

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1715

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING NOVATO MUNICIPAL CODE CHAPTER XIX (ZONING) TO ALLOW CHECK CASHING SERVICES AS AN ACCEPTABLE ACCESSORY USE TO TRAVEL AGENCIES AND GROCERY STORES, CLARIFYING THE TREATMENT OF PROHIBITED LAND USES AND ACCESSORY LAND USES, AND FINDING THE AMENDMENTS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3)

WHEREAS, Chapter XIX (hereafter “Zoning Ordinance”) of the Municipal 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 Ordinance is the primary tool used by the City of Novato to implement the goals, objectives, policies and programs of the Novato General Plan 2035, which is the overall land use and development policy document of the City; and

WHEREAS, from time to time it is necessary and beneficial to amend the Zoning Ordinance to reflect changes in local land use preferences and associated regulations, reiterate and clarify provisions, and correct errors and omissions; and

WHEREAS, the City is proposing to amend the Zoning Ordinance, as described in *Exhibit A* attached hereto and incorporated herein by reference, to allow check cashing services as an acceptable accessory use to travel agencies and grocery stores, clarify the treatment of prohibited land uses and accessory land uses, and make other minor, associated clarifications (collectively “Amendments”); and

WHEREAS, on February 26, 2024, the Planning Commission held a duly noticed public hearing on the Amendments and the recommended CEQA determination, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on February 26, 2024, the Planning Commission adopted Resolution No. 2024-001 recommending the City Council find the Amendments to be exempt from CEQA and adopt the Amendments as presented in *Exhibit A* of the Resolution; and

WHEREAS, notices describing the City Council’s public hearing on the Amendments and their accompanying CEQA determination were mailed to all known and potentially affected

grocery store, travel agency, and check cashing businesses in Novato, the Marin County Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in a 1/8th page advertisement in the Marin Independent Journal, a newspaper of local circulation, on March 14, 2024; and

WHEREAS, the City Council conducted a duly noticed public hearing on March 26, 2024, to consider the Amendments, their accompanying CEQA determinations, 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. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

Section 2. Record

The Record of Proceedings (“Record”) upon which the City Council bases its decision on the Amendments and their accompanying CEQA determination includes, but is not limited to: (1) Novato General Plan 2035 and its Final EIR (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the Planning Commission and City Council relating to Novato General Plan 2035, its Final EIR, the Amendments, and their accompanying CEQA determination (3) the evidence, facts, findings and other determinations set forth in this ordinance, (4) the Novato Municipal Code, (5) all studies, data and correspondence submitted to the City in connection with the Amendments and their accompanying CEQA determination (6) all documentary and oral evidence received at public workshops, meetings, and hearings for the Amendments and their accompanying CEQA determination (7) 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 the regulation of land uses 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 3. CEQA FINDING

Based on the Record as described above and all matters deemed material and relevant prior adopting this ordinance, the City Council hereby finds and determines the Amendments to be exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3). CEQA Guidelines Section 15061(b)(3) exempts projects from environmental review where it can be seen with certainty there is no possibility the activity in question may have a significant effect on the environment.

The Amendments allow check cashing services, a primary land use already acknowledged in the Zoning Ordinance, to be conducted as an accessory use to travel agencies and grocery stores, both

of which are also primary land uses currently recognized in the Zoning Ordinance. In addition, the Amendments include text clarifying that a land use not allowed in a given zoning district shall not be established as an accessory use to an allowed use in that district unless expressly permitted by the Zoning Ordinance or an official interpretation of the Ordinance. The Amendments represent minor modifications of select land uses and associated operational requirements already acknowledged in the Zoning Ordinance. The Amendments will not directly or indirectly result in new or intensified development or operational activities that could cause a significant physical change in the environment.

Section 4. Zoning Text Amendment Findings

The City Council makes the following findings regarding the Amendments, as described in Exhibit A, attached hereto and incorporated herein by reference, based on the requirements of Novato Municipal Code Section 19.56.070.C.1.a through c. and C.3.:

C.1.a. - The proposed amendment is consistent with the General Plan;

The Amendment reiterating and clarifying the standing of prohibited uses merely states what is already a function of a permissive zoning ordinance used to implement the land use designations of a general plan. Accordingly, the Amendment supports implementation of the land use designations of General Plan 2035 by allowing primary and accessory land uses where desired and excluding such uses where not desired or incompatible with other land uses.

The Amendments allow check cashing services as an accessory use to travel agencies and grocery stores recognizing there is local demand for the combination of these land uses. This combination of uses is not anticipated to result in any operational or aesthetic conflicts with the other types of commercial land uses allowed in the commercial zoning districts where travel agencies and grocery stores are permitted. Accordingly, the Amendments maintain consistency with the land use designations of General Plan 2035.

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

The Amendments support the public interest, health, safety, convenience, and welfare of the City on the basis the revisions: a) reiterate and clarify that a land use not allowed in a given zoning district shall not be established as an accessory use to an allowed use in that district unless expressly permitted by the Zoning Ordinance or an official interpretation of the Ordinance; this is declaratory of existing zoning provisions and common administration of a permissive zoning ordinance; b) expand the ability to offer check cashing services as an accessory use to travel agencies based on local preference and demand for this combination of services; c) formally acknowledge check cashing services as an acceptable accessory activity at grocery stores recognizing these services have long been offered as an incidental service at such stores; and d) impose reasonable uniform limitations on access to and on-site advertising for accessory check cashing services consistent with same limitations applied to other accessory uses acknowledged in the Zoning Ordinance.

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

The Amendments were reviewed against the requirements of CEQA and the Novato Environmental Review Guidelines. Based on this review, the Amendments are exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) on the basis the Amendments will not directly or indirectly lead to new or intensified development or operational activities that could cause a significant physical change in the environment.

C.3. - The proposed amendment is internally consistent with other applicable provisions of this Zoning Ordinance.

The Amendments are limited to only those zoning provisions affecting check cashing services, travel agencies, grocery stores, and accessory uses. Accordingly, the Amendments address all necessary revisions to maintain the internal consistency of the Zoning Ordinance, including minor adjustments to relevant cross references and land use titles to ensure consistent and clear terminology.

Section 5: Decision

The City Council hereby amends Novato Municipal Code, Chapter XIX, as set forth in Exhibit A, attached hereto and incorporated herein by reference, and determines such Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

Section 6: 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 7: Publication and Effective Date

This ordinance shall be published in accordance with applicable provisions of law after its adoption, 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.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced and first read at a regular meeting of the City Council of the City of Novato, Marin County, California, held on the 26th day of March 2024. The foregoing ordinance was then duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the 9th day of April 2024, by the following vote, to wit:

AYES:	Councilmembers	Eklund, Farac, Milberg
NOES:	Councilmembers	Wernick, O'Connor
ABSTAIN:	Councilmembers	
ABSENT:	Councilmembers	

Mayor of the City of Novato

Attest:

City Clerk of the City of Novato

Approved as to form:

City Attorney of the City of Novato

Attachment: Exhibit A: Zoning Ordinance Text Amendments

EXHIBIT A
ZONING ORDINANCE TEXT AMENDMENTS
CHECK CASHING SERVICE & ACCESSORY RETAIL AND SERVICE USES

Proposed amendments are **redlined** in ~~strike-out~~ (deleted text) and underlined (added text), as follows:

19.02.020 Rules of Interpretation.

- F. *Allowable Uses of Land.* If a proposed use of land is not specifically listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) the use shall not be allowed, except as follows:
1. *Similar Uses Allowed.* The Zoning Administrator may determine that a proposed use not listed in Article 2 may be allowed as a permitted or conditional use, or is not allowed. In making a determination that a proposed use is allowed as a permitted or conditional use, the Zoning Administrator shall first find that:
 - a. The characteristics of, and activities associated with the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, traffic generation, parking, dust, noise or intensity than the uses listed in the district;
 - b. The proposed use will meet the purpose/intent of the zoning district that is applied to the site; and
 - c. The proposed use will be consistent with the goals, objectives and policies of the General Plan and any applicable Specific Plan, Master Plan, or Precise Development Plan.
 2. *Applicable Standards and Permit Requirements.* When the Zoning Administrator determines that a proposed, but unlisted use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required and what other standards and requirements of this Zoning Ordinance apply.
 3. *Accessory Use Prohibited.* A use that is not allowed in a given zoning district shall not be established as an accessory use to an allowed use in that district unless expressly permitted by this Zoning Ordinance or an official interpretation of this Zoning Ordinance adopted pursuant to Division 19.02.

19.06.030 Allowable Land Uses and Permit Requirements.

The uses of land allowed by this Zoning Ordinance in each zoning district are identified in Divisions 19.08, 19.10, 19.12, 19.14, and 19.16, together with the type of land use permit required for each use.

- A. *Permit Requirements.* Tables 2-2, 2-4, 2-6, 2-7 and 2-9 provide for land uses that:
1. Are permitted subject to compliance with all applicable provisions of this Zoning Ordinance, subject to first obtaining a Zoning Clearance (Section 19.42.020), and any Building Permit or other permit required by the Municipal Code. These are shown as "P" uses in the tables; and
 2. May be allowed subject to the approval of a Use Permit (Section 19.42.050), and shown as "UP" uses in the tables.

Note: Design Review may also be required prior to the issuance of a Building Permit for certain uses and types of development. Design Review requirements are established by Section 19.42.030.

- B. *Multiple Uses on a Single Site.* Where a proposed project includes multiple land uses, and Tables 2-2, 2-5, 2-6, 2-7, and 2-9 require different land use permits for some of the uses, each use shall be authorized through the approval of the permit required for the specific use.
- C. *Uses Not Listed.* Land uses that are not listed in Tables 2-2, 2-4, 2-6, 2-7, or 2-9, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 19.02.020.F (Rules of Interpretation - Allowable Uses of Land), or Section 19.06.040 (Exemptions from Land Use Permit Requirements).
- D. Accessory Use Prohibited. A use that is not allowed in a given zoning district shall not be established as an accessory use to an allowed use in that district unless expressly permitted by this Zoning Ordinance or an official interpretation of this Zoning Ordinance adopted pursuant to Division 19.02.
- ~~D.E.~~ *Use Violating Federal or State Laws Unlawful.* Notwithstanding any other provision of this Title, nothing in this Title shall permit, enable, endorse, allow, or make lawful any use that is in violation of any lawful federal or state statute or provision of the United States or California Constitution. No permit, entitlement, authorization, application, or approval shall be granted or approved, as the case may be, by any employee, officer or agent of the City for any use of real property that is in violation of any lawful federal or state statute or provision of the United States or California Constitution. Any use of real property located within the jurisdictional boundaries of the City that is conducted or maintained in violation of any lawful federal or state statute or provision of the United States or California Constitution shall constitute a violation of this Title and is hereby declared to be a public nuisance.

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	
RETAIL USES								
Accessory retail and service uses	P	P	P	P	P	P	P	19.34.034
Alcoholic beverage sales, on or off-site (15)	UP	UP	UP	UP	UP	UP	UP	19.34.050
Art, antique, collectible, and gift stores	—	P	P	P	P	P	—	

Auto parts sales	—	P	P	P	P	P	P	
Auto sales and rental	—	—	UP	—	—	UP	P	
Bars and night clubs	—	—	UP	UP	UP	—	UP	
Book stores	—	P	P	P	P	P	P	
Building material stores	—	—	UP	—	—	UP	P	
Commercial Cannabis - Retail, Non-Storefront (2),(17),(18) (State license type 9 only)	P	—	—	—	—	P	P	19.34.066
Construction/heavy equipment sales and rental	—	—	—	—	—	UP	UP	
Convenience stores	—	UP	UP	UP	UP	—	—	
Drive-in and drive-through sales	—	UP	UP	—	—	—	UP	
Equipment rental	—	—	UP	UP	UP	P	P	
Extended hour businesses (11 p.m. to 6 a.m.)	P (8)	UP	P (8)	P (8)	P (8)	P (8)	P (8)	
Florists	—	P	P	P	P	P	P	
Furniture, furnishings & appliance stores	—	—	P	P	P	—	—	
General retail	—	P	P	P (9)	P (9)	P	P	7-10
Grocery stores	—	UP(19)	P(19)	P(19)	P(19)	—	—	7-10
Gun sales	—	—	UP	—	—	UP	—	
Mobile home, RV, and boat sales	—	—	—	—	—	UP	P	
Outdoor displays retail sales, temporary	—	P	P	P (10)	P (10)	P	P	19.34.130
Outdoor displays retail sales, permanent	—	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, including incidental on-site alcohol sales	UP	P	P	P (9)(10)	P (9)(10)	UP	UP	19.34.050
Tobacco product shops	—	—	—	UP	UP	—	—	19.34.166
Warehouse retail	—	—	UP	—	—	—	—	

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	
SERVICE USES								
Animal Grooming	—	UP	UP	UP (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)	P	P	P	P	P	P	P	
Banks	P	P	P	UP (13)	P(13)	—	P	
Business support services	P	P	P	P (5)	UP (5)	P	P	
Car wash	—	—	UP	—	—	—	UP	
Check Cashing Service	—	—	UP	—	—	—	—	
Child/adult day care centers	UP	UP	UP	UP (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	—	UP	UP	UP	UP (11)	—	—	
Financial Services	P	P	P	P (5)	P (12)	—	P	
Gas stations	—	—	—	—	—	—	—	19.14.030.C 19.52.022
Hotels and motels	UP	UP	UP	UP	UP	UP	UP	
Kennels & boarding	—	—	UP	—	—	UP	UP	
Massage Establishments	UP	UP	UP	UP	UP	UP	UP	19.34.190 see also Sec. 8-4
Massage establishments - small	P	P	P	P	P	P	P	see also Sec. 8-4
Medical - Clinics, offices, and laboratories	P	P	P	P (5)	P (6)	—	—	
Medical - Extended care	UP	—	UP	—	—	—	—	
Medical - Hospitals	UP	—	UP	—	—	—	—	
Mortuaries & funeral homes	UP(15)	—	UP(15)	—	—	—	UP(15)	

Offices	P	P	P	P (5)	P (6)	P	P	
Pawn Shops	—	—	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	—	—	—	—	—	—	UP	19.34.168
Travel Agency	P(19)	P(19)	P(19)	P(19)	P(19)	P(19)	P(19)	
Upholstering shops	—	—	—	—	UP	P	P	
Veterinary clinics, outpatient treatment only	—	UP	UP	—	UP	UP	UP	
Veterinary clinics, animal hospitals	—	—	UP	—	UP	UP	UP	

(19) Check cashing services may be offered as an accessory use to a travel agency or grocery store subject to the requirements of Section 19.34.034.

19.14.040 Special Purpose District General Development Standards.

- A. *General 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 Table 2-10, in addition to any other applicable requirements of this Article, and the development standards (e.g., landscaping, parking and loading, etc.) in Article 3 (Site Planning and General Development Standards).

TABLE 2-9 Allowed Uses and Permit Requirements (2) for Special Purpose Zoning Districts	P Permitted Use (2)			Specific Use Regulations
	UP Use Permit required (3)			
	— Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY DISTRICT			
	MU	CF	PL	
RETAIL TRADE				
Accessory retail and service uses	P	—	—	<u>19.34.034</u>
Alcoholic beverage sales, on or off-site (4)	UP	—	—	19.34.050
Convenience stores	UP	—	—	
General retail	P	—	—	
Grocery stores (5)	UP	—	—	
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	—	—	
Massage establishments	UP	—	—	19.34.190 see also Sec. 8-4
Massage establishments - small	P	—	—	see also Sec. 8-4
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	—	—	—	
Wireless communications facilities: New towers or monopoles or new building- mounted facilities	UP	UP	—	19.38
Wireless communications facilities: New facilities co-located on existing towers, monopoles or buildings with existing permitted antennas	P(2)	P(2)	—	19.38

(5) Check cashing services may be offered as an accessory use to a grocery store subject to the requirements of Section 19.34.034.

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 Retail and Service Uses. The retail sales of various products (including food) and/or the provision of personal services (e.g., hair cutting, etc.) within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers, and is not visible from public streets. These uses include pharmacies, gift shops, and food service establishments within hospitals; convenience stores and food service establishments within hotel, office and industrial complexes.

Check Cashing Service. A service ~~operation use~~ 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.

Grocery Store. A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the site of the store. A grocery store may offer check cashing services as an accessory use (see the separate definition of “Check Cashing Service” and “Accessory Use”).

Medical Services - Hospitals. Hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide

complete health care. May include on-site accessory clinics and laboratories, accessory retail and service uses and emergency heliports (see the separate definition of “Accessory Retail and Service Uses”).

Travel Agency. An establishment providing direct services to consumers in making travel arrangements, including the booking of airline tickets, tours and hotel rooms. A travel agency may offer check cashing services as an accessory use (see the separate definition of “Check Cashing Service” and “Accessory Use”).