CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1721

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING THE NOVATO MUNICIPAL CODE BY REVISING SECTIONS 19.34.030 (ACCESSORY DWELLING UNITS) AND 19.34.031 (JUNIOR ACCESSORY DWELLING UNITS) AND FINDING SUCH ACTIONS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15282(h) AND PUBLIC RESOURCES CODE 21080.17

WHEREAS, Novato Municipal Code ("NMC") Section 19.34.030 addresses accessory dwelling units ("ADU" or "ADUs"); and

WHEREAS, NMC Section 19.34.031 addresses junior accessory dwelling units ("JADU" or "JADUs"); and

WHEREAS, the State of California amended state law regarding ADUs and JADUs, effective January 1, 2023, January 1, 2024, and January 1, 2025, including Senate Bill 897 and Assembly Bills 2211, 1211, and 2533; and

WHEREAS, State law regulating ADUs and JADUs is codified in Government Code Section 66310 to 66342 (formerly Government Code Sections 65852.2 and 65852.22); and

WHEREAS, the ADU and JADU ordinances of the NMC are recommended to be amended to reflect recent revisions to State ADU and JADU law, clarify existing development standards, and streamline permitting procedures for ADUs and JADUs as presented in ***Exhibit A***, attached hereto and incorporated herein by reference (collectively "Amendments"); and

WHEREAS, the Novato Planning Commission conducted a noticed public hearing on November 18, 2024, to consider and receive public testimony on the proposed Amendments. At this hearing the Planning Commission adopted Resolution No. 2024-015 recommending the City Council approve the proposed Amendments with revisions; and

WHEREAS, notice of the City Council's public hearing on the Amendments was published in a 1/8$^{th}$ page legal ad in the Marin Independent Journal, a newspaper of local circulation, on January 4, 2025; and

WHEREAS, the City Council conducted a public hearing on January 14, 2025, to consider the proposed Amendments and the Planning Commission's recommendation thereon.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NOVATO DOES FIND AND ORDAIN AS FOLLOWS:

**Section 1. Record**

The Record of Proceedings ("Record") upon which the City Council bases its decision on the proposed Amendments includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared or and/or submitted to the City relating to the proposed Amendments; (2) all documentary and oral evidence received at public meetings and hearings or submitted to the City regarding the proposed Amendments; (3) the City of Novato General Plan 2035 and its certified EIR and the Novato Municipal Code; and (4) all other matters of common knowledge to the City Council including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to regulation of accessory dwelling units and junior accessory dwelling units within the City of Novato and its surrounding areas.

The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

**Section 2. Findings**

The City Council hereby makes the following findings as required by Novato Municipal Code Section 19.56.070.C.1. and C.3. with respect to the proposed Amendments as set forth in ***Exhibit A***, attached hereto and incorporated herein by reference:

C.1.a The proposed amendments are consistent with the Novato General Plan.

Facts in Support: The Amendments detailed in Exhibit A are intended to modify the City's existing zoning provisions applicable to ADUs and JADUs to comply with recently adopted State law, clarify existing regulations and development standards, and streamline the City's current ADU permitting process. State law is intended to reduce barriers to the construction of ADUs as a means of providing a range of housing types to meet statewide housing demand. The production of ADUs is supported by General Plan Housing Element Programs 1.B and 6.E, which encourage legislative changes to produce these housing types in Novato. Based on the direction of the noted Housing Element programs, the Amendments are consistent with the General Plan.

C.1.b. The proposed amendments would not be detrimental to the public interest, health, safety, convenience or welfare of the City; and

Facts in Support: The Amendments are intended to comply with State law directing local jurisdictions to reduce barriers to the production of ADUs and JADUs to address the demand for housing in California. Consistent with this statewide goal, the construction and occupancy of these types of housing units is considered to further the public interest, health, safety, convenience and welfare of Novato recognizing the need for additional housing opportunities, in particular smaller dwelling units at more affordable rent levels.

C.1.c. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines.

Facts in Support: The Amendments are statutorily exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15282(h) which specifically exempts the adoption of an ordinance addressing ADUs complying with the provisions of Government Code Sections 66310 to 66342 and Public Resources Code Section 21080.17 regarding the adoption of provisions addressing JADUs.

C.3. The proposed amendments are internally consistent with other applicable provisions of the Zoning Ordinance.

Facts in Support: The Amendments include revisions to Zoning Ordinance provisions regulating the development of ADUs and JADUs. The Amendments do not alter zoning standards regulating other uses addressed in the Zoning Ordinance. Therefore, the amendments do not create any internal inconsistencies with other provisions of the Zoning Ordinance.

**Section 3: CEQA Finding**

The City Council hereby finds the Amendments are statutorily exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which specifically exempt from CEQA the adoption of an ordinance and modifications thereto addressing accessory dwelling units complying with the provisions of Government Code Section 65852.1 and Section 65852.2.

Facts in Support: The Amendments are specifically drafted to address amendments to California Government Code Sections 66310 to 66342 regulating accessory dwelling unit and junior accessory dwelling unit ordinances. The Amendments are consistent with State law and are designed to bring the Novato Municipal Code into consistency therewith.

**Section 4: Decision**

CHAPTER XIX, Sections 19.34.030 (Accessory Dwelling Units) and 19.34.031 (Junior Accessory Dwelling Units) of the Novato Municipal Code, as relevant to accessory dwelling units and junior accessory dwelling units, are hereby amended to read as set forth in Exhibit A attached hereto and incorporated herein by reference.

**Section 5: Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**Section 6: Publication and Effective Date**

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective 30 days after the date of its passage and adoption.

* * * * * *

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the Novato City Council on the 14th day of January, 2025, and was passed and adopted at a regular meeting of the Novato City Council on the 28th day of January, 2025, by the following vote, to wit:

| | | |
|---|---|---|
| AYES: | Councilmembers | Eklund, Farac, Jacobs, Milberg, O'Connor |
| NOES: | Councilmembers | |
| ABSTAIN: | Councilmembers | |
| ABSENT: | Councilmembers | |

Tim O'Connor

Mayor of the City of Novato

Attest:

Yana McDowell

City Clerk of the City of Novato

Approved as to form:

Gary Bell

City Attorney of the City of Novato

Attachment: Exhibit A: Zoning Text Amendments – NMC Sections 19.34.030 & 19.34.031

# EXHIBIT A

## ZONING TEXT AMENDMENTS
## NMC SECTION 19.34.030 - ACCESSORY DWELLING UNITS
## NMC SECTION 19.34.03 – JUNIOR ACCESSORY DWELLING UNITS

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Proposed amendments are redlined in ~~strike-out~~ (deleted text) and underline (added text).

The existing text of NMC Section 19.34.030 shall be amended as follows:

**19.34.030 Accessory Dwelling Units.**

This Section provides the definitions, permit requirements, processing procedures, and standards for the establishment of accessory dwelling units in compliance with California Government Code Sections 66310 - 66342 ~~65852.2~~ and Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) of this Title.

A. *Definitions.* For purposes of this section, terms used herein that are identical to the terms used in California Government Code Sections 66310 - 66342 shall have the same meaning as those terms are defined in said Government Code Section. Where terms used herein are identical to the terms used in Section 19.60.020 (Definitions of Specialized Terms and Phrases), the definitions provided in this Section shall control, unless otherwise specified in this Section. Notwithstanding the foregoing, the definitions below shall apply to the following terms as used in this Section:

1. Accessory Dwelling Unit (ADU). An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. ~~single-family dwelling or existing multi-family dwellings~~. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the ~~proposed or existing~~ single-family ~~dwelling~~ or ~~existing~~ multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

   a. Efficiency Unit. As defined in Section 17958.1 of the California Health and Safety Code.

   b. Manufactured Home. As defined in Section 18007 of the Health and Safety Code.

   c. Attached Accessory Dwelling Unit. A new residential dwelling unit that is constructed as a physical expansion (e.g., building addition) of an existing primary residence ~~dwelling~~ by way of one or more common walls or included as an attached component of a proposed primary residence ~~dwelling~~.

   d. Detached Accessory Dwelling Unit. A new residential dwelling unit that is located on the same lot as a primary residence ~~dwelling unit~~ and is not

physically attached (e.g., no common wall or roof, etc.) to a primary residence ~~dwelling~~.

e. Conversion Accessory Dwelling Unit. A ~~new residential~~ dwelling unit created within ~~the~~ existing walls of~~, or constructed in the same location as,~~ a primary ~~single-family dwelling, multi-family~~ dwelling unit ~~building,~~ or accessory structure.

2. Accessory Structure. A structure that is accessory and incidental to a primary dwelling located on the same lot.

3. Car Share Vehicle. A vehicle available for sharing located in a car share vehicle facility approved by the City.

4. Car Share Vehicle Facility. A facility of fixed location approved by the City to permit the storage, pick-up, and drop-off of a car share vehicle.

5. Existing Structure. An existing permitted or otherwise legal single-family dwelling, multi-family dwelling ~~building~~, or accessory structure.

6. Junior Accessory Dwelling Unit. As defined in Section 19.34.031 (Junior Accessory Dwelling Unit).

7. High-Quality Transit Corridor. As defined in California Public Resources Code Section 21155.

8. Livable Space. Space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

~~6~~9. Living Area. The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

10. Lot, or Parcel. As defined in Section 19.60.020 (Definitions of Specialized Terms and Phrases).

11. Major Transit Stop. As defined in California Public Resources Code Section 21155.

~~7~~12. Multi-Family Dwelling. A building with two or more attached dwelling units located in a residential or mixed-use zoning district. This definition includes, but is not limited to duplexes, triplexes, apartments, and condominiums under ~~a~~ common ownership.

~~8~~13. Nonconforming Zoning Condition. A physical improvement on a property that does not conform with current zoning standards.

~~9~~14. Passageway. A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

~~10~~15. Primary Dwelling Unit (or "primary unit," "primary dwelling," "primary single-family dwelling," "primary unit single-family dwelling," or "primary residence"): A~~n existing~~ permitted or otherwise legal single-family dwelling that is the main residential unit on a ~~the~~ lot and is larger than any proposed ADU~~.~~; or ~~an existing~~ permitted or otherwise legal multi-family dwelling unit on a lot zoned for ~~multi-family~~ residential or mixed-use. For any lot with an existing residential

unit, the existing residential unit shall be the primary dwelling unit and ~~the~~ any proposed new accessory dwelling unit(s) shall be required to qualify under this Code as one of the permitted ~~kinds~~ types of accessory dwelling units.

~~11~~16. Proposed Dwelling. A new single-family or multi-family dwelling that is the subject of a permit application and that meets the requirements for permitting.

~~12~~17. Public Transit. A location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~13~~18. Single-Family Dwelling. As defined in Division 19.60 (Definitions/Glossary).

19. Story. As defined in Division 19.60 (Definitions/Glossary).

~~14~~20. Tandem Parking. Two or more automobiles parked on a driveway or in any other location on a lot, lined up one behind the ~~one~~ ~~an~~other.

B. *Land Use, Zoning & Density.* An accessory dwelling unit:

1. Represents a residential land use;
2. Is not subject to the density requirements of the Novato General Plan or this Title;
3. Is allowed on any lot when combined with an existing permitted, otherwise legal, or proposed single-family ~~dwelling. Is allowed in combination with an existing~~ or multi-family dwelling in a ~~multi-family~~ residential or mixed-use zone as specified in the land use tables of Article 2; and
4. Is allowed on any lot zoned Planned District (PD) when combined with an existing or proposed single-family ~~dwelling~~ or ~~existing~~ multi-family dwelling, where such primary dwelling types are a permitted use in an adopted master plan or precise development plan.

C. *Maximum Number of Units.*

1. Single-Family Dwellings. A maximum of one accessory dwelling unit shall be allowed on a lot with an existing or a proposed primary single-family dwelling. Only one accessory dwelling unit shall be permitted per lot regardless of there being multiple, existing detached single-family dwellings on a given lot. An accessory dwelling unit may also be constructed on a lot with a junior accessory dwelling unit subject to the provisions of this Ssection.
2. ~~Existing~~ Multi-family Dwellings. As specified in Sections 19.34.030.N.2.c. and 19.34.030.N.2.d.

D. *Nonconforming Zoning Condition.* Notwithstanding the provisions of Division 19.52 (Nonconforming Uses, Structures, and Parcels), the construction of an accessory dwelling unit pursuant to this Ssection shall not be contingent on the correction of any existing nonconforming zoning condition as defined by this Ssection.

E. *Nonconforming Single-Family Dwelling (Land Use Conformity) ~~Residential Use~~.* An accessory dwelling unit shall be allowed on lots where an existing single-family

dwelling maintains a legal nonconforming land use status in accordance with NMC Section 19.52.020 (Restrictions on Nonconforming Uses and Structures). Such a non-conforming single-family dwelling shall only be eligible to have an accessory dwelling unit created from conversion of a portion of the existing, legal nonconforming ~~permitted~~ single-family dwelling or existing, legal nonconforming residential accessory structure associated with the single-family dwelling in accordance with the development standards specified in subsection 19.34.030.N.2.b. and all other applicable provisions of this Ssection.

F. *Separate Sale or Conveyance.* Except as provided by Government Code Section ~~65852.26~~ 66314, an accessory dwelling unit shall not be sold or conveyed separately from the ~~single family or multi family dwelling~~ primary dwelling unit on a qualifying a lot for development of an accessory dwelling unit. An accessory dwelling unit may be rented separately from the primary dwelling unit.

G. *Building Code.* All local and state building code provisions applicable to dwelling units shall apply to accessory dwelling units, except as modified by this Ssection in accordance with State law.

H. *Fire Sprinklers.* Fire sprinklers shall not be required for an accessory dwelling unit if not required for the primary ~~residence~~ dwelling unit. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in an existing primary dwelling.

I. *Easements.* Accessory dwelling units shall not be permitted to encroach on any recorded or judicially decided easement.

J. *Effect of Other Ordinances, Policies, & Regulations.* Unless otherwise specified by this Section, ~~A~~accessory dwelling units shall comply with all applicable ordinances, policies, and regulations of this Title. Accordingly, an applicant for an accessory dwelling unit ~~can~~ shall modify a proposed accessory dwelling unit or select another of the herein listed accessory dwelling unit types (e.g., attached, detached or conversion ~~accessory dwelling unit~~) in order to comply~~ing~~ with all applicable ordinances, policies, and regulations of this Title. ~~A property owner shall only be entitled to construct a Statewide Exemption accessory dwelling unit as described in Section 19.34.030.N.1.c, if the parcel cannot accommodate If no form of an accessory dwelling unit type can that conforms to all applicable ordinances, policies, and regulations of this Title, then a property owner shall only be entitled to construct a statewide exemption accessory dwelling unit as described in Section 19.34.030.N.1.c.~~

K. *Rental Period.* An accessory dwelling unit shall ~~not~~ be rented to the same person or persons for a term ~~period~~ of ~~less than~~ 30 days or longer.

L. *Certificate of Occupancy.* A certificate of occupancy for an accessory dwelling unit shall not be issued before a certificate of occupancy is issued for a primary ~~single-family~~ dwelling unit.

M. *Street Address Required.* Street addresses shall be assigned to an accessory dwelling unit to assist in emergency response. The street address shall match that of the primary

dwelling unit followed by a unique alphabetical identifier (e.g., 1000A Main Street for an ADU associated with a primary dwelling unit of 1000 Main Street).

N. Development Standards & Permit Requirements for Specific Accessory Dwelling Units. California Government Code Sections 66310 - 66342 ~~65852.2~~ establishes different accessory dwelling unit ~~permitting~~ categories and applicable development standards for each accessory dwelling unit~~s~~ category, including those that must be permitted solely by building permit pursuant to compliance with prescribed objective development standards ~~specific criteria~~ and others subject to all applicable ~~securing a local~~ objective development standards ~~permit (e.g., accessory dwelling unit permit) and building permit~~.

Accessory dwelling units shall only require a building permit and are subject to development standards as described below. If a building permit application to create an accessory dwelling unit is submitted concurrently with a permit application to create a new primary dwelling unit on the same lot, a decision on the accessory dwelling unit will be deferred until an action is taken on the permit application to create the new primary dwelling unit. If the application for the primary dwelling unit is approved, then the proposed accessory dwelling unit shall be ministerially approved if it meets the requirements of this Section and applicable state law. Development standards for each category of accessory dwelling unit, as addressed by California Government Code Sections 66310 - 66342 ~~65852.2~~, are provided as follows.

1. Accessory Dwelling Unit Development Standards. A proposed accessory dwelling unit that complies with the following development standards and all applicable objective standards contained in ordinances, policies, and regulations of this Title, shall be approved ministerially and shall only be subject to the issuance of a building permit. ~~Accessory Dwelling Unit Permit & Building Permit Required. For the accessory dwelling unit types listed below, both an accessory dwelling unit permit approved by the Community Development Director and a building permit from the Building Division are required. Approval of an accessory dwelling unit permit is required prior to issuance of building permit. If an accessory dwelling unit permit application is submitted concurrently with a permit application to construct a new single-family dwelling on the same lot, a decision on the accessory dwelling unit permit will be deferred until an action is taken on the application for the new single-family residence.~~

   a. Attached Accessory Dwelling Unit

      (1) Unit Size:

         ~~i. The minimum gross floor area shall be 150 square feet.~~

         ~~i~~i. The maximum gross floor area shall be 50 percent of the living area of the existing or proposed primary dwelling unit up to a maximum floor area of 850 square feet for a studio or one bedroom unit or 1,000 square feet for a unit of two or more bedrooms. A minimum of two bedrooms are required for any unit over 850 square feet in floor area.

(2) Maximum Floor Area Ratio. As specified in Article 2 based on applicable zoning district.

(3) Maximum Building Coverage. As specified in Article 2 based on applicable zoning district.

(4) Setbacks:

i. Minimum side and rear setbacks of 4 feet.

ii. Minimum front setback as required by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.

(5) Fire Protection Building Separation Requirement. An attached accessory dwelling unit shall maintain a minimum building separation distance of 3 feet from any other building(s) on the lot.

(6) Height Limit. Maximum height of 25 feet or the height limitation in the underlying zone, whichever is lower ~~Maximum height of 16 feet~~. The height of an accessory dwelling unit shall be measured in accordance with Section 19.20.070.B (Height Measurement). ~~Notwithstanding the provisions of Section 19.20.070.C (Exceptions to Height Limits), a~~Architectural, decorative, and other roof elements (i.e., mechanical equipment, roof vents, chimney etc.) attached to the accessory dwelling unit ~~may~~ shall not exceed this height limit. An attached ADU shall not exceed two stories.

(7) Separate Entry. A separate exterior entryway shall be required independent of the primary dwelling unit's entry.

(8) Interior Connection. An attached accessory dwelling unit shall not have any interior passageway (e.g., doorway, pass-through, etc.) connecting to the interior space of the primary dwelling unit.

b. Detached Accessory Dwelling Unit

(1) Unit Size:

~~a. The minimum gross floor area shall be 150 square feet.~~

i~~b~~. The maximum gross floor area shall be 50 percent of the living area of the existing or proposed primary dwelling unit up to a maximum floor area of 850 square feet for a studio or one bedroom unit or 1,000 square feet for a unit of two or more bedrooms. A minimum of two bedrooms are required for any unit over 850 square feet in floor area.

(2) Maximum Floor Area Ratio: As specified by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.

(3) Maximum Building Coverage: As specified by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.

(4) Setbacks:

i. Minimum side and rear setbacks of 4 feet.

ii. Minimum front setback as required by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.

(5) Fire Protection Building Separation Requirement. A detached accessory dwelling unit shall maintain a minimum building separation distance of 3 feet from any other building(s) on the lot.

(6) Height Limit. Maximum height of 16 feet or; maximum height of 18 feet for a detached accessory dwelling unit that is within one-half mile walking distance of a major transit stop or high-quality transit corridor and an additional 2 feet is allowed only to the extent that it is necessary to accommodate a roof pitch aligned with that of the primary dwelling unit. The height of an accessory dwelling unit shall be measured in accordance with Section 19.20.070.B (Height Measurement). ~~Notwithstanding the provisions of Section 19.20.070.C (Exceptions to Height Limits), a~~Architectural, decorative, and other roof elements (i.e., mechanical equipment, roof vents, chimney etc.) attached to the accessory dwelling unit ~~may~~ shall not exceed this height limit.

c. Statewide ~~Exemption~~ Default Accessory Dwelling Unit. Notwithstanding the maximum unit size based on living area percentage, floor area ratio, open space, front setbacks, minimum lot size, and/or lot coverage standards provided above, an applicant shall be entitled to construct a detached or attached accessory dwelling unit of up to a maximum gross floor area of 800 square feet, 16-feet in height, with 4-foot side and rear setbacks. The height of an accessory dwelling unit shall be measured in accordance with Section 19.20.070.B (Height Measurement). Notwithstanding the provisions of Section 19.20.070.C (Exceptions to Height Limits), architectural, decorative, and other roof elements (i.e., mechanical equipment, roof vents, chimney etc.) attached to the accessory dwelling unit may not exceed this height limit.

2. Limited Standards Accessory Dwelling Units. The following types of ADUs shall only be subject to the development standards of this subsection as required by and consistent with California Government Code Section 66323. An ADU meeting the development standards of this section shall only be subject to securing a building permit. ~~Building Permit Only. The accessory dwelling unit types listed below shall only require a building permit consistent with Government Code Section 65852.2(e). If a building permit application to create an accessory dwelling unit is submitted concurrently with a permit application to create a new single family dwelling on the same lot, a decision on the accessory dwelling unit will be~~

~~deferred until an action is taken on the permit application to create the new primary dwelling unit single-family residence. If the application for the primary dwelling unit is approved, then the proposed accessory dwelling unit shall be ministerially approved if it meets the requirements of this section.~~

a. Detached Accessory Dwelling Unit – On Lots With Existing or Proposed Primary Unit Single-Family Dwellings

(1) Unit Size:

~~i. The minimum gross floor area shall be 150 square feet.~~

~~i~~ii. The maximum gross floor area permitted shall be 800 square feet.

(2) Setbacks:

i. Minimum side and rear setbacks of 4 feet.

~~ii. Minimum front setback required by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.~~

(3) Fire Protection Building Separation Requirement. A detached accessory dwelling unit shall maintain a minimum building separation distance that is sufficient for fire and safety ~~distance of 3 feet from any other building(s) on the lot~~.

(4) Height Limit. Maximum height of 16 feet or; maximum height of 18 feet for a detached accessory dwelling unit that is within one-half mile walking distance of a major transit stop or high-quality transit corridor and an additional 2 feet is allowed only to the extent that it is necessary to accommodate a roof pitch aligned with that of the primary dwelling unit. ~~The height of an accessory dwelling unit shall be measured in accordance with Section 19.20.070.B (Height Measurement). Notwithstanding the provisions of Section 19.20.070.C (Exceptions to Height Limits), architectural, decorative, and other roof elements (i.e., mechanical equipment, roof vents, chimney etc.) attached to the accessory dwelling unit may not exceed this height limit.~~

b. Conversion Accessory Dwelling Units - Within Existing Primary Unit Single-Family Dwellings, Proposed Primary Unit Single-Family Dwellings & Existing Accessory Structures

(1) Unit Size:

~~i. The minimum gross floor area shall be 150 square feet.~~

~~i~~ii. An accessory dwelling unit is not subject to a maximum floor area limit when~~re~~ created within the walls of an existing or proposed primary unit single-family dwelling or existing accessory structure. However, an addition of up to 150 square

feet for the sole purpose of accommodating ingress and egress is allowed for an existing accessory structure being converted to an accessory dwelling unit.

(2) Setbacks:

i. An accessory dwelling unit being created within the walls of an existing single-family dwelling or existing accessory structure shall not expand the footprint of the existing primary unit dwelling or accessory structure. However, an addition of up to 150 square feet for the sole purpose of accommodating ingress and egress is allowed for an existing accessory structure being converted to an accessory dwelling unit.

~~ii. An accessory dwelling unit created within the floor area of a proposed primary dwelling unit single-family residence shall be subject to the setbacks required by the zoning district applicable to the primary dwelling unit as specified in Article 2 of this Title.~~

ii~~i~~. Minimum side and rear setbacks ~~of 4 feet~~ sufficient to provide for fire and safety shall be required where an addition of up to 150 square feet is proposed ~~to an existing accessory structure being converted to an accessory dwelling unit as allowed under Section 19.34.030.2.b.(1)ii. above. Minimum front setback required by the zoning district applicable to the primary dwelling unit as specified in Article 2 of this Title~~.

~~(3) Fire Protection Building Separation Requirement. An ingress/egress addition to a conversion accessory dwelling unit shall maintain a minimum building separation distance of 3 feet from any other building(s) on the lot.~~

(4~~3~~) Height Limit: An accessory dwelling unit created within the living area of an existing single-family dwelling or within the area of an existing accessory structure shall maintain the height of the existing dwelling or accessory structure. An accessory dwelling unit created within the floor area of a proposed primary unit single-family residence shall be subject to the height limit of the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.

(5~~4~~) Separate Entry. A separate exterior accessible entryway shall be required independent of the primary dwelling unit's entryway.

c. Conversion Accessory Dwelling Units - Existing Multi-Family Dwellings

(1) Location. Accessory dwelling units shall only be allowed through the conversion of existing multi-family building space that is not used as ~~living area~~ livable space (e.g., storage rooms, boiler rooms, passageways, attics, basements, or garages) and only when the

proposed unit(s) complies with State building standards for dwellings.

(2) Number of Multi-Family Dwelling Conversion Accessory Dwelling Units. A minimum of one (1) conversion accessory dwelling unit shall be permitted and up to a maximum number not exceeding 25 percent of the existing multi-family dwelling units. Any fractional/decimal result of a calculation to determine the number of accessory dwelling units in a multi-family unit shall be rounded down to the next whole unit (e.g., 7 multi-family units allows a maximum of 1 accessory dwelling unit). ~~A conversion accessory dwelling unit(s) shall not be combined with detached accessory dwelling units as described in subsection 2.d. below.~~

(3) Unit Size:

~~i. The minimum gross floor area required for an accessory dwelling unit is 150 square feet.~~

i~~i~~. The maximum gross floor area shall be equal to the area of the existing multi-family building space that is not used as ~~living area~~ livable space (e.g., storage rooms, boiler rooms, passageways, attics, basements, or garages) and is being converted to accessory dwelling unit(s).

(4) Setbacks. Not applicable. A multi-family dwelling conversion accessory dwelling unit(s) shall not expand the existing multi-family building footprint.

(5) Maximum Height. The multi-family dwelling conversion accessory dwelling units shall not exceed the height of the existing building area being converted to an accessory dwelling unit.

(6) Separate Entry. A separate entryway shall be provided for each accessory dwelling unit.

d. Detached Accessory Dwelling Unit - ~~Existing~~ Multi-Family Dwellings

(1) Number of Detached Accessory Dwelling Units. A maximum of two detached accessory dwelling units shall be allowed on a lot with a~~n existing~~ proposed multi-family dwelling, and up to a maximum of eight (8) detached accessory dwelling units shall be allowed on a lot with an existing multi-family dwelling unit, provided that the number of accessory dwelling units does not exceed the number of existing units on the lot. ~~A detached accessory dwelling unit(s) shall not be combined with a conversion accessory dwelling unit(s) as described in section 2.c. above.~~

~~(2) Unit Size:~~

~~i. The minimum gross floor area required for a detached accessory dwelling unit is 150 square feet.~~

~~ii. The maximum gross floor area allowed for a detached accessory dwelling unit is 800 square feet.~~

(2~~3~~) Setbacks:

i. Minimum side and rear setbacks of 4 feet.

~~ii. Minimum front setback required by the zoning district applicable to the primary dwelling as specified in Article 2 of this Title.~~

~~(4) Fire Protection Building Separation Requirement. A detached accessory dwelling unit shall maintain a minimum building separation distance of 3 feet from any other building(s) on the lot.~~

(~~5~~3) Height Limit. Maximum height of 16-feet or; maximum height of 18 feet for a detached accessory dwelling unit that is within one-half mile walking distance of a major transit stop or high-quality transit corridor and an additional 2 feet is allowed only to the extent that it is necessary to accommodate a roof pitch aligned with that of the primary dwelling unit; or maximum height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multi-story multi-family dwelling. ~~The height of an accessory dwelling unit shall be measured in accordance with Section 19.20.070.B (Height Measurement). Notwithstanding the provisions of Section 19.20.070.C (Exceptions to Height Limits) architectural, decorative and other roof elements (i.e., mechanical equipment, roof vents, chimney etc.) attached to the accessory dwelling unit may not exceed this height limit.~~

O. *Architecture.*

1. A proposed accessory dwelling unit(s) and proposed primary dwelling shall meet all applicable architecture standards provided by Division 19.27 (Residential Objective Architecture Standards).

2. An accessory dwelling unit combined with an existing primary dwelling and located within a required front and/or street side setback area, ~~requiring an accessory dwelling unit permit~~ shall be constructed and painted to match ~~the architectural style of~~ the primary dwelling, ~~including~~ using the same:

~~1.~~ a. Paint color(s);

~~2.~~ b. Siding material(s) and style(s);

~~3.~~ c. Roof pitch, material(s), and color(s); and

~~4.~~ d. Door(s), window(s), and trim.

3. The provisions of this subsection shall not apply to the accessory dwelling unit types addressed in Section 19.34.030.N.2.

P. *Historic Resources.* The following criteria shall apply to accessory dwelling units on properties listed in the California Register of Historic Resources or designated as a local historic resource~~:~~. The provisions of this subsection shall not apply to the accessory dwelling unit types addressed in Section 19.34.030.N.2.

1. The applicant shall submit a historic resource survey prepared by a qualified professional addressing whether the proposed accessory dwelling unit will negatively impact historic resource(s) and is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
2. The accessory dwelling unit shall not be a replica of the architectural style of the historic structure(s) on the property;
3. The accessory dwelling unit shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Q. *Required Parking*

1. Off-Street ~~On-Site~~ Parking. In addition to required parking for the primary dwelling unit, one (1) off-street-parking space is required for an accessory dwelling unit, except as exempt pursuant to subsection d. below, subject to the following design standards:
   a. Off-street parking for an accessory dwelling unit is allowed via installation of a new independent parking stall or by tandem parking ~~in a tandem configuration~~ on a driveway within a required setback area, unless findings are made that such parking is infeasible based on site specific topographical, fire, and/or life safety conditions.
   b. Off-street parking shall comply with applicable standards in Subsection 5-17.008.e of Chapter V (Development Standards), Subsection 19.20.070.D. (Sight Visibility Area Required), Subsection 19.20.100.E.4. (Pavement), and Subsection 19.30.070 (Parking Design Standards) of the Novato Municipal Code.
   c. Off-Street ~~On-Site~~ parking is not required for an accessory dwelling unit in any of the following instances:
      (1) The accessory dwelling unit is located within one-half mile walking distance of public transit as defined in this Section.
      (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
      (3) The accessory dwelling unit is part of a proposed or existing primary residence or existing accessory structure converted to accommodate an accessory dwelling unit.
      (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
      (5) When there is a Cear Sshare V~~v~~ehicle F~~f~~acility, as defined in this Section, located within one block of the accessory dwelling unit.

(6) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new primary dwelling unit on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

d. Primary Dwelling Parking. Where an existing garage, carport, uncovered parking space, or covered parking structure is demolished or converted to create an accessory dwelling unit then those off-street parking spaces are not required to be replaced.

2. The provisions of this subsection shall not apply to the accessory dwelling unit types addressed in Section 19.34.030.N.2.

R. *Submittal Requirements.* The submittal requirements for accessory dwelling units are those required by the Community Development Department for a building permit. ~~established by separate policy published by the Community Development Director.~~

S. *Noticing.* The City's Planning Division shall prepare, and issue a ~~A~~ courtesy notice ~~shall be issued~~ for an accessory dwelling unit in compliance with the provisions of Division 19.58.

T. *Deed Restriction.* A deed restriction, signed by the property owner(s) of record and the Community Development Director or designee, shall be recorded with the Marin County Recorder's office, listing the restrictions and limitations of an accessory dwelling unit as identified below. Said deed restriction shall be recorded prior to the final occupancy of an accessory dwelling unit and run with the land, and shall be binding upon any future owners, heirs, or assigns. The deed restriction shall state:

1. The accessory dwelling unit shall not be sold separately from the primary dwelling unit, except as provided by Government Code Section ~~65852.26~~ 66341;

2. The accessory dwelling unit shall ~~not~~ be rented to the same person or persons for a term ~~period~~ of ~~less than~~ 30 consecutive calendar days or longer;

3. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of Section 19.34.030 can result in legal action against the property owner, including revocation of any right to maintain an accessory dwelling unit on the property.

The provisions of this subsection shall not apply to the accessory dwelling unit types addressed in Section 19.34.030.N.2.

U. *Development Impact Fees.* Accessory dwelling units that are less than ~~of~~ 75049 square feet in floor area ~~or less~~ are not subject to paying development impact fees. Accessory dwelling units ~~of~~ that are 750 square feet or larger in floor area shall pay development impact fees. ~~When applicable, development impact fees shall be~~ charged proportionally in relation to the square footage of the primary dwelling unit.

~~V. This section shall remain in effect until January 1, 2025, thereafter it may be repealed and replaced or amended.~~

V. *Unpermitted Accessory Dwelling Unit.* An unpermitted ADU that was constructed before January 1, 2020, can be permitted pursuant to the provisions of Government Code Section 66332.

The existing text of NMC Section 19.34.031 shall be amended as follows:

**19.34.031 Junior Accessory Dwelling Units.**

This Section provides standards for the establishment of junior accessory dwelling units in compliance with California Government Code §65852.22 and Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) of this Title.

A. *Definitions.* The definitions below shall apply to the following terms as used in this Section:

1. Efficiency Kitchen. A kitchen with the minimum following components:
   a. A sink with a minimum width and length of 16-inches and a waste line diameter of 1.5 inches;
   b. A cooking facility or appliance that uses electrical service, natural gas, or propane gas; and
   c. A food preparation counter and storage cabinets that are 6-feet in length.

2. Junior Accessory Dwelling Unit (JADU). A dwelling unit that is accessory to and located within the walls of a legal primary single-family dwelling on the same site. A junior accessory dwelling unit provides independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and cooking. Cooking and food preparation facilities shall meet the minimum definition of an "Efficiency Kitchen" as defined by A.1. above. Bathroom facilities may be independently provided for the junior accessory dwelling unit or may be shared with occupants of the primary dwelling.

3. Nonconforming Zoning Condition. A physical improvement on a property that does not conform with current zoning standards.

4. Proposed Dwelling. A new single-family dwelling that is the subject of a permit application and that meets the requirements for permitting.

5. Single-Family Dwelling. As defined in Division 19.60 (Definitions/Glossary).

B. *Land Use.* Junior accessory dwelling units represent a residential land use and are not required to meet the density requirements of the Novato General Plan or this Title. Junior accessory dwelling units are an allowed land use where single-family dwellings are permitted by zoning as listed in the land use tables of Article 2 subject to meeting the provisions of this section, as well as on lots where an existing single-family

dwelling maintains legal nonconforming land use status in accordance with NMC Section 19.52.020 (Restrictions on Nonconforming Uses and Structures).

C. *Maximum Number of Units.* A maximum of one junior accessory dwelling unit shall be allowed on a lot within the walls of an existing or a proposed primary single-family dwelling unit.

D. *Accessory Dwelling Unit Combined.* An accessory dwelling unit may also be constructed on a lot with a junior accessory dwelling unit subject to the provisions of Section 19.34.030 of this Title.

E. *Nonconforming Zoning Condition.* Notwithstanding the provisions of Division 19.52 (Nonconforming Uses, Structures, and Parcels), the construction of a junior accessory dwelling unit shall not be contingent on the correction of any existing nonconforming zoning condition as defined herein.

F. *Separate Sale or Conveyance.* A junior accessory dwelling unit shall not be sold or conveyed separately from the single-family dwelling in which it is located.

G. *Building Code.* All local and state building code provisions applicable to dwelling units shall apply to junior accessory dwelling units.

H. *Rental Period.* A junior accessory dwelling unit shall not be rented for a period of less than 30-days. A junior accessory dwelling unit shall not be used as a short-term rental.

I. *Certificate of Occupancy.* A certificate of occupancy for a junior accessory dwelling unit shall not be issued before a certificate of occupancy is issued for a new primary single-family dwelling within which the junior accessory dwelling unit will be located.

J. *Street Address Required.* Street addresses shall be assigned to all junior accessory dwellings to assist in emergency response. The street address shall match the primary dwelling followed by a unique alphabetical identifier (e.g., 1000A Main Street for a JADU associated with a primary dwelling of 1000 Main Street).

K. *Owner Occupancy.* The owner of a parcel proposed for a junior accessory dwelling unit shall occupy the primary dwelling unit or junior accessory dwelling unit as their principal residence. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or non-profit housing organization as defined by Government Code section 65589.5.

L. *Development Standards.* Junior accessory dwelling units shall comply with the following standards as addressed by California Government Code Section 65852.22.

1. Unit Size:

~~a. The minimum gross floor area required for a junior accessory dwelling unit is 150 square feet.~~

~~b.~~ The maximum gross floor area allowed for a junior accessory dwelling unit is 500 square feet.

2. Setbacks: A junior accessory dwelling unit shall be located entirely within the footprint of an existing or proposed single-family dwelling.

3. Height Limit: Existing height of the area being converted to a junior accessory dwelling unit or the maximum height approved for a proposed single-family residence within which the junior accessory dwelling unit will be located.

4. Efficiency Kitchen. A junior accessory dwelling unit shall include an efficiency kitchen.

5. Separate Exterior Entry. A separate exterior entryway shall be provided independent of the primary dwelling unit's entryway.

6. Internal Doorway Connection. A common interior doorway shall be provided to connect a junior accessory dwelling unit to the living area of the primary single-family dwelling.

M. *Permit Requirement & Review Procedure.* A junior accessory dwelling unit requires only a building permit. If a building permit application to create junior accessory dwelling unit is submitted concurrently with a permit application to create a new single-family dwelling on the same lot, action on the junior accessory dwelling unit will be deferred until an action is taken on the permit application to create the new single-family residence.

N. *Submittal Requirements.* The submittal requirements for a building permit for a junior accessory dwelling unit are established by separate policy published by the Community Development Director.

O. *Deed Restriction.* Prior to obtaining a certificate of occupancy for a junior accessory dwelling unit, a deed restriction, signed by the owner(s) of record and the Community Development Director or designee, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations applicable to a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. The recorded deed restriction shall state that:

1. The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;

2. The junior accessory dwelling unit may not be rented for a period of less than 30 consecutive calendar days;

3. The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards in Novato Municipal Code Section 19.34.031 (Junior Accessory Dwelling Units).

4. The junior accessory dwelling unit shall be considered legal only so long as the primary dwelling is occupied by the owner of record of the property, unless the

owner is another governmental agency, land trust, or non-profit housing organization;

5. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of Section 19.34.031, may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.

~~O~~P. *On-Site Parking.* No on-site parking is required for a junior accessory dwelling unit.

~~P~~Q. *Replacement Parking.* Where an existing attached garage providing conforming parking for a single-family dwelling is converted to create a junior accessory dwelling unit then those off-street parking stalls shall be replaced on-site by providing uncovered parking stalls complying with the requirements of Section 19.20.100.E.4., Section 19.30.070.D.2.a., Section 19.30.080.A. of this Title and Section 5-17.008.e. of Novato Municipal Code Chapter V. Notwithstanding Section 19.20.100.E.3. of this Title, replacement parking can be located in a required front yard setback. Notwithstanding the requirements of Section 19.30.030.A, replacement parking can be provided in a tandem configuration.

~~Q~~R. *Noticing.* A courtesy notice shall be issued for junior accessory dwelling unit in compliance with Division 19.58.

S. *Unpermitted Junior Accessory Dwelling Unit.* An unpermitted JADU that was constructed before January 1, 2020, can be permitted pursuant to the provisions of Government Code Section 66332.