action on permit applications and refer the items to the Planning Commission for the final decision.
- (3) The Director may refer the matter to the Planning Commission for a recommendation to the Council.
- (4) The Director may refer the matter to a higher review authority for the final decision.

19.40.050 - Indemnification

B. Indemnification applicable even if applicant fails or refuses to enter into agreement. Even if the applicant for a discretionary approval described in Subsection A. fails or refuses to enter into the agreement specified in Subsections A.1 and A.2, that applicant and any successor in interest ~~or~~ and the owner of the subject property if different from the applicant, whether in whole or part, shall, as a condition to any of the approvals specified below:

19.40.070 - Initial Application Review

D. Neighborhood Meeting. A neighborhood meeting shall be held after submittal of an application for a project with neighborhood wide concerns and before the director considers the application complete. Meetings are required for all proposed commercial/industrial projects located within 600 feet of residential development. A neighborhood meeting is not required if the Director deems the application does not present issues of sufficient concern to warrant a neighborhood meeting. (Ord. No. 1441, § 2(A); Ord. No. 1531, § 1)

1. The applicant and/or his/her/its representative is required to procure a meeting location (see Administrative Policy for location criteria), prepare a notice of the meeting, facilitate and attend the neighborhood meeting and at the meeting provide basic information, including the following:
 - a. Purpose of the project.
 - b. Site analysis, graphically depicting existing conditions and the neighborhood context.
 - c. Conceptual dimensioned site plan showing locations of all proposed structures, roads, parking areas, landscaping, and parcel boundaries.
 - d. Conceptual building design information and proposed density/building sq. ft.

2. Notification of all owners of properties located within 600 feet of the project's boundaries shall be conducted by city staff in accordance with section 19.58.020(B)(1), (2) or (3) of the Novato Zoning Code.

~~3. Notwithstanding the above, if the project does not present issues of sufficient concern to warrant a neighborhood meeting, an exemption may be allowed by the director. The director's decision to grant the exemption shall be put in writing and included in the city's project file.
(Ord. No. 1441, § 2(A); Ord. No. 1531, § 1)~~

DIVISION 19.42 - PERMIT APPROVAL OR DISAPPROVAL

Sections:

- 19.42.010 - Purpose of Division
- 19.42.020 - Zoning Clearances
- 19.42.030 - Design Review
- 19.42.040 - Temporary Use Permits
- 19.42.050 - Use Permits
- 19.42.060 - Master Plans and Precise Development Plans
- 19.42.070 - Variances

19.42.030 - Design Review

- B. Applicability.** Table 4-2 identifies when Design Review is required, and the responsible Review Authority.

**TABLE 4-2
APPLICABILITY OF DESIGN REVIEW**

Type of Project	Design Review Requirement		
	Exempt	Director Review	DRC Review
Individual <u>single story</u> single-family homes and accessory structures, including additions and alterations, under individual applications in the A, RR, RVL, and R1 zoning districts (except in hillside areas with slopes of 10% or more and in compliance with Section 19.34.032, Accessory Residential Uses and Structures).	■		
Ground floor additions, alterations and accessory structures <u>or landscape changes</u> deemed visually or functionally insignificant by the Director.	■		
<u>Co-located building-mounted, roof-mounted and ground-mounted wireless communication facilities which are determined by the Director to be consistent with design standards in Section 19.38.130</u>	■		
<u>Individual single-family homes and accessory structures, including additions and alterations, under individual applications in the R4 and R5 zoning districts (except in hillside areas with slopes of 10% or more and in compliance with Section 19.34.032, Accessory Residential Uses and Structures).</u>		■	
Second floor additions and accessory structures within <u>R1 a and PD districts</u> ; unless deemed by the Director to be visually <u>or functionally insignificant</u> <u>or where a precise development plan prescribes other procedures.</u>		■	

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	Design Review Requirement		
Multiple single-family detached homes and accessory structures in the A, RR, RVL, R1, <u>R4 and R5</u> zoning districts. (1)		■	
Temporary structures that will be removed within one year. (2)		■	
Additions and alterations in all zoning districts, except A, RR, RVL, and R1 that do not meet the specific criteria above. (2)		■	
Individual single-family homes and accessory structures including additions and alterations in hillside areas with slopes of 10% or more. <u>However, new accessory structures and minor additions and alterations to existing residential structures or accessory structures which constitute less than ten percent of the square footage of the structure to be expanded that are deemed to be visually or functionally insignificant by the Director may be exempted from Design Review.(2)</u>		■	
All other land uses or development.			■

Notes:

- (1) Only where the same basic design will be used more than once in the same subdivision.
- (2) Landscaping plans may be required.

D. Design Review process. The Design Review process shall be conducted as follows:

1. **Design Review workshop.** At the option of the applicant, unless otherwise required by another section of this Chapter, the Director will arrange for an introductory workshop with the Design Review CommitteeCommission (DRC) to review with applicant the City’s standards and guidelines that may affect project site design, with respect to elements such as access, grading, tree removal, neighborhood compatibility, building placement and massing. The Director shall provide for courtesy noticing of property owners within 600 feet of the site.
2. **Application preparation, filing, initial processing.** An application for Design Review shall be prepared, filed and processed in compliance with Division 19.40 (Applications - Filing and Processing). The Director shall determine whether the application presents issues or sufficient public concern to warrant a hearing by the Design Review CommitteeCommission or review and action by the Director.¹
3. **Evaluation of proposal.** The Review Authority shall consider the design, location, site layout, and the overall effect of the proposed project upon surrounding properties and the City in general. The review shall compare the proposed project to applicable development standards, design guidelines, and other City regulations.
4. **Design Review by the Director.**
 - a. **Opportunity for hearing and action.** An application for Design Review

by the Director shall be approved or disapproved by the Director no sooner than the 11th day after public notice has been provided in compliance with Division 19.58 (Public Hearings); provided that no public hearing shall be required unless requested in writing by an interested party on or before the 10th day following public notice.

- b. **Findings and conditions.** The decision by the Director shall comply with Subsection E.; conditions of approval may be imposed in compliance with Subsection F.
- c. **Referral to DRC.** The Director may defer action on a Design Review application and instead refer the matter to the DRC for review and decision in compliance with the following Subsection D.5.

5. **Design Review by the DRC.** Decisions of the DRC on Design Review applications shall comply with Subsection E.; conditions of approval may be imposed in compliance with Subsection F. Public notice of meetings shall be given in compliance with Division 19.58 (Public Hearings).

- a. **Design Review of Site Plan.** After the Director has determined the application complete and prior to any decision on any land use permits or other City entitlements required for the project, an application for Design Review shall be scheduled for a public hearing before the Design Review CommitteeCommission for a recommendation to the Review Authority on the project site plan.¹
- b. **Design Review of Building and Landscaping.** After the approval of the project land use permit by the applicable Review Authority, the Design Review application shall be scheduled for a public hearing before the Design Review CommitteeCommission for approval or disapproval of project buildings, architecture, landscaping, color and materials.

E. **Design Criteria.** In granting design review approval, the review authority shall impose conditions as deemed appropriate to ensure compatibility with surrounding uses, to provide good quality architectural and site design, and, to protect the public health, safety, and general welfare. Unless previously established by approval of a precise development plan, the following criteria shall be considered in reviewing an application for design review and establishing conditions for the project.

Site Design:

- 1. Height, bulk, and area of buildings and the overall mass and scale of the project in

relation to the site characteristics, neighborhood, and surrounding land uses.

2. Site layout, buffers and setback distances and physical relationship of structures and uses on the site and to surrounding topography, natural resources, uses and structures.
3. Site access, including pedestrian, bicycle and equestrian access (if appropriate), parking and loading areas (including bicycle parking facilities), and on-site ~~and~~ off-site traffic and pedestrian circulation, access for recycling and refuse collection, loading and disposal.
4. Landscape elements, integrating opportunities for passive recreation facilities and outdoor use areas and adequate shading of pavement and windows.
5. Orientation to natural site amenities, scenic views, and protection, preservation and integration of scenic, historic and natural resources.
6. Integration of site into the pedestrian and traffic circulation system, including off-site improvements and opportunities for connections to adjoining streets, parks, open space, community facilities and commercial areas.

Architecture:

7. Articulation in building facades, exterior architectural design details, quality of materials, variation of textures, and harmony of colors.

F. Findings and decision. When acting as a decision-maker, The Review Authority may approve a Design Review application only after first finding that:

1. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the General Plan, and any applicable Specific Plan and with the development standards, design guidelines and all applicable provisions of the Municipal code, including this Zoning Ordinance and any approved Master Plan and Precise Development Plan.
2. The proposed project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors and visiting public.
3. The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.

19.42.040 - Temporary Use Permits

C. **Exempt temporary uses.** The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed temporary uses), below.

2. **Construction yards – On-site.** ~~On-site contractors’ A construction yards, located on a site in conjunction~~ with an approved construction project ~~on the same site~~. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion ~~B~~building ~~P~~permit, authorizing the construction project.

D. **Allowed temporary uses.** The following temporary uses may be allowed, subject to the issuance of a Temporary Use Permit by the Zoning Administrator. Uses that do not fall within the categories defined below shall comply with the use and development regulations and land use permit review provisions that otherwise apply to the property.

2. **Construction yards – Off-site.** ~~Off-site contractors’ A construction yards, at an located off-site –in conjunction with~~ from an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion ~~B~~building ~~P~~permit, authorizing the construction project. (See also Subsection D.121, below, regarding temporary work trailers.)

9. **Temporary Model Homes and Real Estate Offices.** Temporary model homes, real estate offices, and related facilities may be established within the area boundaries of an approved residential subdivision project, solely for the first sale of homes. The application may be approved for a maximum time period of 18 months.

G. **Findings and decision.**

1. A Temporary Use Permit may be approved, modified, conditioned, or disapproved by the Zoning Administrator, without the requirement for a noticed public hearing.
2. The Zoning Administrator may defer action and refer the application to the Commission for review and decision at a noticed public hearing in compliance with Division 19.58 (Public Hearings).

19.42.060 - Master Plans and Precise Development Plans

E. Master Plan procedures. Master Plans shall be prepared, filed, processed and approved or disapproved as follows.

1. Application Filing and Processing. An application for master plan approval shall be filed and processed in compliance with division 19.40 (Permit Application Filing and Processing), and as an amendment to the zoning text and map in compliance with division 19.56 (General Plan, Zoning Ordinance, and Zoning Map Amendments and the following requirements). The master plan application shall include the following information and materials.

- a. Graphic documents (one or more maps or drawings) accurately drawn to scale and sufficiently detailed to show:
 - (1) Boundaries and area of the site;
 - (2) Areas of the site to be developed with each type of land use and the maximum allowable density or building intensity identified; areas designated for open space; and the basic street pattern.
 - (3) Topography, with existing and proposed contours shown at a minimum interval of 10 feet;
 - (4) Site slopes, calculated and classified in ranges from 0 to 15 percent, 15 to 30 percent, and 30 percent plus, with the aggregate area of each range measured and stated and the allowable density based on the hillside reduction factors;
 - (5) All existing structures and improvements on the site;
 - (6) Existing tree coverage, type of trees, and areas of tree removal;
 - (7) All water areas (ponds, lakes, streams, wetlands, and drainage ways);
 - (8) Contiguous properties, their zoning and existing uses and structures and other improvements;
 - (9) Surrounding street pattern, ~~with design capacities and current traffic counts~~;
 - (10) Single-line sections of each building type proposed, sufficiently detailed to show conceptual height, bulk, and their relationship to the topography on slopes over 10 percent;
 - (11) Designation of projected density and/or intensity of development. Density in gross and net figures for residential uses and, lot and

- building coverage, and total square footage of floor area for nonresidential uses; and
- (12) Geologic map graphically identifying areas of potential geologic problems or hazards.
- b. Written statements describing the development concepts as they apply to the following subjects:
- (1) Type, intensity, form and function of the project;
 - (2) Utilities (gas, electric, water, sanitary sewer, telephone);
 - (3) Public services (police, fire, schools, mail);
 - (4) Public conveniences (solid waste, TV, newspapers);
 - (5) Public facilities (streets, library, public transportation and parks, including a proposal for meeting section 9-20 of this code);
 - (6) Historic or archaeological resources;
 - (7) Noise sources;
 - (8) Traffic (auto, bike, pedestrian, equestrian);
 - (9) Soils, flooding, geologic hazard, seismic hazard;
 - (10) Storm drainage;
 - (11) Shopping (local, regional) and service uses (medical, financial, administrative);
 - (12) Wildlife and vegetation; and
 - (13) Disposition or management of nondeveloped areas.
- c. Information provided as required by the director to allow a determination on environmental review to be made in accordance with the California Environmental Quality Act).
- d. A list of all property owners included on the master plan and a map depicting the parcel ownership.

2. **Design Review Required.** Prior to review by the Planning Commission, Master Plans shall be first reviewed by the Design Review Committee~~Commission at a Design Workshop~~ to review site constraints and ~~then second,~~ for a site plan design recommendation, ~~in compliance with Section 19.42.030 D.~~⁺ Recommendations of the Design Review Committee~~Commission~~ shall be based on review of the submittal items required in Subsections 19.42.060 E.1a.1, 2, 3, 4, 5, 6, 7, 8, 10, 11-

~~and 12~~ and consideration of appropriate conditions of approval ~~required for site design and findings~~ in Subsection 19.42.030 ~~FE~~. Design Review ~~Committee~~ Commission recommendations shall be advisory and shall be transmitted to the Planning Commission with the staff evaluation on the areas of findings required by Subsection E.3 below. The Planning Commission shall consider the staff evaluation and the Design Review Committee ~~Commission's~~ recommendation in making its findings and recommendations to the Council on the Master Plan.

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3. **Planning Commission Action on Master Plan.** Following a public hearing in compliance with division 19.58, the Planning ~~e~~Commission may recommend that the council approve, conditionally approve, or disapprove the master plan. The commission may recommend approval of a master plan only after first making all of the following findings:

- a. The proposed master plan development is in conformance with the applicable goals and policies of the general plan and any applicable specific plan;
- b. The proposed master plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities;
- c. The proposed master plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and
- d. The location, access, density/building intensity, size and type of uses proposed in the master plan are compatible with the existing and future land uses in the surrounding neighborhood.

4. **Council action on Master Plans.**

- a. After a Planning Commission recommendation for the approval or disapproval of a Master Plan, ~~or an appeal of a Commission disapproval of a Master Plan, the~~ Council shall review the Master Plan in a noticed public hearing in compliance with Division 19.58 (Public Hearings).

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F. **Precise Development Plan procedures.** Precise Development Plans shall be prepared, filed, processed and approved or disapproved as follows. A Precise Development Plan for a proposed development may be submitted and processed concurrently with a proposed Master Plan for the same site, or after Master Plan approval.

1. **Application filing and processing.** An application for Precise Development Plan approval shall be filed and processed in compliance with Division 19-40 (Permit Application Filing and Processing) and shall include the following:

b. Written statements describing the development concepts related to the following subjects:

(10) Any provisions dealing with potential for variances minor deviations from the Precise Development Plan.

2. **Design Review required.** Prior to review by the Planning Commission, Precise Development Plans shall first be reviewed by the Design Review Committee Commission at a Design Workshop to review site constraints and then second, for a site plan design and building and landscape design recommendation in compliance with Section 19.42.030 D. Recommendations of the Design Review Committee Commission shall be based on review of the submittal items required in Subsections 19.42.060 F 1a. 1, 2, 3, 4, 5, 6, 7 and consideration of appropriate conditions of approval required for both the site and architectural design in Subsections 19.42.030 F. At the election of the applicant, items required in Subsections 19.42.060 F 1a, 1, 3, and 7 may contain schematic designs only with final design details developed after the Planning Commission hearing and the City Council action on the project. If the applicant elects to provide only schematic designs in these areas, then the applicant shall submit final detailed designs for 1, 3, and 7 to Design Review Committee Commission for their review and approval in compliance with Section 19.42.030 D (Design Review) following City Council action. Design Review Committee Commission approval of the final design details shall be required before a project can receive a building permit.

Design Review Committee Commission recommendations shall be advisory and shall be transmitted to the Planning Commission with the staff evaluation on the areas of findings required by Subsection F.3 below. The Planning Commission shall consider the staff evaluation and the Design Review Committee Commission's recommendation in making its findings and recommendations to the Council on the Precise Development Plan.

4. **Council action on Precise Development Plans.**

a. After a Planning Commission recommendation for the approval or disapproval of a Precise Development Plan, or an appeal of a Commission disapproval of a Precise Development Plan, the Council shall review the Precise Development Plan in a noticed public hearing in compliance with Division 19.58 (Public Hearings).

H. Amendments to a Master Plan or Precise Development Plan. Amendments to a previously approved Master Plan or Precise Development Plan may be applied for in compliance with division ~~19-40~~19.40. The authority of the Planning Commission and Council to act upon an a Master Plan or Precise Development Plan amendment application is limited to considering and taking action with respect to only: (i) the changes in the plan proposed by the amendment; (ii) the direct and indirect effects on the balance of the plan caused by said amendment; and (iii) the environmental consequences of, and any necessary mitigation measure applicable to said changes. The Planning Commission and Council shall follow the same procedures as were required for the city’s consideration and action on the original (or previously amended) Master Plan and/or Precise Development Plan approval, except that amendments to a Precise Development Plan involving minor architectural or site changes consistent with the approved Master Plan may be acted upon by the Community Development Director or, upon referral, to a higher review authority.

19.44.040 – Time Limits and Extensions

A. Time Limits.

1. Unless conditions of approval or other provisions of this title establish a different time limit, any permit or approval granted in compliance with division 19.42 (Permit Approval or Disapproval) that is not exercised within two years of the date of approval shall expire and become void, except where an extension of time is approved in compliance with subsection B of this section.
2. The permit shall be deemed "exercised" only when the permittee has obtained a building permit, or has commenced the operation of a land use not requiring a building permit and has met all required conditions, or has submitted a completed application for a subsequent permit.
3. The land use permit shall remain valid after it has been exercised as long as it has not been revoked, and a building permit is active for the project, or a final building inspection or certificate of occupancy has been granted.
4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within two years from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and be deemed void. If the project also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and the permit shall be exercised before the expiration of the tentative map, or the permit shall expire and be deemed void. In the event of extensions to approved and unexpired tentative maps and vesting

tentative maps enacted by the state legislature, the time limits of all other land use entitlements and approvals granted under this Chapter in conjunction with the original grant of approval to the subdivision map shall also be extended by action of the Community Development Director to be co-terminus with the date of expiration of the tentative map.

19.44.040 - Time Limits and Extensions.

- B. **Extensions of Time.** Upon request by the applicant, the review authority may extend the time for an approved permit to be exercised for any approved permit.
1. The applicant shall file a written request for an extension of time with the department prior to the date of expiration of the permit, together with the filing fee required by the council's fee resolution.
 2. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the review authority determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the review authority may grant a time extension for up to an additional two years from the date of the ~~decision~~expiration, provided that the review authority first finds that:
 - a. The proposed extension is consistent with the general plan, and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered; and
 - b. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.), to ensure that the proposed extension would not endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.
 3. No more than two time extensions shall be granted.

DIVISION 19.50 - ADMINISTRATIVE RESPONSIBILITY

Sections:

- 19.50.010 - Purpose of Division
- 19.50.020 - Planning Agency Defined
- 19.50.030 - City Council
- 19.50.040 - Planning Commission
- | 19.50.050 - Design Review CommitteeCommission (DRC)
- 19.50.060 - Zoning Administrator
- 19.50.070 - Community Development Director

19.50.050 - Design Review CommitteeCommission (DRC)

- | **A. Establishment.** The Novato Design Review CommitteeCommission is established by Section 2-11 (Design Review CommitteeCommission) of the Municipal Code, which identifies the membership, terms of office, removal, and rules of order.

DIVISION 19.54 - APPEALS

Sections:

- 19.54.010 - Purpose of Division
- 19.54.020 - Appeal Subjects and Jurisdiction
- 19.54.030 - Filing of Appeals
- 19.54.040 - Processing of Appeals
- 19.54.050 - Directed Referral

19.54.010 Purpose of Division

This division establishes procedures for the appeal and review of determinations of the Director, Zoning Administrator, Design Review CommitteeCommission, or Planning Commission. (Ord. No. 1441 § 2(A))

19.54.020 Appeal Subjects and Jurisdiction

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as follows.

- A. **Ordinance Administration and Interpretation.** The following determinations and actions of the Director, Design Review CommitteeCommission, Zoning Administrator, and department staff may be appealed to the Planning Commission and then to the Council:
 - 1. Determinations on the meaning or applicability of the provisions of this title that are believed to be in error, and cannot be resolved with staff;
 - 2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with state law (Government Code Section 65943); and
 - 3. Any enforcement action in compliance with division 19.59 (Enforcement of Zoning Ordinance Provisions).
- B. **Permit/Entitlement and Hearing Decisions.** Decisions by the Director are appealable to the Planning Commission, except for land divisions pursuant to chapter 9 and tree removal permits pursuant to chapter 17, which are appealable to the Council. Decisions by the Zoning Administrator or Design Review CommitteeCommission are appealable to the Planning Commission. Decisions by the Planning Commission are appealable to the Council.

19.54.030 - Filing of Appeals

- A. **Eligibility.** An appeal may be filed by:
1. Any person affected by an administrative determination or action by the Director, as described in section 19.54.020 A.
 2. In the case of a land use permit or hearing decision described in section 19.54.020 B of this section, by anyone who, in person or through a representative, presented testimony at a public hearing in connection with the decision being appealed, or who otherwise informed the city in writing of the nature of their concerns before the hearing.
- B. **Timing and Form of Appeal.** Appeals shall be filed with the department within 10 days following the final date of the determination or action being appealed. All appeals shall be submitted in writing, together with the name, address, phone number, and signature of the appellant, and the filing fee required by the Council's fee resolution. The written appeal shall specifically state the pertinent facts of the case and the basis for the appeal.
- C. **Scope of Land Use Permit Appeals.** An appeal of a decision by the Director, Zoning Administrator, Design Review ~~Committee~~Commission, or Planning Commission on a land use permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

19.54.040 - Processing of Appeals

- A. **Scheduling of Hearing.** After an appeal has been received in compliance with section 19.54.030 above, a noticed public hearing on the matter shall be scheduled by the Director for a Planning Commission agenda or the City Clerk for a Council agenda, as applicable to the appeal.
- E. **Findings and decision.**
1. **General procedure.** The appeal body shall conduct a public hearing in compliance with Division 19.58 (Public Hearings).
 - a. **Scope of review.** When reviewing an appeal the Review Authority may consider any issues associated with the decision being appealed, in addition to the specific grounds for the appeal. The Review Authority shall also consider any environmental determination applicable to the entitlement or decision being appealed.

b. **Referral.** If new or different evidence is presented during the appeal hearing or for any reason determined by the hearing body, the Commission or Council, may refer the matter back to the Director, Zoning Administrator, Design Review ~~Committee~~ Commission, or Commission, as applicable, for a report and recommendation, prior to a final decision on the appeal.

2. **Appeals to the Council.** A decision by the Director, Planning Commission or Design Review ~~Committee~~ Commission, or by the Police Chief on an Adult-Oriented Business Permit (Division 19.23) may be appealed to the Council as provided by Section 19.54.030 (Filing of Appeals), above.

a. **Authority of Council.** The Council shall have the authority to approve, modify, or disapprove the action appealed from, either in whole or in part, based on the record on appeal and the evidence received at the hearing on appeal. The appeal hearing conducted by the Council shall be de novo. The appeal may be upheld by a majority of Council members when a quorum of at least three members is present. The lack of an affirmative majority vote on the appeal, or a tie vote, shall constitute denial of the project appealed.

19.54.050 - Directed Referral

A. **Purpose.** This Section provides procedures for an individual Councilmember to initiate a directed referral on an application where action has been taken and is normally final at a lesser level of authority, ~~and to have the matter heard by the Commission or by the Council.~~

B. **Authority.** An individual member of the City Council shall have the authority, pursuant to requirements and procedures of this Section, to direct that an application, approved or denied by a lower review authority, be presented to the full membership of the Council, or direct that the matter be referred to the Planning Commission, for consideration and action.

BC. **Grounds for directed referral.**

1. If the action will be referred to the Planning Commission, the grounds for the directed referral shall be that the individual Council member believes the matter should be ~~determined~~ considered and acted on by the Planning Commission.
2. If the action will be referred to the Council, the grounds for the directed referral

shall be that the individual Council member believes the matter should be determined considered and acted on by the Council.

ED. **Procedure for directed referral.** The individual Council member shall prepare and sign a written directive that specifies:

1. Whether the action will be referred to the Planning Commission or the Council;
2. If the action will be referred to the Planning Commission, whether the Planning Commission's decision shall automatically proceed to the Council for review; and
3. Whether the directed referral is being initiated on the grounds specified in Subsections BC.1 or BC.2 above. No other grounds or reasons for the directed referral shall be stated.

The Council member shall submit the written directive to the City Manager.

DE. **Time limit.** A directed referral shall be filed with the City Manager within the time limit for appeals provided by Section 19.54.030.B (Timing and Form of Appeals) or, in the case of a decision for which no time limit for appeal is specified, within 10 business days of the action being referred.

EF. **Action by Planning Commission or Council.** Any matter brought before the Planning Commission or Council by the directed referral process shall be considered at a noticed public hearing.

1. All alternatives available to the Review Authority which considered the original application are also available to the Planning Commission or Council, which may approve, modify, approve with conditions, or disapprove the item application(s).
2. When reviewing a directed referral, the Planning Commission or Council may consider any issues associated with the decision being referred, in addition to the specific grounds for the referral. The hearing(s) conducted by the Planning Commission and/or Council as a result of a directed referral shall be de novo.
3. In the event a directed referral is filed regarding a decision on one of multiple permits or City approvals concurrently granted for a single project (for example, the approval of a Use Permit is the subject of a directed referral on a project for which a Negative Declaration was approved at the same time), all concurrently granted determinations, findings, City permits and approvals for the project shall be automatically referred, and shall be considered and acted upon in compliance with this Division.

| **FG.** **Participation by initiator of directed referral.** The individual Council member who initiated the referral process shall have full participation rights in the hearing, unless actual bias or prejudice is otherwise shown.

DIVISION 19.56 - GENERAL PLAN, ZONING ORDINANCE & ZONING MAP AMENDMENTS

Sections:

- 19.56.010 - Purpose of Division
- 19.56.020 - Applicability
- 19.56.030 - Initiation of Amendments
- 19.56.040 - Hearings and Notice
- 19.56.050 - Commission Action on Amendments
- 19.56.060 - Council Action on Amendments
- 19.56.070 - Findings and Decision
- 19.56.080 - Effective Date
- 19.56.090 - Rezoning
- 19.56.100 - Waiver of Dual Annexation Policy for Proposed Special District Annexations

19.56.030 - Initiation of Amendments

An amendment to the general plan, the zoning map, or this title shall be initiated in compliance with this section.

- A. **Who May Initiate an amendment.** An amendment may be initiated by:
 - 1. A resolution of intention by the [Planning](#) Commission or Council; or
 - 2. An application submitted in accordance with division 19.40 (Permit Application Filing and Processing).
 - 3. A proposal initiated or authorized by the Director.
- B. **Application Filing and Processing.**
 - 1. An application for an amendment shall be filed and processed in compliance with division 19.40 (Applications -- Filing and Processing).
 - 2. The application shall be accompanied by the information identified in the department handout for amendment applications.

19.56.040 - Hearings and Notice

- A. **Scheduling of Hearings.** Upon receipt of a complete application to amend the General Plan, the Zoning Map, or this title, or upon initiation by the [Planning](#) Commission or

Council, and following department review, public hearings shall be scheduled before the Planning Commission and Council.

- B. Notice of Hearings.** Notice of the hearings shall be given in compliance with division 19.58 (Public Hearings).

19.56.050 - Commission Action on Amendments

The Planning Commission shall make a written recommendation to the Council whether to approve, approve in modified form, or disapprove the proposed amendment, based upon the findings contained in section 19.56.070 (Findings and Decision), below.

19.56.060 - Council Action on Amendments

- A. Approval or Disapproval of Amendment.** Upon receipt of the Planning Commission's recommendation, the Council shall, approve, approve in modified form, or disapprove the proposed amendment based upon the findings in section 19.56.070 (Findings and Decision).
- B. Referral to Commission.**
 - 1. If the Council proposes to adopt any substantial modification to the amendment not previously considered by the Planning Commission during its hearings, the proposed modification shall be first referred back to the Planning Commission for its recommendation, in compliance with state law (Government Code Sections 65356 [General Plan Aamendments] and 65857 [Zoning Map/Ordinance Amendments]).
 - 2. Failure of the Planning Commission to report back to the Council within 40 days after the referral, or within any longer time set by the Council, shall be deemed a recommendation for approval of the modifications.

19.56.070 - Findings and Decision

- A. Findings for General Plan amendments not involving the UGB.** An amendment to the General Plan not involving the Urban Growth Boundary may be approved only if the Review Authority first makes all of the following findings:
 - 1. The proposed amendment is internally consistent with the General Plan;
 - 2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

3. The proposed amendment would further the goals, objectives, policies and programs of the General Plan.

| 34. If involving a land use map amendment, the following additional finding shall be made: the site is physically suitable (including consideration of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested/anticipated land use.

DIVISION 19.58 - PUBLIC HEARINGS

Sections:

- 19.58.010 - Purpose of Division
- 19.58.020 - Notice of Public Hearing or Discretionary Action
- 19.58.030 - Scheduling of Hearing or Action
- 19.58.040 - Review Authority Decision and Notice
- 19.58.050 - Recommendation by Planning Commission
- 19.58.060 - Effective Date of Decision
- 19.58.070 - Hearing Procedures

19.58.010 - Purpose of Division

This Division establishes procedures for discretionary actions of the Director or public hearings before the Zoning Administrator, Design Review ~~Committee~~ Commission, Planning Commission, and Council. When a discretionary action or public hearing is required by this Zoning Ordinance, public notice shall be given and the action or hearing shall be conducted as provided by this Division.

19.58.020 - Notice of Public Hearing or Discretionary Action.

When a land use permit, or other matter requires a public hearing, the public shall be provided notice of an opportunity for public hearing in compliance with state law (Government Code Sections 65090, 65091, 65094, 66451.3, and 65850-65857, and Public Resources Code 21000 et seq.), and as required by this division.

A. Contents of Notice. Notice of discretionary action or public hearing shall include:

1. **Hearing Information.** The date of the action or the date, time, and place of the hearing and the name of the individual taking action, hearing body or officer; the phone number and street address of the department, where an interested person could call or visit to obtain additional information; and
2. **Project Information.** A general explanation of the matter to be considered; and a general description, in text and/or by diagram, of the location of the real property, if any, that is the subject of the hearing; and
3. **Statement on Environmental Document.** If a draft negative declaration or environmental impact report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the Novato Environmental

Review Guidelines, the hearing notice shall include a statement that the hearing body will also consider approval of the draft negative declaration or certification of the final environmental impact report.

4. Waiver of Hearing. For administrative actions to be approved by the zoning administrator or director, the notice shall specify the action date and officer and shall indicate that an opportunity for hearing will be provided if requested in writing prior to taking action on the application. If no request is received prior to the action date, the public hearing shall be waived and the application may be approved, denied, or approved with conditions.

B. Method of Notice Distribution. Notice of an accessory dwelling unit permit, or a discretionary action or public hearing required by this division for a land use permit, amendment, or appeal shall be given as follows, as required by state law (Government Code Sections 65090 and 65091).

1. Publication. Notice shall be published at least once in a newspaper of general circulation in the city at least 10 days before the date of the hearing or action. Publication shall not be required for the tree permits, accessory dwelling unit permits or design review applications.
2. Mailing. Notice shall be mailed or delivered at least 10 days before the date of the hearing or action to the following:
 - a. Owners of the Project Site. The owners of the property being considered in the application, or the owner's agent, and the applicant;
 - b. Local Agencies. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected, and any adjacent city or county government;
 - c. Affected Owners. All owners of real property as shown on the latest county equalized assessment roll, within a radius of 600 feet from the exterior boundaries of the parcel that is the subject of either a hearing or neighborhood meeting described in section 19.40.070D; except that for an action or hearing on any second story new construction or addition or a permit for tree removal or modification, the notice shall be a radius of 300 feet from the exterior boundaries of the parcel and for an action or hearing on an accessory dwelling unit permit, affected owners shall include only the owners of real property that adjoin the parcel on which the accessory dwelling unit is proposed; and

- d. Persons Requesting Notice. Any person who has filed a written request for notice with the director and has paid the required fee for the notice.
3. Alternative to Mailing. If the number of property owners to whom notice would be mailed in compliance with subsections (B)(2)(a) through (B)(2)(c) of this section is more than 1,000, the director may choose to provide the alternative notice by placing a display advertisement of at least 1/8 page in at least one newspaper of general circulation within the city at least 10 days prior to the date of the hearing, in accordance with Government Code Section 65091(a)(3).
4. Additional Notice. In addition to the types of notice required above, the director may provide any additional notice with content or using a distribution method as the director determines is necessary or desirable.

19.58.040 - Review Authority Decision and Notice

A. Decision.

1. The Review Authority (Zoning Administrator, Community Development Director, Design Review ~~Committee~~Commission, Planning Commission, or Council, as applicable) may record their decision on the matter being considered at the conclusion of a scheduled hearing, defer action and continue the matter to a later date in compliance with Section 19.58.060 (Hearing Procedure), or in the case of the Zoning Administrator/Director, take the matter under advisement and issue a written decision.
2. Prior to, or at the conclusion of the notice period, the Director or Zoning Administrator may instead refer the matter to the Planning Commission or Design Review ~~Committee~~Commission, as appropriate for determination. The referral will require a noticed hearing before the Planning Commission or Design Review CommitteeCommission.

19.58.060 - Effective Date of Decision

A decision of the Director, Zoning Administrator, Design Review ~~Committee~~Commission, Planning, or Planning Commission (other than a recommendation in compliance with Section 19.58.050) is final and effective on the 11th day following the decision unless an appeal is filed in compliance with Division 19.54 (Appeals).

19.58.070 - Hearing Procedures

- B. **Continuances.** If a hearing cannot be completed on the scheduled day, the ~~presiding Councilperson or Commissioner~~ Review Authority, before opening the hearing or the adjournment or recess of the hearing, may continue the hearing by publicly announcing the date, time, and place to which the hearing will be continued or may withdraw the item and continue ~~the~~ hearing pending further notice.

DIVISION 19.59 – ZONING ORDINANCE ENFORCEMENT

19.59.070 - Permit Revocation or Modification

B. **Review authority's action.**

1. **Permits.** A master plan, land use entitlement or permit may be revoked or modified by the Review Authority (e.g., Director, Zoning Administrator, Design Review ~~Committee~~Commission, Planning Commission, or Council) which originally approved the entitlement or permit, or the equivalent City Review Authority, for entitlements or permits originally approved under the County's authority, if any one of the following findings of fact can be made in a positive manner:

DIVISION 19.60 - DEFINITIONS/GLOSSARY

Sections:

19.60.010 - Purpose of Article

19.60.020 - Definitions of Specialized Terms and Phrases

19.60.010 - Purpose of Article

This Article provides definitions of terms and phrases used in this Zoning Ordinance that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Article conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Ordinance. If a word is not defined in this Article, or in other provisions of the Zoning Ordinance, the most common dictionary definition is presumed to be correct.

19.60.020 - Definitions of Specialized Terms and Phrases

As used in this Zoning Ordinance, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

Accessory Structure. A structure that is physically detached from, secondary and incidental to, and commonly associated with the primary structure. For the purposes of this Zoning Ordinance, accessory structures and uses include: detached garages, greenhouses, artist’s studios, and workshops; hot tubs, jacuzzis, spas, and swimming pools, together with any pool enclosures; and any other open air enclosures, including gazebos, trellises and detached patio covers.

Animal Grooming. Provision of bathing and trimming services for small animals on a commercial basis, but excluding the boarding of domestic animals.

Assembly. A use engaged in the assembly or manufacture, predominantly from previously prepared materials or parts, of finished products or parts, including processing, fabrication, and packaging of such products, but excluding basic industrial processing of extracted or raw materials.

Auto Parts Sales. Stores that sell new automobile parts, tires, and accessories. May also include minor parts installation (see “Vehicle Services”). Does not include tire recapping establishments, which are found under “Vehicle Services” or businesses dealing exclusively in used parts, which are included under “Recycling - Scrap and Dismantling Yards.”

Auto Repair and Maintenance. The repair, alteration, or restoration, towing, painting, cleaning (including self service and attended car washes), or finishing of automobiles, trucks, recreational vehicles, boats, motorcycles, and other motor vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following is separated into the following categories.

~~1. **Major Repair/Body Work.** Repair facilities dealing with entire vehicles. These establishments provide towing, collision repair, other body work, and painting services; and also include tire recapping establishments.~~

~~2. **Minor Maintenance/Repair.** Minor facilities specialize in limited aspects of repair and maintenance (e.g., muffler and radiator shops, quick lube, etc.).~~

1. Major Auto Repair and Maintenance. Businesses involved in the repair, restoration, or alteration of major vehicle components, including the rebuilding, replacement or reconditioning of engines or transmissions; collision services, including body, frame or fender straightening or repair; painting or paint shop; customization services, such as suspension alterations (e.g., lifting and lowering of vehicles), and tire recapping.

2. Minor Auto Repair and Maintenance. Businesses involved in the repair, restoration, or alteration of minor vehicle components, including the replacement of tires, tubes, and batteries; diagnostic services, minor motor services such as grease, oil, spark plug, and filter part changes, radiators, mufflers, performing state inspections and making minor repairs necessary to pass said inspection; servicing of air-conditioning systems, wheel/tire balancing and alignments, brakes, automotive glass and upholstery; stereo installations, and other similar minor services for motor vehicles except heavy load vehicles.

Auto repair and maintenance Does not include automobile parking (see “Parking Facilities”⁷ and “Vehicle Storage”), repair shops that are part of a vehicle dealership on the same site (see “Auto Sales and Rental” and “Recreational Vehicle Sales and Rental” “Mobile Home, RV, Motorcycle and Boat Sales”); automobile service stations (see “Gas Station”), which are separately defined; attended or self-service car washes (see “Car Wash”) or automobile dismantling yards, which are included under “Recycling - Scrap and Dismantling Yards.”

Auto Sales and Rental. Retail establishments selling and/or renting automobiles, trucks and vans. May also include repair shops and the sales of parts and accessories, incidental to the primary auto sales and/or rental use vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see “Auto Parts Sales”); bicycle and moped sales (see “General Retail”); mobile home sales (see “Mobile Home, RV and Boat Sales”); tire recapping establishments (see “Auto Repair”); businesses dealing exclusively in used parts, (see “Recycling - Scrap and Dismantling Yards”); or “Service Gas Stations,” which are separately defined.

Basement. A story having at least one half of its height below grade. A basement shall be counted as a story or as part of the floor area if the vertical distance from grade to the ceiling is over five feet ~~of~~ or if it used for business or dwelling purposes.

Broadcasting Studio. A facility where movies, television shows or radio programs are produced and/or transmitted.

Car Washes. Permanent, self-service and/or attended car washing establishments, including fully mechanized facilities. May include detailing services. Does not include ~~Temporary~~ car washes are fund-raising activities, typically conducted at a service station or other automotive-related business, where volunteers wash vehicles by hand, and the duration of the event is limited to one day. See 19.42.040 (Temporary Use Permits).

Cemetery. A place for the interment and placement of human remains. A cemetery includes, but is not limited to, both below ground and above ground graves, monuments, and other accessory uses.

Check Cashing Service. A service operation engaged in the exchange of business or personal checks for cash or cash advances for a fee or other form of consideration, including wire transfers and money orders.

Crematory. A facility in which human remains are cremated.

~~**Dwelling Group.** Two or more detached or semi-detached dwelling units for one family, two-family or multiple dwellings located on a single parcel of land in one ownership and having any yard, access driveway or court in common, but not including automobile courts.~~

Dwelling, Multiple. A building or portion thereof used and designed as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartment houses, apartment hotels and flats, but not including automobile courts, or camps.

Extended Hours Business. A retail use which includes operating hours between 11:00 p.m. and 6:00 a.m.

Farm Labor Housing. Temporary or permanent residential structures occupied by farm employees and their family members, who are employed on the commercial farm where the farm labor housing is located.

Farm Produce Stands. A retail stand that sells crops or eggs grown on the premises.

Firearm Sales. “See Gun Sales.”

Floor Area Ratio (FAR). The Floor Area Ratio (FAR) is the ratio of the gross floor area of a structure (not including covered parking areas or garages) to total net lot area (See “Lot Area, Net”). FAR restrictions are used to limit the maximum floor area of all habitable space allowed on a site. The maximum floor area of all structures (measured from exterior wall ~~to~~ surfaces) permitted on a site shall be determined by multiplying the FAR by the total-net lot area of the site (FAR x Net Site Lot Area = Maximum Allowable Floor Area). See Figure 6-1.

Florists. A use engaged in the retail sale of flowers and ornamental plants.

Flower Tower. A structure that integrates a monopole into a light pole or other utility pole.

Frontage, Primary Building. Primary Building Frontage shall mean:

1. In a building containing only one business, the primary frontage shall be the length of the building that contains the main public entrance to the business.
2. In a building containing more than one business, all of which have their main public entrances on the same frontage, the primary frontage shall be the length containing those public entrances.
3. In a building containing more than one business, where those businesses have their main public entrances on more than one frontage, the length containing the street with the highest vehicle capacity shall be designated the primary frontage.

Frontage, Secondary Building. A building’s length that has not been designated as the primary building frontage if it faces an adjacent street or on-site parking lot.

Furniture, Furnishings and Appliance Stores. Stores engaged primarily in selling the following products and related services, including incidental repair services:

- computers and computer equipment
- draperies
- floor coverings
- furniture
- glass and chinaware
- home appliances
- home furnishings
- home sound systems
- interior decorating materials and services
- large musical instruments
- lawn furniture

mattresses
movable portable spas and hot tubs
office furniture
other household electrical and gas appliances
outdoor furniture
refrigerators
stoves
televisions

Gas Station. A retail business selling gasoline or other motor vehicle fuels, which may also provide secondary services which are incidental to fuel ~~services sales~~. ~~These~~ Secondary services may include minor auto repair and maintenance (see “Minor Auto Repair and Maintenance”); vehicle engine maintenance and repair, towing and trailer rental services. Does not include the storage or repair of wrecked or abandoned vehicles, vehicle painting, body or fender work, or the rental of vehicle storage or parking spaces.

General Retail. Stores and shops selling any lines of merchandise, goods or articles directly to the consumer. These stores and lines of merchandise include, but is not limited to:

art galleries
artists’ supplies
auto part sales (not including repair or maintenance service and/or the sale of used parts)
bakeries (all production in support of on-site sales)
bicycles
books
cameras and photographic supplies
clothing and accessories
collectibles (cards, coins, comics, stamps, etc.)
department stores
drug and discount stores
dry goods
fabrics and sewing supplies
florists and houseplant stores (indoor sales only—outdoor sales are “Plant Nurseries”)
furniture, home furnishings and equipment
general stores
gift and souvenir shops
hardware
hobby materials
orthopedic home healthcare supplies
jewelry

luggage and leather goods
musical instruments, parts and accessories
newsstands
pet supplies sales with no animals but fish
religious goods
small wares
specialty shops
sporting goods and equipment
stationery
toys and games
variety stores

See large item retail for other retail uses

Gun Sales. A retail business dealing in firearms and ammunition as a regular course of trade or business.

Hiking Trail. Any paved or unpaved path, track or right-of-way established and/or maintained on public or private property primarily for hiking and public recreation purposes.

Large Item Retail. Stores selling large substantial items of merchandise, goods or articles directly to the consumer. These stores and lines of merchandise include, but is not limited to:
building materials
equipment sales
furniture stores, furnishings and appliance stores

Lot Area, Gross. Gross lot area is the total area included within the lot lines of a lot, exclusive of existing adjacent dedicated street rights of way. Net lot area is exclusive of easements, including those for utilities or flood control channels, which limit the use of the lot.

Lot Area, Net. The portion of a parcel that is:

1. Not subject to any easement or included as a proposed public or private facility, such as an alley, highway, street, or other necessary public site within a proposed development project; or
2. Subject to an easement where the owner of the underlying fee has the right to use the entire surface except the portion where the owner of the easement may place utility poles or minor utility structures.

Except as provided above, portions of a parcel dedicated to a highway easement or any other private or public easement shall not be counted as part of the net area.

Lot Width. The average linear distance measured between the side lot lines, at right angles to the lot depth at a point midway between the front and rear lot lines, not including access easements.¹ See Figure 6-3 (Lot Features). The Director shall determine lot width for parcels of irregular shape.

Marijuana Dispensary. A facility, place, location, lot, building, and/or storefront or mobile retail outlet (as “storefront” and “mobile retail outlet” are used in Cal. Health & Safety Code sec. 11362.768) where marijuana is provided or made available for medical purposes, whether or not in accordance with the Compassionate Use Act and/or the Medical Marijuana Program Act, including, but not limited to the cultivation, processing, dispensing, distribution, sharing, transportation, contribution, sale, trade or gift of marijuana by any person, entity, operator, provider, business or establishment, for profit or otherwise, or by or through a club, membership, collective, cooperative, or other entity or organization. “Collective” and “cooperative” shall have the same meaning as set forth in the “State Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use”, August 2008.

Marinas, Docks and Piers. Facilities for storing, servicing, fueling, berthing and securing and launching of private pleasure craft or commercial boats, and which may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

Medical Services - Clinics, Offices, and Laboratories. Facilities primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services, but which are separate from hospitals, including:

<u>acupuncture</u>	medical, dental, <u>optometry</u> and psychiatric offices
<u>chiropractic</u>	
health management organizations (HMOs)	<u>physical therapy</u> other allied health services
medical and dental laboratories	services
out-patient care facilities	

Counseling services by other than medical doctors or psychiatrists are included under “Offices.”

Mobile Home, RV, Motorcycle, and Boat Sales. Retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motorcycles, motor homes, and travel trailers. May also include repair, maintenance, and wholesale/retail sales of parts and accessories that are incidental to sale and servicing of mobile homes, recreational vehicles, and boats.

Multi-Family Dwellings. A building or a portion of a building used and/or designed as residences for three or more families living independently of each other in the same structure.

Includes: triplexes, fourplexes (buildings under one ownership with three or four dwelling units, respectively, in the same structure) and apartments (five or more units under one ownership in a single building); townhouse development (three or more attached single-family dwellings where no unit is located over another unit); and senior citizen multi-family housing; see also “Common Interest Developments.”

Outdoor Displays Retail Sales. Temporary or permanent displays not conducted entirely within a structure. Temporary outdoor retail displays include farmer’s markets, seasonal sales of Christmas trees, pumpkins or other seasonal items, sales of art or handcrafted items in conjunction with community festivals or art shows, and sidewalk or parking lot sales.

Pawn Shops. Indoor retail establishments that accept personal property as collateral for loans, and offer the property for sale to the public.

Personal Services. Establishments providing non-medical services as a primary use, including:

- barber and beauty shops
- clothing rental
- dry cleaning pick-up stores with limited equipment
- home electronics and small appliance repair
- laundromats (self-service laundries)
- massage (licensed, therapeutic, non-sexual)
- psychic readers
- shoe repair shops
- spas¹
- tailors
- tanning salons

Real Estate Offices. Establishments providing direct services to consumers in the purchase or sale of real estate.

Recycling Facilities. This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials.

7. Scrap and Dismantling Yards. Outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes light and heavy processing facilities for recycling (see the definitions above). Does not include: places where these activities are conducted entirely within buildings; pawn shops, and other secondhand stores; the sale of operative used cars; or landfills or other waste disposal sites.

~~Rooming and Boarding Houses. The renting of individual bedrooms within a dwelling to two or more unrelated people, whether or not meals are provided.~~

Setback. The distance by which the wall of a structure, parking area or other development feature must be separated from a lot line, other structure or development feature, or street centerline. Setbacks from private streets (access easements) are measured from the edge of the easement to the wall of the structure. See also "Yard." Figure 6-4 (Setbacks) shows the location of front, side, street side and rear setbacks.

Site Coverage. The percentage of total site area occupied by structures. Structure/building coverage includes the primary structure, all accessory structures (e.g., carports, garages, patio covers, storage sheds, trash dumpster enclosures, etc.) and architectural features (e.g., chimneys, balconies, decks 18 inches above grade the first floor, porches, and stairs, etc.). Structure/building coverage is measured from exterior wall to exterior wall. See figure 6-6 (Site Coverage).

Street. A public thoroughfare accepted by the city, which affords principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley, highway, or freeway (ie Hwy. 37 and US 101), as defined in this subsection.

~~**Telecommunications Facilities.** Public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless communications, including commercial earth stations for satellite-based communications. Includes antennas, commercial satellite dish antennas, and equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections (see "utility infrastructure"). See also "wireless communication facility."~~

Travel Agency. An establishment providing direct services to consumers in making travel arrangements, including the booking of airline tickets, tours and hotel rooms.

Upholstering Shop. An establishment engaged in the craft of upholstering, including the repair and replacement of furniture and auto seat coverings.

Wireless Communication Facility. ~~Public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless communications, including commercial earth stations for satellite-based communications. Includes antennas, commercial satellite dish antennas, and equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections (see "utility infrastructure"). Any public or private structure that supports antennae, microwave dishes, and~~

~~other related equipment that sends and/or receives radio frequency signals.~~

Yard. An area between a lot line and the nearest line of the required setback for the main building, unobstructed and unoccupied from the ground upward, except for projections permitted by this Zoning Ordinance. See Section 19.20.100 (Setback Measurement and Exceptions) and Figure 6-4 (Setbacks).

1. **Front Yard.** An area extending across the full width of ~~the a~~ lot between the side ~~yard~~ property lines and lying between the front property line of ~~the a~~ lot and the nearest line of delineating the required front setback for the main building.
2. **Rear Yard.** An area extending the full width of ~~the a~~ lot between the side ~~yard~~ property lines and lying between the rear property line ~~of the lot~~ and the line delineating the required rear setback for the main building. When no main building is located on the lot, then the rear yard is defined as the rear one half of the depth of the lot. In cases where an access easement extends across the property through a rear yard, the rear yard setback shall be calculated measured from the edge of the access easement closest to the center of the property.
3. **Side Yard.** An area extending from the front property yard setback line to the rear property yard setback line between the side property line and the line delineating the required side setback area for the main building. In cases where an access easement extends through a side yard, the required side yard setback shall be measured from the edge of the access easement closest to the center of the property.

MUNICIPAL CODE UPDATE - LIST OF SUBSTANTIVE CHANGES

UNIVERSAL CHANGES:

- Changing Design Review **Committee** to **Commission**, which also then necessitates adding **Planning** to Commission references as there are now two Commissions.

Simple wording edits and clarifications will not be noted.

SPECIFIC CHANGES:

1. Pgs. 1-2 & 83-84: **Subdivision Ordinance** – Automatically extends the life of valid tentative maps when extended by the state legislature as well as other associated land use entitlements, eliminating the need for a planning commission hearing.
2. Pgs. 2-5 & 95: **Trees and Shrubs** – Tree removal permit is now required for removal of any tree over 24” diameter, and for any tree over 6” diameter on any commercial or multi-family parcel. The proposed change would make the 24” tree diameter threshold for requiring a tree permit consistent for all types of developed properties. Tree removal permits would still be required for removal of any tree wider than 6” on undeveloped properties. Additionally: the existing tree permit public notice radius of 600’ is proposed to be reduced to 300’ to reduce noticing requirements for an action that has limited direct impacts on neighbors. As requested by the Planning Commission, criteria have been added to establish grounds for issuance of a tree permit and to provide a list of specific exemptions.
3. Pg. 10: **Table 2-4 Allowed Uses and Permit Requirements for Residential Zoning Districts** – The Very Low Density (RVL) Zoning District was inadvertently excluded from Table 2-4, and is being included in the same column with the R1 (Low Density) since all allowable uses are the same in both districts, except for kennels (see Number 4 below).
4. Pgs. 10-11: **Table 2-4 Allowed Uses and Permit Requirements for Residential Zoning Districts** – Kennels have been conditional uses in the RVL District, but not allowed in R1. To use the same table column for both districts, a footnote has been added indicating that kennels are not permitted in R1.
5. Pgs. 11, 20 & 26: **Tables 2-4 , 2-7 and 2-9 Allowed Uses and Permit Requirements in Residential, Commercial/Industrial and Special Purpose Zoning Districts** – Medical marijuana dispensaries are specifically being excluded in all zoning districts in Novato.
6. Pgs. 11, 22, 26: **Table 2-4 Allowed Uses and Permit Requirements for Residential Zoning Districts** – Telecommunication facilities have been allowed in residential districts as a “Public Utility” although the definition in Article 6 is not clear that telecommunication facilities are included in the listed utilities. The non-residential zoning district tables specifically list “Telecommunication Facilities” as

a separate use category. Section 19.38.060 (Wireless Communication Facilities – General Location Standards) indicates that monopoles should generally avoid being located in residential districts, but does not state that all telecommunication facilities are prohibited in residential districts. Staff therefore believes that telecommunication facilities were inadvertently left off Table 2-4 and should be added.

In addition, staff proposes to modify the approval process for new telecommunication facilities. Currently all telecommunication antennas require issuance of a Use Permit by the Zoning Administrator or Planning Commission. The proposed amendments would eliminate the Use Permit requirement for antennas being co-located on existing towers/monopoles or on existing buildings which already have approved antennas. A Zoning Clearance would still be required to verify compliance with all development standards of Division 19.38. Also, the Design Review requirements in Table 4-2 (Applicability of Design Review) have been modified to clarify that “stealth” designed building-mounted or co-located tower/monopole antennas (which blend in with the building, parapet, tower) may be exempted from Design Review by the Community Development Director if found to be compliant with the design criteria in 19.38.130.

7. Pgs. 12-16: **Tables 2-5 Residential District General Development Standards and 2-6 Residential Zoning District Allowable Densities, Parcel Sizes and Setbacks** – Tables 2-5 and 2-6 contain duplicative information (setbacks) and can be combined to improve clarity. For ease of use, the single-family zoning district regulations have been placed in a separate table from the multi-family districts.
8. Pgs. 19 & 25: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Private schools are currently listed as a conditional use only in the CDR and CDB Districts. Since colleges, universities, elementary and secondary schools are conditional uses in the Mixed Use and Community Facilities Districts and “Specialized Education and Training” is a conditional use in the BPO, CN, CG, CDR and CBD, this revision proposes to add Private Schools as a conditional use in BPO, CG, MU and CF Districts for clarity.
9. Pg. 19: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Clarification that duplex dwellings are also allowed in conjunction with a mixed use project.
10. Pgs. 20 & 56: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Would eliminate the requirement for a Use Permit for the on-site sale and consumption of alcoholic beverages in a restaurant. Use permits would still be required for bars and nightclubs.
11. Pgs. 21 & 56: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Reference to the Commission on Drugs and Alcohol is proposed for removal as the Commission no longer exists.

12. Pg. 21: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Clarifies that check cashing businesses and pawn shops are only allowed in the General Commercial Zoning District and only with a Use Permit.
13. Pgs. 21-22: **Table 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts** – Mortuaries and funeral homes are currently allowed only in the Conservation District. Proposal would allow mortuaries and funeral homes as a conditional use in the GC, BPO and LIO Districts, with an added footnote limiting crematoria only to the LIO District with minimum distance requirements from sensitive land uses (residential, schools and day care). Keaton’s funeral home exists at 1801 Novato Blvd. in a BPO District.
14. Pg. 24: **Section 19.14.020 A – Purposes of the Mixed Use District** - Language is added to underscore that housing is permitted only in conjunction with commercial and/or office uses, which is also stated in the General Plan description of the Mixed Use District.
15. Pg. 25: **Table 2-9: Allowed Uses in Special Purpose Districts** – Adds museums as a conditional use in the Public Facility District, acknowledging the presence of the existing Museum of the American Indian in Miwok Park. The Museum is preparing applications for reconstruction of their facility and will have to obtain a Use Permit based on this revision.
16. Pg. 25: **Table 2-9: Allowed Uses in Special Purpose Districts** – ~~Single family dwellings~~, dropped as not permitted and duplexes added as allowed in Mixed Use Zoned District for consistency with other commercial districts.
17. Pg. 26: **Table 2-9: Allowed Uses in Special Purpose Districts** – Alcoholic beverage sales aren’t addressed in the Mixed Use District and should be added, consistent with other general commercial districts.
18. Pg. 28: **Section 19.20.040 B: Fences, Walls and Hedges** - Removed language relocated to 19.20.040.D.1.b.
19. Pg. 30: **Section 19.20.070 D.4 Additional Driveway Visibility Requirements** – Language deleted as repetitious of 19.20.070D.1.c.
20. Pg. 31: **Sections 19.20.100 E.3&4: Parking and Paving in Setback Areas** - Additional language reflects existing application of standards. Restrictions 4.a. & b. were unnecessarily restrictive of innovative design.
21. Pg. 32: **Section 19.20.110 C: Solar Collector Regulations** - Section was dropped due to potential state preemption of local design review or discretionary review of solar collectors to encourage such installations.
22. Pgs. 33-37 & 51: **Division 21: Art Program** - This Division was reworked in order to provide greater specificity in the implementation of the adopted Art

Program. The only substantive change has to do with the review bodies for proposed art installations. Currently, the Recreation, Cultural & Community Services Advisory Commission (RCCSAC) must both review and make recommendations on all art installations to the Design Review Commission. The revisions would require that all art on public property be referred to the RCCSAC to make recommendations to the ultimate Review Authority (which may be the City Council), but that art installations on private property be reviewed only by the Design Review Commission in conjunction with the design review of the development project. The RCCSAC would still be responsible for making recommendations on art purchased with in-lieu fees. This division of review is also proposed to be applied to murals on either public or private properties in Section 19.32.070C.

23. Pg. 37: **Section 19.22.040: Electrical and Mechanical Equipment** - Additional language added to reflect existing standards, formerly in 19.34.032.D.8.
24. Pg. 38: **Table 3-5: Allowable Exterior Noise Levels** - Additional language clarifies which standards apply to sensitive receptors (schools, hospitals, libraries, group care and convalescent facilities) and to clarify that noise standards for Mixed Use Districts are the same as those for commercial districts.
25. Pg. 39: **Section 19.26.030 B: Hillside and Ridgeline Protection** - Provision of an exemption for visually insignificant additions provides greater latitude for staff to sign-off on very minor changes to a structure without requiring the filing of a design review application.
26. Pg. 47: **Section 19.32.030 B&C: Design Review and Sign Permit Requirements** - Elimination of duplicative regulations. Information in B. is contained in F. Information in C.1. is contained in C.3. C.1.c. was added to provide a specific threshold for when a Master Sign Program is required in a Planned District. The last sentence in C.3. is eliminated as the requirements for revisions are more specifically defined in G.1.
27. Pgs. 50-51: **Section 19.32.060 A&B: Sign Standards** - Informative reference to added to 19.32.060 added, along with clarifying language in 19.32.060.B.2.
28. Pg. 56: **Section 19.34.032H: Pools, Hot Tubs and Spas** – This revision clarifies the existing practice of allowing in-ground pools and hot tubs with decks less than 18 inches in height in side and rear setbacks and not including them in calculating lot coverage or in the maximum of two accessory structures per parcel.
29. Pg. 57: **Table 3-13: Allowable Animal Keeping Activities** - Agricultural Zoning District was inadvertently left out of the table. Footnote (1) clarifies that there is no credit for restricted use areas of a parcel.
30. Pgs. 59-60: **Section 19.34.072: Dwelling Groups** - This section is proposed for elimination since it has never been used since 1996 and was largely preempted by the City's adoption of new regulations for second dwelling units.

31. Pg. 61: **Section 19.34.100D&E: Mixed Use Projects** - The 50 foot setback for residential units from the street frontage proved not to be a useful standard. A height limit of 20 feet is a more precise standard than two stories.
32. Pg. 61: **Section 19.34.170B: Vehicle Parking in Residential Zones** - Requirement for a paved driveway included for consistency with Section 19.20.100E.3. which specifies the parking area be paved.
33. Pg. 62: **Section 19.34.170C: Vehicle Parking in Residential Zones** - Clarification that (exclusive of mobile home parks) recreational vehicles cannot be used as residential living quarters, consistent with Section 19.34.170A.
34. Pgs. 63-69: **Division 19.38: Wireless Communications Facilities** – Entire division has been reorganized for clarity. Substantive changes include:
 - Modification of the approval process for new telecommunication facilities. Currently all telecommunication antennas require issuance of a Use Permit by the Zoning Administrator or Planning Commission. The proposed amendments would eliminate the Use Permit requirement for antennas being co-located on existing towers/monopoles or on existing buildings which already have approved antennas. A Zoning Clearance would still be required to verify compliance with all development standards of Division 19.38. Also, the Design Review requirements in Table 4-2 (Applicability of Design Review) have been modified to clarify that “stealth” designed building-mounted or co-located tower/monopole antennas (which blend in with the building, parapet, tower) may be exempted from Design Review by the Community Development Director if found to be compliant with the design criteria in 19.38.130. (See also #6 above for changes made to Allowable Use tables)
 - Requirement for applicants to enter into a performance agreement and provide a financial security to the City for on-going facility maintenance is proposed to be eliminated. This provision has not been implemented by staff due to the complexity of tracking financial securities. Requirement to remove abandoned facilities is currently in the ordinance, and is clarified in the revisions to place ultimate responsibility on the property owner.
 - Use Permits for telecommunication facilities are currently limited to one year, and must be reauthorized annually. This provision is proposed for removal, making these permits run perpetually with the land as with other Use Permits.
35. Pgs. 71-72 & 82: **Table 4-1: Review Authority** – Changes are proposed to streamline the review process for modifications to previously approved Planned Developments. The changes include:
 - Eliminating the necessity of review by the Design Review Commission for changes to Planned Development Master Plans (which establish the use and site regulations for PDs), forwarding such applications only to the Planning Commission and City Council (referral to the DRC could occur for modifications which entail major changes in building volume).

- Clarifying that changes to Planned Development Precise Development Plans (detailed project plans) would be reviewed by the DRC, Planning Commission and City Council.
 - Allows the Community Development Director to approve minor architectural and site changes that are consistent with the adopted Master Plan. Examples include minor landscape changes, small building additions, or minor elevation changes. The Director has the ability to refer applications to the DRC for modifications which have the potential for changing the character of the development.
- 36. Pgs. 72-73: **Section 19.40.050D – Neighborhood Meeting** - Addition of language notes that a neighborhood meeting is for a project with neighborhood wide concerns and that commercial/industrial projects require neighborhood meetings. An Administrative Policy has been created to assist applicants in choosing a neighborhood meeting location. The requirement to put a written copy in file of the Director's decision to exempt a project was dropped as unnecessary.
- 37. Pgs. 74-75: **Table 4-2: Applicability of Design Review** – Proposed changes/clarifications include the following:
 - Allowance for the Community Development Director to waive design review for telecommunication facilities that meet the “stealth” design criteria contained in Section 18.38.130.
 - Allowance for the Community Development Director to waive design review on previously developed hillside parcels for new accessory buildings, landscape changes, retaining walls or expansions to existing residential structures which are less than a 10% increase in square footage beyond the existing structure.
- 38. Pg. 76: **Section 19.42.030E: Design Criteria** - Modification provides clarification that design criteria also applies to access for recycling and refuse collection, loading and disposal.
- 39. Pg. 78: **Section 19.42.040: Temporary Use Permits** - Wording changes to improve clarity of the temporary use permit process.
- 40. Pg. 81: **Sections 19.42.060E4&F4: Council Action on Master Plans and Precise Development Plans** – Revised language to clarify that the Planning Commission's decisions on Master Plans are only recommendations to the City Council, who would review the project in any case.
- 41. Pgs. 88-90: **Section 19.54.050: Directed Referrals** - Additional information provides clarifies the review process for directed referrals.
- 42. Pgs. 98–107: **Section 19.60.020: Definitions** - Definitions have been added and modified to improve clarity and avoid contradictions. Specific changes of note include:

- Accessory Structure: Changes in Section 19.34.032D. & H. drops these from the list of accessory structures.
- Large Item Retail: Added to reflect different parking requirements.
- Rooming and Boarding Houses: Eliminated as state law changes have made this unenforceable.
- Medical Marijuana Dispensary: New definition added based on that used in the City Council's interim moratorium ordinance.
- New definitions were added for the following use categories contained in the residential, commercial and special purpose districts: animal grooming; assembly; broadcasting studio; cemetery; check cashing service; crematory; extended hours business; farm labor housing; farm produce stand; florists; primary building frontage; gun sales; hiking trails; large item retail; marinas, docks and piers; outdoor display retail sales; real estate office; travel agency; upholstery shop

Wireless Facilities Deployment:

Federal Regulation in the Middle Class Tax Relief and Job Creation Act of 2012

Explanation and Implementation

Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012¹ mandates that State and local governments must approve an eligible facilities request for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. The Act was signed into law on February 22, 2012. The section mandating streamlined modification and collocation approval ensures the timely deployment of wireless services.

The Act applies to eligible facilities requests for modification of existing wireless towers and base stations:

- ☛ The Act defines "eligible facilities request" as any request for modification of an existing wireless tower or base station that involves:
 - Collocation of new transmission equipment;
 - Removal of transmission equipment; or
 - Replacement of transmission equipment.
- ☛ The Federal Communications Commission ("FCC") defines "collocation" as "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."²
- ☛ The FCC defines a "substantial change" as:
 - The mounting of a proposed antenna on the tower that would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
 - The mounting of a proposed antenna that would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable.³
- ☛ The FCC defines a "tower" as "any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities."⁴
- ☛ The federal regulations define a "base station" as "A station at a specified site authorized to communicate with mobile stations;" or "A land station in the land mobile service."⁵

The Act requires approval for all eligible facilities requests that do not substantially change the physical dimensions of such tower or base station and:

- ☛ Applies despite section 704 of the Telecommunications Act of 1996, which preserves the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities;⁶
- ☛ Preempts zoning review and/or conditional approvals of eligible facilities requests;⁷
- ☛ Requires eligible facilities requests only be subject to administrative review processes and not discretionary review processes that allow a State or local government to deny or condition an eligible facilities request; and
- ☛ Requires that eligible facilities requests for the modification of legal, non-conforming towers must be approved.

The FCC's Wireless Facility Siting "Shot Clock" applies to eligible facilities request for collocation:

- ☛ State and local governments have 90 days to act on an application to collocate wireless facilities on existing structures.⁸
- ☛ Under the Act, State and local governments *must* approve within 90 days any eligible facilities requests for collocation or replacement of transmission equipment on existing towers that do not substantially change the physical dimensions of such tower.

¹ For the text of the Act, <http://www.gpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>

² Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (2001), available at 47 C.F.R. Part I, Appendix B ("Collocation Agreement"). See also *Petition for Declaratory Ruling To Clarify Provisions of Section 332(C)(7)(B) To Ensure Timely Siting Review and To Preempt Under Section 253 State and Local Ordinances That Classify All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling, 24 FCC Rcd 13994, 14021 ¶ 71 (2009) ("Shot Clock Ruling"), *recon. denied*, 25 FCC Rcd 11157 (2010), *aff'd*, City of Arlington, Tex., *et al.* v. FCC, 2012 U.S. App. LEXIS 1252 (5th Cir. 2012).

³ Collocation Agreement.

⁴ *Id.*

⁵ See, e.g., 47 C.F.R. § 24.5, 90.7.

⁶ 47 U.S.C. § 332(c)(7)(A). The Telecommunications Act of 1996 defines "personal wireless service facilities" as facilities for the provision of personal wireless services, including commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 U.S.C. § 332(c)(7)(C).

⁷ Zoning review and/or conditional approvals of eligible facilities request can have the effect of denying such requests as a conditional approval is not an approval *per se*; therefore it is a denial and a violation of the Act.

⁸ *Shot Clock Ruling*.

For more information, please contact PCIA's Government Affairs Department: advocacy@pcia.com

PCIA

Federal Law Impacts Local Zoning Rules for Wireless Facility Siting

BY COURTNEY@GOV-LAW.COM, ON MARCH 14TH, 2012

The recent adoption of a new federal law, [HR 3630](#), impacts local government restrictions on siting of wireless telecommunications facilities. Under Section 332(c)(7) of the Telecommunications Act, local governments have broad authority to control the siting of cellular and wireless towers, antennas, and other related facilities. HR 3630 impacts local government zoning restrictions for such facilities. Specifically, HR 3630

~~§ 4225 provides:~~

"Notwithstanding Section 704 of the Telecommunications Act of 1996 or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

An "eligible facilities request" is any modification request that "involves" collocation of new transmission equipment, or removal or replacement of existing transmission equipment. Basic terms in the legislation, including "wireless tower" and "substantially change," are undefined and will ultimately be defined by the courts or by the Federal Communications Commission (FCC).

Some in the telecommunications field are predicting that several tower companies will respond aggressively to this new law; some companies may even go so far as to claim that local governments *must* approve pending collocation applications unless the expansion significantly adds to the height or width of a facility. However, it is important to note that the new federal law does *not* prevent a locality from reviewing and making decisions regarding proposed collocation. There are significant ambiguities in the new law that weaken claims that a locality "must act" on every collocation application.

Having said that, we should not expect interpretation of the new law in the immediate future. For this reason, cities and counties should do two things in the meantime: (1) review local requirements for facility collocations for consistency with the new "substantial change in physical dimension" standard, and (2) inform elected officials and applicable boards and committees on this law so that any decisions granting or denying collocation are consistent with HR 3630.

Stay tuned for updates regarding interpretation and implementation of this law, as well as any information from the FCC on these changes.
[TELECOMMUNICATIONS LAW & UTILITY FRANCHISING](#) [COLLOCATION, FEDERAL LAW, WIRELESS, ZONING](#)

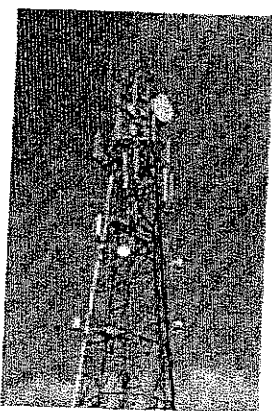
Comments are closed.

NEW FEDERAL LAW CHANGES LOCAL ZONING RULES FOR WIRELESS ANTENNA SITINGS

LEGAL ALERT

Local Governments Should Take Immediate Action

FEBRUARY 23, 2012



President Obama signed into law a bill passed by Congress last week that extended unemployment benefits and the payroll tax deduction. The bill, HR 3630, includes other provisions relevant to local government, such as restrictions on siting of wireless facilities and changes to the public safety radio spectrum. The new law, signed by the President on Wednesday, is effective immediately. Local governments should take immediate action to review and possibly amend local ordinances to protect their interests and avoid lawsuits.

Under Section 332(c)(7) of the Telecommunications Act, local governments have broad authority to control the siting of cellular and other wireless towers, antennas, and related facilities. Many California cities and counties have ordinances that govern both the initial placement and modification of wireless facilities. The new law may require changes to those rules. It mandates local approval of certain applications for modification of "an existing wireless tower or base station."

The law states that "Notwithstanding [Section 332(c)(7)] or any other provision of law, a state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

Local governments should anticipate that representatives of tower companies will claim that cities and counties *must approve* many pending collocation applications unless the expansion adds significantly to the height or width of a facility. Entities that have placed wireless facilities on public light poles and other public property may argue they can now expand their facilities without review by the local government. We expect providers to move quickly to challenge local ordinances that consider any collocation factor other than "physical dimensions." More aggressive applicants may claim the failure to "approve" subjects jurisdictions to damages and

ATTORNEYS



Harriet Steiner
Partner
(916) 551-2821



Joseph Van Eaton
Partner
(202) 370-5306



James R. Hobson
Of Counsel
(202) 370-5305



Nicholas P. Miller
Partner
(202) 370-5309



Gerard Lavery Lederer
Of Counsel
(202) 370-5304

RELATED PRACTICE

Telecommunications Law

Municipal & Redevelopment Law

attorneys fees for failure to act.

Don't be intimidated, but do look seriously at your ordinance. The law does not prevent a locality from reviewing a proposed installation. There are significant ambiguities in the new law that undercut claims you "must act" on every collocation application.

If you have any questions about this new law or how to respond, please contact your Best Best & Krieger attorney or Joseph Van Eaton, Gerard Lederer, Nicholas Miller, James Hobson and Harriet Steiner in the firm's telecommunications practice.

Disclaimer: BB&K Legal Alerts are not intended as legal advice. Additional facts or future developments may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information in this communiqué.

Tree Removal/Alteration Permits

Jurisdiction	Decision-Maker	Permit Cost	Applicable Tree Def.	Exceptions	Appeal Process	Public Notice
Fairfax	Tree Advisory Committee	No cost	Specimen tree: any tree 12" diameter measured at 4.5 ft. above grade	Undesirable tree species (listed); dangerous trees; for utility maintenance	Appeal to designated hearing officer; appeal to Town Council. May require arborist review.	Posting on-site and at public buildings
Larkspur	City Manager, processed by Parks & Rec. Dept.	\$152	Heritage tree: Any tree of 50" + circumference measured at 24" above grade	Fee waived for removal of pyrophytic trees; No permit for dead/diseased oak tree with arborist report. Waived for trees in public ROW, sidewalk damage, utility maintenance.	Hearing by Parks and Rec. Commission upon letter of protest	Mailed notice to p.o. w/in 300 feet, 15 days prior to removal
Sausalito	Trees and Views Committee	\$175 for first tree, + \$75 for each additional tree	Heritage Tree = any tree 30" + or oak of 12" + circumference at 4.5 ft. above grade Any tree 8" + diam. in setbacks, 12" + outside setbacks	City Arborist may authorize removal of hazardous tree, undesirable tree, utility maintenance or for view blockage.		Tagging of trees and posting of notice on-site
Ross		\$150 up to 3 trees, +\$50 each addnl. tree				
San Anselmo	Public Works Dept. Admin. Hearing		Any heritage tree on developed site 22" + diam. at 4.5 ft. above grade; any tree on undeveloped site 7" + diam. at 4.5 ft. above grade	Immediately hazardous tree	To Town Council	Prop. Owners w/in 300'
Marin County	Comm. Dev. Director	\$150	Table of protected and heritage trees by species, diameters ranging from 6-30" at 4.5 ft. above grade	Developed properties may remove two protected trees/year, but no removal of heritage trees	Planning Commission	Prop. owners w/in 300'
Mill Valley	Zoning Administrator	\$535	Heritage trees (oak, madrone, redwood) diameters ranging from 20-30" at 4.5 ft. above grade; any tree over 4" diam. on vacant lot; more than 4	Emergency tree removal	To Planning Commission, then to City Council	Prop. owners w/in 300' and posting on trees

Tiburbon	Planning Director	1 tree: \$170 2-4 trees: \$260 5+ trees: \$280 plus \$55 each addnl. tree	trees over 6" diam. on developed lot	Heritage trees (60"+ circumf. At 2 ft. above grade) plus any oak tree; or planting of an undesirable tree	Undesirable trees (eucalyptus, Mont. pine, redwood)	To Design Review Board	Prop. owners and HOAs w/in 300'
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Quantity: Tiburron - 40/year; Fairfax - 89/year

Bob Brown

From: sssstompe@aol.com
Sent: Monday, August 06, 2012 12:03 AM
To: Bob Brown
Subject: Trees

Bob - Sorry about the delay. Hope you had a good time in the mountains.

~~The North Marin Unit had an extended discussion of the Novato tree ordinance, looking at a variety of alternatives, including your suggestions for reducing staff time.~~

The bottom line was to keep the permitting requirements the same as they are now, but reducing the noticing to 300' from the subject tree.

There were some suggestions about expediting the process with online applications (if it not already being done).

The paragraphs in the Novato Code, Chapter XVII, Section 17-1 pretty well identifies the importance of trees to our community. The only benefit we found lacking was the shade they provide which reduces the demand for air conditioning.

Thank you for seeking our comments. And thank you for posting pending planning issues on the city website! Very nice.

Susan Stompe

**REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES
MARIN COUNTY AND CITIES
April 25, 2012**

Jurisdiction	Permitted & Regulated	Banned by Ordinance	Not Permitted*	Moratorium
County of Marin			X	
Sausalito		X		
Mill Valley		X		
Tiburon			X	
Belvedere			X	
Corte Madera				X
Ross			X	
San Anselmo			X	
Fairfax	X			
San Rafael		X		
Novato				X

* Denotes that use is not listed as permitted use and/or Code prohibits uses that are prohibited Federal or State Law

August 20, 2012

To: Novato Planning Commission
Subject: Municipal Code Amendments

Dear Commissioners:

My comments are for the proposed changes to Novato's Tree Removal permit process. I am against the changes for the following reasons:

1. Last year, after much hard work by staff, Novato received designation as a Tree City USA from the National Arbor Day Foundation. The Foundation lists the following 15 reasons for becoming a recognized tree city:
 1. Encourages better care of community forests.
 2. Touches the lives of people within the community who benefit daily from cleaner air, shadier streets, and aesthetic beauty that healthy, well-managed urban forests provide.
 3. Recognizes and rewards communities for annual advancements in urban forestry practices.
 4. Increases public awareness of the many social, economical and environmental benefits urban forestry practices.
 5. Provides education to improve current urban forestry practices.
 6. Builds cooperation between public and private sectors to effectively manage urban forests.
 7. Encourages, supports, and strengthens effective urban forestry programs in diverse communities nationwide.
 8. Can make a strong contribution to a community's pride.
 9. Serves as a blueprint for planting and maintaining a community's trees.
 10. Puts people in touch with other communities and resources that can help them improve their program.
 11. Brings solid benefits to a community such as helping to gain financial support for tree projects and contributing to safer and healthier urban forests.
 12. Helps present the kind of image that most citizens want to have for the place they live or conduct business.
 13. **Tells visitors, through signage, that here is a community that cares about its environment.**
 14. Sometimes gives preference over other communities when allocations of grant money are made for trees or forestry programs.
 15. Provides a way to reach large numbers of people with information about tree care.

I feel it is *counter* to Novato's Tree City status to downgrade our tree permit requirement such that it only applies to "native" trees such as those listed in the proposal. Novato has many beautiful trees, including redwoods and others that are native to California but not perhaps to Novato. Regardless of their origins these trees provide beauty, shade, air cleaning services, and

habitat for wildlife in our community. They provide us with important ecological services, regardless of their species. Having strong protection of trees is not something that should be discarded simply because other cities do not do so, but something that should be a point of pride in that we in Novato value our trees and protect them and their inhabitants.

Instead of changing the ordinance to cover only a few "native" species, please keep the ordinance as it, but reduce the notification requirements to 100 feet. This will reduce the cost of notice preparation time for admin staff, as well as paper, and postage.

2. Having the tree permit process serves purposes that may not be obvious to the average person. From my personal perspective, as a wildlife rehabilitation volunteer (for over 15 years), the process of getting an arborist report, then applying for and waiting for a tree permit to be approved buys time for the birds and squirrels that might be nesting in the tree(s) in question. Every year many songbirds, birds of prey, and squirrels are brought into wildlife hospitals after having their nests cut down. They either have injuries, or have been essentially orphaned and a huge investment is then required for dedicated volunteers to raise the orphans so they can be returned to the wild. That applies to the lucky ones that do not end up in the chippers. Yes, that happens often, sometimes deliberately. Tree companies and cities pay no funds to help compensate under-funded, volunteer driven wildlife hospitals for the care of these animals. Having a waiting period to cut a tree could be just enough time for an animal family to complete its parental duties. Trees are homes.

There are state and federal laws protecting native birds from nest destruction. Just because there is very little enforcement of these laws does not mean they should be ignored. They are still the law of the land. The **Federal Migratory Bird Treaty Act (MTBA)** protects native birds and their nests from "take:" the destruction of chicks or eggs. Additionally, there are further laws that specially protect raptors. Should the city decide to go ahead with these proposed reductions in tree permitting requirements, I then request that ALL permits for native trees come with a notice incorporating the MTBA requirement that no pruning or tree cutting may be done during the federally and state-designated nesting period if an active nest is present (to be determined by a qualified professional), unless the tree is an immediate threat to human safety or property, and then it must still be inspected for active nests before removal. This is especially important for oaks, which have extremely high habitat diversity, i.e., they provide homes for a wide range of species. The cavities in native oaks, and even dead snags, are vital to cavity nesters such as Western Screech Owl, Common Barn Owls, American Kestrel, Western Bluebird, Tree Swallow, Turkey Vulture, bats, various flycatcher species, and many others. All of the listed species also provide important ecological services to us, in addition to their inherent right to live unmolested. At the very least, anyone permitted to cut trees should be advised of these laws.

I would venture to guess that the removal of an average of 40 trees per year is not "inconsequential" to wildlife, nor to many humans.

3. Just because a "majority" of property owners and tree companies probably prune and remove trees without permits does not make the permits ineffective. Just recently the city received a public complaint about a property owner who committed a virtual "clear cut" of trees on their property. A letter was sent to the property owner by our code enforcement department and the resident was required to pay the standard 3x the cost of the original permit. So there are times when the tree permit ordinance is effective. This person should also have been required to replace the trees with natives. That should be part of the ordinance as well. At the very least, perhaps this person and others who learn of this will think twice before destroying trees without a good and permitted reason.

In summary, please do not make the changes to the tree permit process as proposed, except to reduce the notification requirement from 300' to 100' or simply adjacent properties. If the proposed changes to the code are approved, please add language to tree permit approvals stating that the Federal Migratory Bird Treaty Act applies to all pruning and removal of any tree species.

Thank you for considering my comments.

Maggie Rufo
Novato resident

Thank you Chairman Strauss and Members of the Novato Planning Commission.

My name is Eleanor Sluis and I am a twenty-year resident of Novato.

I ask the Commission to consider carefully, the proposed changes that are currently under discussion. I disagree strongly with most if not all of these changes. I understand the reasons that the Interim Community Director has requested these changes. However, I believe that the reasons provided by the Community Director are not sufficient to merit these changes, which I view as quite significant.

I will not address the changes to the Use Permit process for the Wireless Communications Facilities nor to those for Medical Marijuana Dispensaries nor to the Tentative Map Automatic Extensions. Rather, I would like to focus on the other changes under consideration: namely the changes to the tree permits, planned development districts, the exception to hillside design review requirements, the on-sale alcohol permits for restaurants and the arts program.

Tree Removal

I question why the Interim Community Director is, at this time seeking to remove certain requirements for tree removal permits. Trees, especially large, well-

established trees provide many benefits including shading, beauty, bird habitats and community identity. For example, Redwood Blvd. would not be the same with its redwood and cork trees. Novato residents cherish our trees and we have the permit process to protect the trees as well as our small-town and rural identity. The proposed changes would significantly impair this process and would concentrate too much power and authority in the Community Director and City Manager.

While these changes would apply to all types of tree removal projects, I am most concerned about the immediate impact on the Redwood Blvd. projects. If these changes are enacted, we could see the removal or destruction of the 60 to 100 year-old, historic, redwood and cork trees on Redwood Blvd. What a great loss that would be to our City. Indeed it seems that these changes are being suggested in time to facilitate the planned development of high-density, affordable housing on Redwood Blvd. I am very much in favour of affordable housing in our community, but not at the expense of these trees and this district.

Planned Development Districts

My only real disagreement with the proposed amendments is with the third change which would allow the Community Development Director to approve "minor" architectural and site changes that are consistent with the adopted Master Plan. I

believe this concentrates too much authority within the Community Development Director position. The Design Review Commission is a public forum which plays an essential role in our community planning. It is the one place where the public has the opportunity to comment on proposed plans during the early phases of the process. By allowing only one person to have control over even "minor" changes removes the public participation from this process.

Art Program

I do not see any problem with the current Arts Program review process. The fact that it requires multiple reviews is not a sufficient reason to make the proposed changes. Indeed, I would leave this process alone to ensure that the public and residents have an opportunity to review and comment on these art projects.

Alcohol Permit

The permitting process for serving alcohol should not be changed. In the past, applicants were requested to meet with the City's Drug and Alcohol Commission for approval of alcohol permits to restaurants. The proposed changes remove the requirement entirely and would allow "restaurants" to serve alcohol without a permit. How does one define "restaurant?" Wouldn't McDonald's and Taco Bell be considered restaurants. Indeed wouldn't any "bar" that serves bar food count as

a restaurant as well? While the City no longer has a Drug and Alcohol Commission, it is still imperative that we protect our community's image and indeed our community's youth and residents from alcohol abuse. The removal of the permitting process would simply make it too easy for establishments to serve alcohol without City and community control.

Thank you,
Jean-Louis 487 Ridge, Novato, Ca 94947
PO Box 240, Novato 94948
415 892-0128
esluis@earthlink.net.

