

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:
DH X
CM X
CA X

DATE: FEBRUARY 7, 2023

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MICHAEL KILLEBREW, CITY MANAGER
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT
PATRICK MUNOZ, CITY ATTORNEY

SUBJECT: UPDATE AND IMPLEMENTATION OF COASTAL DEVELOPMENT PERMIT FOR SHORT-TERM RENTALS IN THE COASTAL ZONE; ADOPTION OF URGENCY ORDINANCE – AMENDMENT TO MUNICIPAL CODE SECTION 5.38 (SHORT-TERM RENTAL PERMITS) AND FINDINGS OF EXEMPTION FROM CEQA RELATED TO SAME; PROVIDE DIRECTION REGARDING PROPOSED PROCESS FOR REVIEW AND ISSUANCE OF SHORT-TERM RENTAL PERMITS

RECOMMENDED ACTION:

That the City Council:

1. Authorize the City Manager to sign the Short-Term Rental (STR) Program Coastal Development Permit (CDP) Acknowledgement to accept the conditions required by the California Coastal Commission and begin implementation of the CDP.
2. Adopt an urgency ordinance amending Section 5.38 of the Municipal Code to create STR Permit requirements, and establish regulations for short-term rentals outside of the Coastal Zone, including findings of exemption from CEQA, entitled:

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.38 OF THE DANA POINT MUNICIPAL CODE RELATED TO BUSINESS REGULATIONS FOR SHORT-TERM RENTALS

3. Review and provide direction, if needed, for the proposed process to review STR Permit applications and issue STR Permits.

BACKGROUND:

In 2013, the City Council adopted Ordinance No. 13-01 and thereby added Chapter 5.38, Short Term Rental Permits, to the Dana Point Municipal Code. Thereafter it adopted Ordinance 21-02 amending Chapter 5.38 to add additional regulations and permit requirements applicable to STRs operating in the City in order to prevent and abate nuisance conditions that might otherwise exist in connection with such use. As a result of efforts to comply with the Coastal Act and a related referendum, while at one time 185 STR permits were issued in the City, the City ceased issuing STR permits, and only allowed STR operations by the existing permittees. Over time the total number of such permits has dwindled to 129 as a result of attrition.

The Council has been attempting to address the issue of STR regulations since that time. In July 2022, following an appeal from a Planning Commission approval, the City Council adopted a Coastal Development Permit (CDP) approving an STR Program applicable to the City's Coastal Zone (CZ). Following an appeal of that decision, on November 16, 2022, the California Coastal Commission (CCC) denied the appeal and approved a CDP for a Short-Term Rental Program in the CZ. The CCC approval included modifications to the STR Program approved by the City Council (Supporting Document B) including the following:

- Eliminated the increased cap for Mixed-Used STRs;
- Multi-Family Home Stay, Mixed Use, and Non-Primary STRs to be within the Permit Cap;
- No more than 20 percent of residential units within a Mixed-Use district may be converted to STRs; and
- Multi-family properties with five or fewer residential units may convert one unit to an STR and properties with six or more units may convert no more than 20 percent of the units.

Since adoption of Ordinances 13-01 and 21-02, various court decisions have occurred which hold STRs are permitted in connection with permitted residential uses, as customary and incidental uses of such properties, unless the City specifically regulates them. Hence, the City's position at the time such Ordinances were adopted (that the City's permissive zoning scheme prohibited such uses) is no longer tenable. Moreover, since these cases establish that STRs in the CZ are a use authorized by the City's Local Coastal Program (which allows residential uses), in order to comply with the Coastal Act only a CDP was required to adopt STR regulations. As noted above, the City has processed a CDP for this purpose, which was ultimately approved by the Coastal Commission.

Now that the City has a CDP which enables it to regulate STRs inside the CZ, the Council needs to address its prior direction not to issue any new STR Permits, including outside the CZ. An amendment to Chapter 5.38 is proposed to address STRs outside the CZ and to codify the requirements of the CDP within the CZ. The amendment is proposed to be adopted by way of an Urgency Ordinance because a threat to public peace, health

and safety exists if such amendments are not effective immediately. Specifically, the regulations in the CDP and the proposed amendment to Chapter 5.38 are designed to prevent and abate public nuisances associated with STRs, including, but not limited to, excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse. If the proposed Ordinance is not adopted so as to be effective immediately, there is a possibility that STRs might be established which do not comply with these regulations which are designed to protect public peace, health and safety.

DISCUSSION:

CDP Authorization

Staff recommends the City Council authorize the City Manager to sign the CCC's CDP Acknowledgement. This will allow the City to implement the STR Program in the Coastal Zone, and thereby ensure regulations are in place in the CZ that will prohibit, and allow the City to abate public nuisances that might otherwise be associated with STRs, especially those caused by unpermitted, illegal STR operators.

Amendment to STR Business Regulations (5.38 DPMC)

The approval of the CDP for the STR Program in the CZ results in both a need to codify the CDP requirements in the Municipal Code for enforcement purposes, and to evaluate the Council's prior direction to cease issuing STR Permits outside the CZ. Staff proposes that the Council adopt and implement similar regulations as those in the CZ, as set forth in the CDP, to ensure consistent enforcement and processing, and proposes amending the STR Business Regulations (Section 5.38 of the DPMC) as set forth in the proposed Urgency Ordinance. The amendment would "grandfather" the 60 existing permits in place outside the CZ and allow a maximum of 115 permits (increase of 55) for all types of STRs.

Table 1 - STR Permit Caps

	COASTAL ZONE	OUTSIDE COASTAL ZONE	TOTAL STRS
Cap Total	115 Applies to Non-Primary and MF Homestay (including at Mixed Use Parcels)	115 All STR Types	230
No Cap	Home Stay, Primary	--	--
Cap Adjustment	Each Home Stay and Primary permit reduces cap	--	--
Existing STR Permits	69	60	129
New Permits	46	55 (25 Initiate Now) (30 Consider Later)	101
Total	115	115	230

To best manage implementation of the Program, the amendment to Chapter 5.38 proposes to phase issuance of the available permits outside the CZ. The initial phase would allow for 25 new permits (increase to 85 STRs) by July 1, 2023. Thereafter, at approximately the end of the year, the City Council would evaluate the STR Program city-wide based on the STR tracking metrics (Supporting Document C) which will enable an evaluation of impacts to community character including nuisances, adherence to operating rules and adequacy of City resources for enforcement. It is noted that Supporting Document C provides the tracking metrics required by the CDP. Since staff will be tracking this data anyway, it proposes to use substantially similar metrics for tracking STRs outside the CZ. If after consideration of the evaluation the Council is satisfied, it is proposed that staff would be authorized to make available the remaining 30 permits up to the 115 cap outside the CZ. Alternatively, the Council could modify the Program outside the CZ at that time.

STR Process

The new STR Programs (in and outside the CZ) require the implementation of an administrative process for application review, inspections, enforcement, and public outreach. Staff proposes the following steps for implementation:

- February 27th – Public Zoom meeting to share application, submittal, and operating requirements. The meeting would be recorded and posted to STR website
- May 1st – Applications submitted via email to str@danapoint.org
- Review applications
 - Prioritization/Compatibility – STR types that are compatible with the neighborhood, less likely to result in a nuisance, and can be easily monitored would be prioritized as follows:
 - Primary STRs and Home Stay STRs
 - Multi-Family Homestays
 - Mixed-Use Parcel STRs
 - Non-Primary STRs
 - Ineligible Properties
 - Existing violations (unpermitted improvements, expired building permits, operating without a STR Permit, etc) on the property
 - Review for completeness of applications and compliance with regulations (1 permit per owner, HOA letter, etc.)
 - HOA letter of authorization required
 - Complete applications will move to inspections
- Property inspections for pending STR permits
 - Identification of existing violations results in denial of a permit
- Permit issuance and neighbor notification completed by City (1-3 days per application)
- Establish a waitlist for complete applications
- Continued increased enforcement. Weekend monitoring during peak periods.

- Continued TOT collection
- STR metrics tracking

NOTIFICATION AND FOLLOW-UP:

All participants in the STR Interested Parties list were notified regarding the Council’s consideration of this matter on February 7, 2023 via email.

FISCAL IMPACT:

The nonrefundable permit fee will cover the cost of implementing the STR Program and enforcement. The proposed ordinance recommends Primary STRs, Home Stay STRs, Multi-Family Homestays and STRs located on Mixed-Use Parcels be subject to a 25 percent discount of the permit fee.

The new permit fee is to be considered by the City Council as a separate agenda item.

ALTERNATIVE ACTIONS:

Other City Council directed action.

ACTION DOCUMENTS:

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A. Ordinance 23-XX	6
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SUPPORTING DOCUMENTS:

B. Coastal Zone STR Program CDP 22-0010 (A-5-DPT-22-0038)	24
C. STR Program Tracking Metrics – Per CDP22-0010	47

ACTION DOCUMENT A**ORDINANCE NO. 23-XX****AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.38 OF THE DANA POINT MUNICIPAL CODE RELATED TO BUSINESS REGULATIONS FOR SHORT-TERM RENTALS**

WHEREAS, on April 2, 2013, the City Council adopted Ordinance No. 13-01 and thereby added Chapter 5.38, Short Term Rental Permits, to the Dana Point Municipal Code, and thereafter adopted Ordinance 21-02 amending Chapter 5.38 to add additional regulations and permit requirements applicable to Short-Term Rentals (STRs) operating in the City in order to prohibit nuisance conditions that might otherwise exist in connection with such use; and

WHEREAS, the Planning Commission did, on the 9th day of May, 2022, hold a duly noticed public hearing as prescribed by law to consider a Coastal Development Permit (CDP) establishing an STR Program throughout the City after which it approved Coastal Development Permit CDP 22-0010; and

WHEREAS, the approval of CDP 22-0010 was appealed to the City Council; and

WHEREAS, on the 12th day of July, 2022, the City Council held a public hearing on the appeal of the Planning Commission's determination with respect to CDP 22-0010, and denied the appeal and approved the CDP with various amendments including specifically an amendment whereby it applied only in the City's Coastal Overlay Zone; and

WHEREAS, the approval of CDP 22-0010 by the City Council was appealed to the California Coastal Commission; and

WHEREAS, on the 22nd day of November, 2022, the Coastal Commission approved CDP 22-0010 (A-5-DPT-22-0038) applicable to STRs located within the City's Coastal Overlay Zone, with various amendments to the CDP approved by the City Council; and

WHEREAS, the City Council now desires to amend Chapter 5.38 to create a permit requirement for all short-term rentals, and to create business regulations applicable to STRs outside the Coastal Overlay Zone that are consistent with CDP 22-0010 (A-5-DPT-22-0038); and

WHEREAS, since adoption of Ordinances 13-01 and 21-02 various court decisions have occurred which hold short term rental uses are permitted in connection with permitted residential uses, as customary and incidental uses of such properties, unless the City specifically regulates them, and hence the City's position at the time such Ordinances were adopted (that the City's permissive zoning scheme prohibited such uses) is no longer tenable; and

WHEREAS, a threat to public peace, health and safety exists in the event the proposed Ordinance amending Chapter 5.38 is not adopted on an urgency basis so as to be effective immediately in that in the absence of its immediate effectiveness a risk exists that short-term rentals may be established which do not comply with the proposed regulations which are designed to prevent and abate public nuisances associated with short-term rentals, including but not limited to excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the amendment to Chapter 5.38 does not qualify as a “project” because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Alternatively, if the amendment to Chapter 5.38 is a “project” subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by various Court decisions), and the City’s amendment to Chapter 5.38 would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council’s actions in amending Chapter 5.38 is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08 relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the project would have new or more severe environmental impacts, or any new or more feasible mitigation measures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOW:

SECTION 1. Findings. The above recitations are true and correct, are hereby adopted as findings of the Council, and incorporated herein by this reference.

SECTION 2: Amendment to Chapter 5.38. The provisions of Chapter 5.38 of the Dana Point Municipal Code shall be amended in their entirety and replaced with the provisions of the attached Exhibit A.

SECTION 3: CEQA. the City Council finds that the proposed amendment to Chapter 5.38 does not qualify as a “project” because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable

indirect physical change in the environment. Alternatively, if the adoption of this Ordinance is a “project” subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by applicable case law), and the City’s adoption of the amendments to Chapter 5.38 would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council’s actions in adopting this Ordinance is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08 relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the project would have new or more severe environmental impacts, or any new or more feasible mitigation measures.

SECTION 4: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 5: Effective Date. This Ordinance is adopted as an urgency measure for the immediate preservation of the public peace, health and safety, and shall become effective immediately upon its adoption pursuant to Government Code Section 36937(b). Within fifteen (15) days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED and ADOPTED this 7th day of February, 2023.

ATTEST:

MIKE FROST, MAYOR

SHAYNA SHARKE, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Shayna Sharke, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 23-XX was duly adopted as an urgency measure at a regular meeting of the City Council on the 7th day of February 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

SHAYNA SHARKE, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

SHAYNA SHARKE, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 23-XX, being:

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.38 OF THE DANA POINT MUNICIPAL CODE RELATED TO BUSINESS REGULATIONS FOR SHORT-TERM RENTALS

was published in summary in the Dana Point Times on the XX day of XX, 20XX, and, in further compliance with City Resolution No. 91-10-08-1, on the XXrd day of XX, 20XX, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

Dana Point City Hall
Capistrano Beach Post Office
Dana Point Post Office
Dana Point Library

SHAYNA SHARKE, CITY CLERK
Dana Point, California

EXHIBIT A**5.38.010 Purpose.**

It is the intent of this Chapter to establish a permit requirement for all Short-Term Rentals (“STRs”) within the City of Dana Point, and accordingly Section 5.38.045 hereof is intended to and shall apply to STRs located both within and outside of the City’s Coastal Zone. The remaining provisions of this Chapter set forth rules and regulations applicable to STRs located outside of the City’s Coastal Zone; and except for Section 5.38.045 regulations applicable to STRs located within the City’s Coastal Zone are addressed in Coastal Development Permit No. CDP22-0010 (A-5-DPT-22-0038), as it may be amended from time to time. The purpose of the regulations set forth herein is to protect public health safety and welfare by limiting the total number of STRs which may exist, and to require the owner or owners of a residential Dwelling that operates as an STR to apply for and secure a permit authorizing such use in a manner that will safeguard the peace, safety and general welfare of the residents of Dana Point, their guests, and out of town visitors, by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to STRs. There are currently existing STR Permits in the City. These existing STR Permits are subject to the provisions of this Chapter on a moving forward basis, including the provisions hereof related to renewals; but, they are “grandfathered” in the sense they continue to remain valid provided their Permits are renewed, and the holders of such STR Permits do not need to submit a new initial application.

5.38.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- (a) “Accessory Dwelling Unit” shall mean an attached or a detached residential Dwelling that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An Accessory Dwelling Unit also includes the following: (A) An efficiency unit, and (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.”
- (b) “Agent” shall mean the representative, if any, designated by the owner in accordance with Section 5.38.040.
- (c) “City Manager” shall mean the City Manager of the City of Dana Point or designee.
- (d) “Community Development Director” shall mean the Community Development Director of the City of Dana Point or designee.
- (e) “Dwelling Unit” or “Dwelling” shall have the same meaning as set forth in Section 9.75.050 of the Municipal Code.

- (f) “Home Stay Short-Term Rental” shall mean an STR at a Dwelling (as defined in the Municipal Code) at which the Property Owner rents a portion of the Dwelling Unit for use as an STR while continuing to live in the Dwelling Unit during the period of the rental.
- (g) “Junior Accessory Dwelling Unit” shall mean a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior Accessory Dwelling Unit may include separate sanitation facilities or share sanitation facilities with the existing structure.”
- (h) “Mixed-Use Parcel” shall mean a parcel upon which the City’s zoning permits commercial and residential uses to exist at the same time (i.e., commercial on first floor and residential on upper floors). By way of example only, as of the effective date of this Chapter, parcels located in the following zoning districts in the City would meet the definition of Mixed-Use Parcel: C/R; R/C-18; P/R; TC-MU.
- (i) “Mixed-Use Parcel STR Permit” shall mean a Permit for either a Non-Primary STR or a Multi-Family Home Stay STR issued for an STR located in a Dwelling on a Mixed-Use Parcel.
- (j) “Multi-Family Home Stay Short-Term Rental” shall mean an STR at a parcel upon which a multi-family Dwelling (i.e., a duplex, tri-plex, etc.) lawfully exists, and at which all the following conditions also exist: (i) the Property Owner owns two or more Dwellings on the parcel, and (ii) the Property Owner resides in one of the Dwellings on the parcel and such Dwelling unit is the Property Owner’s Primary Residence, and (iii) one of the Dwellings owned by the Property Owner is used for STR purposes.
- (k) “Non-Primary Short-Term Rental” shall mean a Dwelling used for Short-Term Rental purposes other than a Home Stay, Multi-Family Home Stay or Primary Residence Short-Term Rental.
- (l) “Permittee” shall mean the holder of an STR Permit.
- (m) “Primary Residence” shall mean a Dwelling which a Permittee uses as his or her domicile and permanent principle home for legal purposes.
- (n) “Primary Residence Short-Term Rental” shall mean an STR at a Dwelling which is the Property Owner’s Primary Residence, as evidenced per the provisions hereof, which is being rented for STR purposes when the Property Owner is traveling or living elsewhere.
- (o) “Property Owner” shall mean a person who holds a recorded interest in a parcel upon which a Dwelling exists which is used for, or proposed to be used for an STR. In the case of a trust, both the trustees and any person or entity holding a beneficial interest of more than 5% in the trust are deemed to be the Property Owner. In the case of a business entity, any person having an ownership interest of more than 5% in the entity shall be deemed to be a Property Owner.
- (p) “Short-Term Rental” or “STR” shall mean the rental of any structure or any portion of any structure for occupancy, dwelling, lodging or sleeping purposes for at least two (2)

consecutive nights, but no more than thirty (30), consecutive calendar days in duration in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings.

(q) “STR Permit” means a permit issued to the Property Owner to authorize use of a Dwelling for STR purposes pursuant to this Chapter.

5.38.030 Short-Term Rental Permit Limitations

(a) A total maximum of 115 STR Permits may be issued for any type of STR located at Dwellings outside the City’s Coastal Zone. Any STR Permits issued as of the effective date of this Chapter outside the City’s Coastal Zone shall continue to be valid, and shall count towards this numerical cap.

(b) One goal of this Chapter is to encourage Home Stay STRs, Primary Residence STRs, Multi-Family Home Stay STRs, and STRs on Mixed-Use Parcels which are deemed to be preferred over Non-Primary STRs. Towards this end, the following provisions shall apply:

(1) The STR Permit fee for Home Stay STRs, Primary Residence STRs, Multi-Family Home Stay STRs, and STRs on Mixed-Use Parcels shall be calculated as follows: (Total STR Permit fee established by the City Council x 0.75).

(2) Permit applications for Home Stay STRs, Primary Residence STRs, Multi-Family Home Stay STRs, and STRs on Mixed-Use Parcels shall be given priority .

(c) When a parcel upon which a Dwelling exists for which an STR Permit has been issued is sold, the STR Permit shall expire upon the date the title to such parcel transfers, and the STR Permit shall not transfer to the new Property Owner. Should the new Property Owner desire to use any Dwelling on the parcel as an STR, such new Property Owner must apply for and receive an STR Permit.

(d) Notwithstanding the foregoing, if a parcel upon which a Dwelling exists for which an STR Permit has been issued changes ownership through an inheritance, or as a result of a family transfer that results in no new property tax assessment of the parcel, the STR Permit may be transferred provided the new Property Owner(s) is/are family members of the prior Property Owner. In such circumstance, the new Property Owner may apply for an STR Permit transfer. The STR Permit transfer shall be subject to such requirements as may be imposed by the Community Development Director to confirm the new Property Owner(s) is(are) a family member(s) of the prior Property Owner(s). Prior to the first use of any Dwelling on a parcel as an STR after a change of ownership as a result of an inheritance, an STR Permit transfer shall have been approved by the City. The Community Development Director shall determine if a familial relationship exists, and shall base that decision on the totality of the facts of any given circumstance in a manner that carries out the intent of this provision consistent with applicable laws.

(e) While 115 total STR Permits are authorized by this Chapter, the Community Development Director shall make available no more than 25 new STR Permits before July 1, 2023. Thereafter,

before any additional new STR Permits are issued, the Community Development Director shall present a report to the City Council which shall assess the program created by this Chapter and Coastal Development Permit No. CDP22-0010 (A-5-DPT-22-0038).

(f) Upon issuing the maximum number of STR Permits authorized by this Chapter, the City will establish a waitlist for the issuance of additional STR Permits when they become available.

(g) Upon the effective date of this Chapter, STR Permits shall be limited to one STR Permit per Property Owner without regard to the category of STR to which such STR Permit applies (i.e., whether for a Home Stay, Non-Primary, Multi-Family Home Stay, Mixed-Use Parcel, or Primary Residence Short-Term Rental.) Any STR Permits issued prior to the effective date of this Chapter which conflict with this provision shall be deemed to be “grandfathered” and will remain valid, subject to all other provisions hereof until such time as the pre-existing STR Permit(s) expire(s) or is (are) revoked.

(h) An STR Permit shall not be issued for a Dwelling located in a multi-family structure if issuance of such Permit would result in the creation of a “hotel”, as defined by the Dana Point Zoning Code (i.e., six (6) or more guest rooms or suites located in a structure or group of structures). Additionally, properties with five (5) or fewer residential units that are located in a structure or group of structures may only convert a maximum of one (1) unit into an STR, and properties with six (6) or more residential units that are located in a structure or group of structures may only convert a maximum of twenty percent (20%) of the total number of residential units into STRs.

(i) Every three years the Community Development Director will review the regulations set forth in this Chapter to determine if a change to the maximum number of STR Permits outside the Coastal Zone, or any other changes, should be recommended to the City Council; provided, however, the Council may change the maximum number of such Permits, or any other provision of this Chapter, at any time.

5.38.040 Permit Holder/Agents

(a) STR Permits shall be issued only to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. The Property Owner shall be responsible for compliance with the provisions of this Chapter, and any STR Permit.

(b) A Property Owner may retain an Agent or a representative to comply with the requirements of this Chapter, including, without limitation, the filing of an application for an STR Permit, the management of the STR, and the compliance with the conditions to the STR Permit. The Property Owner shall sign and notarize an agreement satisfactory to the Community Development Director demonstrating the creation of an Agent relationship. The failure of an Agent to comply with this Chapter or any STR Permit condition shall be deemed non-compliance by both the Property Owner and Agent, and both shall be subject to any adverse action by the City related to a violation, including imposition of fines and STR Permit revocation.

5.38.045 Permit Required; Permit Compliance.

- (a) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR without a valid STR Permit approved and issued by the City of Dana Point for the Dwelling.
- (b) Every Permittee shall comply with the provisions of this Chapter or Coastal Development Permit No. CDP22-0010 (A-5-DPT-22-0038), as applicable, with applicability dependent upon whether the Permittee's STR Permit applies to a Dwelling located within or outside of the City's Coastal Zone.

5.38.050 Application for Permit.

The Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR shall submit an application for an STR Permit to the Community Development Director. The application for an STR Permit shall be upon forms provided by the City and shall contain the following information:

- (a) The name, address, email, and telephone number of the Property Owner, and all persons or entities that are Property Owners, of the parcel upon which a Dwelling exists that is proposed for use as an STR and for which the STR Permit is requested.
- (b) The name, address, email, and telephone number of the Property Owner's Agent, if any.
- (c) The address of the Dwelling proposed to be used as an STR.
- (d) Evidence of a valid transient occupancy tax registration certificate issued by the City in connection with the proposed STR.
- (e) Proof of general liability insurance in the amount of one million dollars (\$1,000,000.00) combined single limit and an executed agreement to indemnify, defend, and save the City harmless from any and all claims and liabilities of any kind whatsoever resulting from or arising out of the issuance of the STR Permit or the use of the Dwelling to which the STR Permit applies as an STR.
- (f) In connection with an application for a Primary Residence, or Home Stay STR the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (g) In connection with an application for a Multi-Family Home Stay Short-Term Rental, the Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax

return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.

- (h) Acknowledgement that the Property Owner (and Agent if applicable) received a copy of, reviewed and understands the regulations pertaining to the operation of an STR within the city.
- (i) The STR to which the Permit applies shall not be prohibited by any Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other community standards/guidelines applicable to the parcel where the Dwelling to be used as an STR is located.
- (j) Such other information as the Community Development Director deems reasonably necessary to administer this Chapter.
- (k) Permits shall only be issued to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. If multiple Property Owners exist, one such owner may be designated as the Agent, subject to the provisions hereof related to Agents.
- (l) Only one (1) STR Permit, for one Dwelling, shall be issued to any person or entity that meets the definition of a Property Owner hereunder; and, when an STR Permit is issued for a Dwelling, it is deemed to be issued to all Property Owners of such Dwelling.
- (m) The fee for issuance of an STR Permit as established by the City Council.

5.38.060 Application for Waitlist

A Property Owner desiring to be added to the City's STR Permit waitlist shall submit a waitlist application. Once received, the Property Owner will be added to the City's STR Permit waitlist.

- (a) Property Owners on the STR Permit waitlist must provide an application annually to verify continued eligibility to preserve their position on the STR Permit waitlist.
- (b) A Property Owner's position on the STR Permit waitlist is not transferable.
- (c) The application for the STR Permit waitlist shall be upon forms provided by the City and shall contain the following information:
 - (1) The name, address, email, and telephone number of the Property Owner of the parcel upon which a Dwelling exists that is proposed for use as an STR and for which the STR Permit is requested.
 - (2) The address of the Dwelling proposed to be used as an STR.
 - (3) Additional information as the Community Development Director deems reasonably necessary to administer this Chapter.

- (d) The STR Permit waitlist fee shall be the same as the STR Permit fee. Upon selection and STR Permit issuance, the STR Permit waitlist fee paid will be applied toward the first year's STR Permit fee.
- (e) Upon selection from the STR Permit waitlist, the Property Owner shall have 14 days to submit a complete STR Permit application to the City.
- (f) A Property Owner on the STR Permit waitlist may request to be removed from such waitlist in writing, and upon receipt of such a request the City will remove the Property Owner from the waitlist and refund the STR Permit waitlist fee.

5.38.070 Renewal of Permit.

- (a) All Property Owner's holding STR Permits shall apply for and renew their STR Permit annually on March 1st or an alternative date as determined by the Community Development Director. STR Permit renewals shall include any changes to the information or requirements set forth in these regulations, as well as proof of current general liability insurance as required by Section 5.38.050(e).
- (b) In the case of renewal of STR Permits issued for Primary Residence and Home Stay STRs, the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and continues to receive a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owners domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (c) In the case of renewal of STR Permits issued for Multi-Family Home Stay STRs, the Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (d) Any STR Permit that is inactive during a Permit year (meaning no rentals occurred during the year) will not be renewed. The inactivity requirement can be waived if the Dwelling to which the STR Permit renewal applies is under renovation, as evidenced by validly issued, unexpired building permits, or for good cause as determined by the Community Development Director. Any STR Permit inactive for two Permit years shall not be renewed.

5.38.080 Conditions of Permit Issuance and Renewal.

- (a) Permits and renewals issued pursuant to this Chapter are subject to the following standard conditions:

- (1) All STR Permits shall comply with the terms of this Chapter and the provisions of this Chapter are deemed to be included in all STR Permits.
- (2) The Property Owner (or Agent if applicable) shall ensure that the STR complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
- (3) The Property Owner (or Agent if applicable) shall provide proof that the STR to which the Permit applies is not legally prohibited by any Homeowners Association Conditions, Covenants and Restrictions (“CC&Rs”) or any other community standards/guidelines, applicable to the parcel where the Dwelling to be used as an STR is located.
- (4) Concurrent with the issuance of the STR Permit, and annually upon its renewal, City Staff shall provide notice of the proposed action on the STR Permit to all property owners and tenants abutting the parcel, or in the case of an STR in a multi-family Dwelling the owners and tenants of all other Dwelling Units on the parcel and/or in the same structure, upon which the Dwelling proposed to operate as an STR is located. The notice shall also provide the contact information for the Property Owner (and Agent if applicable) and their twenty-four (24) hour emergency contact phone number. The notification package shall also identify the City’s twenty-four (24) hour STR hotline phone number, Code Enforcement phone number, and Orange County Sheriff’s Department phone number. The notice shall not afford the abutting owners/tenants any protest, appeal, or other related rights; rather, its intent is to provide the abutting property owners/tenants with an annual reminder as to the contact information for the various individuals and entities responsible for enforcement in the event that an issue arises with the operation of the STR.
- (5) The Dwelling for which an STR Permit is requested must pass an initial inspection by the City prior to STR Permit issuance. The City may conduct additional inspections as deemed necessary or prudent at any reasonable time, including prior to subsequent renewals.
- (6) The Property Owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the STR.
- (7) The STR must have and maintain a minimum of two (2) off-street parking spaces.
- (8) The STR must have a visible house number easily seen from the street, day or night.
- (9) All advertising for the STR shall include the City issued STR Permit number in the subject line and in the description of the STR. In addition, all photographs maps, and diagrams of the STR that are used for advertising purposes shall impose the City-issued STR Permit number in the lower right-hand corner in a font, style, size, and color to be reasonably legible, with any dispute as to the meaning of this provision subject to interpretation by the Community Development Director.
- (10) The primary overnight and daytime renter, who shall also be residing as a guest in the STR during any STR rental period must be an adult twenty-five (25) years of age or older. This

adult must provide a telephone number to the Property Owner (or Agent if applicable) and shall be accessible to the Property Owner by telephone at all times.

(11) Prior to occupancy, the Property Owner (or Agent if applicable) shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the STR. The Property Owner (or Agent if applicable) shall require that same adult to sign a formal acknowledgment that he or she is legally responsible for compliance by all occupants and guests of the STR with the provisions of this Chapter, as well as a copy of the City's Good Neighbor Acknowledgment. An unsigned copy of the City's Good Neighbor Acknowledgment shall be posted in a conspicuous location within the STR, along with a copy of this Chapter. This information shall be readily available upon request of any police officer or employee of the City authorized to enforce this Chapter or State law.

(12) The Property Owner (or Agent if applicable) shall rent the STR for a minimum stay of two (2) consecutive nights.

(13) The maximum overnight occupancy of the STR shall be limited to two (2) persons per bedroom plus two (2) additional persons within the STR. The Community Development Director may, when unusual size, interior layout, parking, or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of an STR Permit application or renewal. The maximum daytime occupancy shall be limited to two and a half (2.5) times the overnight occupancy and not exceed twenty (20) persons; however, the Community Development Director may, when unusual size, or other physical characteristics, approve a greater maximum number of daytime occupants as part of an STR Permit application or renewal.

(14) The maximum number of vehicles allowed at the STR shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms within the STR. The Community Development Director may, when unusual size, parking or other physical characteristics are shown, approve a greater maximum number of vehicles as part of an STR Permit application or renewal. The Property Owner must ensure a sufficient number of parking spaces are accessible to tenants to accommodate the maximum number of vehicles allowed.

(15) No on-site exterior signs are to be posted on a parcel advertising an STR at the location.

(16) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler and between the hours of 5:00 p.m. the day before and 8:00 a.m. the day after the scheduled trash collection days, as provided in Chapter 6.10 of the Dana Point Municipal Code. In the event the Property Owner fails to comply with this provision, he/she shall be required to sign up for walk-up trash service provided by the City's waste disposal franchisee and provide proof to the City of the same. The Property Owner shall provide sufficient trash collection containers and services to meet the demand of the occupants of the STR.

- (17) Each lease or rental agreement for an STR shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the STR:
- (A) The maximum number of occupants that are permitted and notification that failure to conform to the maximum occupancy is a violation of this Chapter.
 - (B) The number of parking spaces provided and, if not adjacent to the STR, the location of assigned parking and the maximum number of vehicles that are permitted.
 - (C) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of buildings on the parcel.
 - (D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Property Owner (or Agent as applicable) for violating any and all applicable laws.
 - (E) The name of the Property Owner or Agent, and a telephone number at which that party may be reached at all times and 9-1-1 Emergency information.
 - (F) Summary of applicable Homeowners Association Conditions, Covenants and Restrictions (CC&Rs) and bylaws, including pool location and hours.
 - (G) The terms, notifications, and disclosures must be posted during the registration process.
- (18) The Property Owner shall ensure that the occupants of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, alcohol consumption, or the use of illegal drugs. Property Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the tenant, calling for law enforcement services, or City code enforcement officers, evicting the tenant, or any other action necessary to immediately abate the disturbance.
- (19) The Property Owner or Agent as applicable shall, upon notification that occupants or tenants of an STR have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, and/or overcrowding, take action to abate the issue within thirty (30) minutes of the Property Owner or Agent being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the Property Owner or Agent may be required to arrive on site within thirty (30) minutes of a received complaint to address the issue and ensure there is not a re-occurrence.
- (20) No outside noise from the STR shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.
- (21) The Property Owner or Agent as applicable shall include ADA information, if available, in all advertisements for the STR (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.).

(22) Advertisements, and information provided in the STR itself, shall disclose whether bicycles or other means of transport (scooters, skateboards, carpooling, rideshare, etc.) are available.

(b) The Community Development Director shall have the authority at any time to impose additional standard conditions, applicable to all STRs, as necessary to achieve the objectives of this Chapter.

(c) The Community Development Director shall have the authority to impose additional conditions on any STR Permit in the event of any violation of the conditions to the Permit or the provisions of this Chapter subject to compliance with the procedures specified in Section 5.38.100.

(d) The Property Owner or Agent as applicable shall maintain a valid transient occupancy tax registration certificate issued by the City for the STR, and shall collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

5.38.090 Short-Term Rental Operator Regulations

The following are additional regulations and clarifications applicable to all Property Owners or Agents if applicable for the operation of STRs. These regulations may be updated periodically by the Community Development Director for clarification of situations that may develop based on the implementation of this Chapter and regulations within the City.

(a) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR if such Dwelling is an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, created as part of Single-Family Residential Duplex (as defined by Zoning Code Section 9.72), or designated as an affordable housing unit, and no STR Permit shall be issued for any such Dwelling.

(b) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR unless such Dwelling is in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes, and multiple-family dwellings, and no STR Permit shall be issued for a Dwelling that does not meet this criteria.

(c) Home Stay STR and Multi-Family Home Stay STR shall be subject to the following:

(1) Notwithstanding any other provision of this Chapter to the contrary, the Property Owner of a Home Stay Short-Term Rental or Multi-Family Home Stay Short-Term Rental shall be present at the parcel upon which the STR is located during the rental period between the hours of 10:00 p.m. to 7:00 a.m.

(2) A maximum of one Home Stay STR Permit may be issued for any parcel upon which multiple Dwellings exist.

(3) In no instance shall a Home Stay STR Permittee allow the use of an on-site camper, RV, or tent by renters as part of the STR use on a parcel.

(d) Primary Residence STR shall be subject to the following:

(1) A Property Owner to whom an STR Permit for a Primary Residence STR is issued shall be limited to renting the Dwelling to which the STR Permit applies for a maximum of 60 days per 12-month period, (with the date starting on the date the STR Permit is issued) unless further restricted by CC&R regulations. Compliance will be monitored by the transient occupancy tax annual submittal, and such other means as deemed necessary and appropriate by the Community Development Director.

5.38.100 Violations and Penalties.

(a) Any violation of this Chapter, any relevant provision of the Municipal Code, or any Permit condition, including any of the following, shall constitute a violation for which the penalties specified in this Section may be imposed, or for which the STR Permit may be revoked:

(1) The Property Owner and/or Agent has failed to comply with any standard conditions which are part of an STR Permit;

(2) The Property Owner and/or Agent has failed to comply with conditions imposed by the Community Development Director on an STR Permit;

(3) The Property Owner and/or Agent has willfully violated the provisions of this Chapter;

(4) The Property Owner and/or Agent has failed to comply and pay any fines imposed pursuant to subsection (b) within thirty (30) days of the date of notification; or

(5) The Property Owner and/or Agent has failed to comply and pay the transient occupancy tax or submit a report as required by Chapter 3.25 of the Municipal Code within the required time limit.

(b) Penalties. The penalties for violations imposed per subsection (a) above, or the Municipal Code, shall be the responsibility of the Property Owner, and/or the Agent if applicable, and are issued per day and per violation as follows:

(1) For the first violation the penalty shall be the maximum monetary amount allowed per State law;

(2) For a second violation the penalty shall be the maximum monetary amount allowed per State law;

(3) For a third violation the penalty shall result in the immediate revocation of the STR Permit. In the event the STR Permit has been revoked, the Property Owner shall thereafter be ineligible to receive an STR Permit for any category of STR to be operated on the same parcel upon which the STR for which the Permit was revoked existed.

5.38.110 Procedure for Imposition of Penalties/Revocation.

Penalties shall be imposed, and STR Permits shall be revoked, in the manner provided in this Section. The Community Development Director shall conduct an investigation whenever he or she has reason to believe that a Property Owner (or Agent as applicable) has committed a violation described in this Chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Community Development Director shall issue written notice of intention to impose a penalty and/or revoke the STR Permit. The written notice shall be served on the Property Owner, and Agent if applicable, and shall specify the facts which, in the opinion of the Community Development Director, constitute substantial evidence to establish grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or the STR Permit will be revoked within thirty (30) days from the date the notice is given unless the Property Owner, or Agent if applicable, files with the City Clerk before the penalties or revocation becomes effective, a request for hearing before the City Manager.

SUPPORTING DOCUMENT B

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

GAVIN NEWSOM, GOVERNOR

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CALIFORNIA 90802-4830
PH (562) 590-5071 FAX (562) 590-5084
WWW.COASTAL.CA.GOV



Page 1

November 30, 2022

Permit Application Number: **A-5-DPT-22-0038****COASTAL DEVELOPMENT PERMIT**

On November 16, 2022, the California Coastal Commission granted to the **City of Dana Point** this permit subject to the attached Standard and Special conditions, for development consisting of **establishing a Short-Term Rental (STR) Program to regulate the permitting and operation for STRs within the Coastal Zone of the City of Dana Point**, more specifically described in the application filed in the Commission offices.

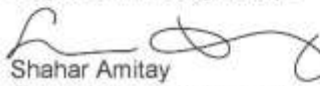
The development is **citywide within the Coastal Zone, City of Dana Point, Orange County**.

Issued on behalf of the California Coastal Commission by

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:


Shahar Amitay
Coastal Program Analyst

cc: Commissioners/File

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

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November 30, 2022

Coastal Development Permit
A-5-DPT-22-0038

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: _____ Signature _____

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Revised Final Short-Term Rental (STR) Program.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall agree to implementation of the final STR Program consistent with Exhibit A to Resolution No. 22-07-12-01 ([Exhibit 2](#)), except that that the Program shall be modified pursuant to the revisions shown in [Exhibit 3](#).
2. **Future Changes to Short-Term Rental Regulations.** This permit is only for the Short-Term Rental (STR) Program described in CDP No. A-5-DPT-22-0038, as conditioned. Any changes to the aforementioned Program shall be submitted for review by the Executive Director to determine whether an amendment to this

Page 3
November 30, 2022

Coastal Development Permit
A-5-DPT-22-0038

coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made effective until a permit amendment is approved by the Commission and issued by the Executive Director.

- 3. Short-Term Rental (STR) Program Study.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall undertake the study in accordance with the rubric enclosed in [Exhibit 4](#) for the duration of six (6) years. The study shall monitor various elements of the STR Program, provide quantitative and qualitative data and trends for the 6-year period, and make recommendations for any appropriate changes to the Program.

Any proposed changes to the approved rubric shall be reported to the Executive Director. No changes to the rubric shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

Following the 6-year period, the applicant shall submit the study and any recommended changes for review and written approval of the Executive Director. If, based on the results of the study, which shall be reported out to the Commission at a scheduled public hearing, the Executive Director determines that adverse significant impacts to public access or community character are occurring as a result of the STR program, and/or the City determines that significant impacts to housing stock in the Dana Point Coastal Zone are occurring as a result of the STR program, the City shall seek an amendment from the Commission to revise the STR program to address these issues. No changes to the STR program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 4. Liability for Costs and Attorneys' Fees.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the City of Dana Point agrees to reimburse the California Coastal Commission in full for any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay, which the Coastal Commission may incur in connection with the defense of any action brought by a party other than the City of Dana Point against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval, issuance, and implementation of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, provided that if (1) the City is a party to such litigation, and (2) the Commission settles any such litigation without the consent of the City, the reimbursement provision above shall not apply.

Exhibit 3 – CCC Strikeout/Underline Revisions to STR Program

Exhibit A

Coastal Development Permit Short-Term Rental Program

~~Strikethrough Text~~ = Proposed language to be removed

Underline Text = Proposed language to be added

1. Introduction

The following sets forth the rules and regulations for the City of Dana Point's Short-Term Rental Program (the "STR Program"), the purpose of which is to require the owner or owners of a residential Dwelling that operates as a Short-Term Rental ("STR"), as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this STR Program to safeguard the peace, safety and general welfare of the residents of Dana Point, their guests, and out of town visitors, by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to STRs. There are currently existing STR Permits in the City. These existing STR Permits are subject to the provisions of this STR Program on a moving forward basis, including the provisions hereof related to renewals; but, they are "grandfathered" in the sense they continue to remain valid and the holders of such STR Permits do not need to submit a new initial application.

2. Definitions

The following definitions shall apply to the STR Program:

- (a) "Accessory Dwelling Unit" shall mean an attached or a detached residential Dwelling that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An Accessory Dwelling Unit also includes the following: (A) An efficiency unit, and (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code."
- (b) "Agent" shall mean the representative, if any, designated by the owner in accordance with Section 5.38.040 of the Municipal Code.
- (c) "City Manager" shall mean the City Manager of the City of Dana Point or designee.

- (d) "Community Development Director" shall mean the Community Development Director of the City of Dana Point or designee.
- (e) "Dwelling Unit" or "Dwelling" shall have the same meaning as set forth in Section 9.75.050 of the Municipal Code.
- (f) "Home Stay Short-Term Rental" shall mean an STR at a Dwelling (as defined in the Municipal Code) at which the Property Owner rents a portion of the Dwelling Unit for use as an STR while continuing to live in the Dwelling Unit during the period of the rental.
- (g) "Junior Accessory Dwelling Unit" shall mean a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior Accessory Dwelling Unit may include separate sanitation facilities or share sanitation facilities with the existing structure."
- (h) "Mixed-Use Parcel" shall mean a parcel upon which the City's zoning permits commercial and residential uses to exist at the same time (i.e., commercial on first floor and residential on upper floors). By way of example only, as of the effective date of the STR Program, parcels located in the following zoning districts in the City would meet the definition of Mixed-Use Parcel: C/R; R/C-18; P/R; TC-MU.
- (i) "Mixed-Use Parcel STR Permit" shall mean a Permit for either a Non-Primary STR or a Multi-Family Home Stay STR issued for an STR located in a Dwelling on a Mixed-Use Parcel.
- (j) "Multi-Family Home Stay Short-Term Rental" shall mean an STR at a parcel upon which a multi-family Dwelling (i.e., a duplex, tri-plex, etc.) lawfully exists, and at which all the following conditions also exist: (i) the Property Owner owns two or more Dwellings on the parcel, and (ii) the Property Owner resides in one of the Dwellings on the parcel and such Dwelling unit is the Property Owner's Primary Residence, and (iii) one of the Dwellings owned by the Property Owner is used for STR purposes.
- (k) "Non-Primary Short-Term Rental" shall mean a Dwelling used for Short-Term Rental purposes other than a Home Stay, Multi-Family Home Stay or Primary Residence Short-Term Rental.
- (l) "Permittee" shall mean the holder of an STR Permit.
- (m) "Primary Residence" shall mean a Dwelling which a Permittee uses as his or her

domicile and permanent ~~principle~~ principal home for legal purposes.

- (n) "Primary Residence Short-Term Rental" shall mean an STR at a Dwelling which is the Property Owner's Primary Residence, as evidenced per the provisions hereof, which is being rented for STR purposes when the Property Owner is traveling or living elsewhere.
- (o) "Property Owner" shall mean a person who holds a recorded interest in a parcel upon which a Dwelling exists which is used for, or proposed to be used for an STR. In the case of a trust, both the trustees and any person or entity holding a beneficial interest of more than 5% in the trust are deemed to be the Property Owner. In the case of a business entity, any person having an ownership interest of more than 5% in the entity shall be deemed to be a Property Owner.
- (p) "Short-Term Rental" or "STR" shall ~~have the same meaning as Section 6.30.020(e) of the Municipal Code~~ the rental of any structure or any portion of any structure for occupancy, dwelling, lodging or sleeping purposes for at least two (2) consecutive nights, but no more than thirty (30), consecutive calendar days in duration in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings.
- (q) "STR Permit" means a permit issued to the Property Owner to authorize use of a Dwelling for STR purposes pursuant to the STR Program.

3. STR Permit Limitations:

- (a) A total maximum of 115 STR Permits may be issued for Non-Primary, Multi-Family Home Stay, and Mixed-Use Non-Primary STRs in the City, with this limitation only applicable to ~~Non-Primary~~ such STRs at Dwellings located inside the Coastal Zone. Any STR Permits issued as of the effective date of this STR Program for Non-Primary, Multi-Family Home Stay, and Mixed-Use Non-Primary STRs shall continue to be valid, and shall count towards this numerical cap.
- (b) There shall be no limit on the number of STR Permits that may be issued for ~~Multi-Family Home Stay,~~ Home Stay or Primary Residence STRs in the City's Coastal Zone. Any STR Permits issued as of the effective date of this STR Program for STRs that meet the definition of a ~~Multi-Family Home Stay,~~ Home Stay or Primary Residence STR shall continue to be valid.
- (c) Two goals of this STR Program are (1) to encourage Home Stay, ~~Multi-Family Home Stay~~ and Primary STRs because there is less potential for nuisance issues

in situations where the STR Permit is issued for a parcel which is the Property Owner's Primary Residence and (2) to encourage STRs on Mixed-Use Parcels, rather than parcels zoned for single family Dwellings so as to avoid impacts on surrounding residents at such parcels. Towards this end, the following provisions shall apply:

- i. Adjustments to cap when new Home Stay, ~~Multi-Family Home Stay~~ or Primary Residence STR Permits are issued:
 - A. Each time after the effective date of this STR Program that a new STR Permit is issued in the Coastal Zone for a Home Stay, ~~Multi-Family Home Stay~~ or Primary Residence STR Permit, the cap for Non-Primary, ~~Multi-Family Home Stay, and Mixed-Use Non-Primary~~ STR Permits noted in Section (3)(a) shall be reduced by one (1).
 - B. This reduction to the numerical cap shall have no impact on or application to an existing Non-Primary, ~~Multi-Family Home Stay, and Mixed-Use Non-Primary~~ STR Permits, including when such STR Permits ~~is~~ are considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary, ~~Multi-Family Home Stay, and Mixed-Use Non-Primary~~ STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary, ~~Multi-Family Home Stay, and Mixed-Use Non-Primary~~ STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist.
- ii. ~~Adjustments to cap when~~ Encouragement of new Mixed-Use Parcel STR Permits ~~are issued:~~
 - A. ~~A maximum of 190 new Mixed-Use Parcel STR Permits may be issued for Non-Primary STRs that are located on Mixed-Use Parcels. No more than twenty percent (20%) of the number of residential units in each of the City's certified Mixed-Use Districts shall be converted to STRs.~~
 - B. Mixed-Use Parcel STR Permits shall be required to pay the STR Permit fee established by the City Council in an amount calculated as follows (Total STR Permit Fee x 0.75).
 - C. ~~Mixed-Use Parcel STR Permits may be issued without regard to the numerical cap noted in Section 3(a) above, and do not count towards determining such numerical cap.~~
 - D. C. ~~Each time a Mixed-Use Parcel STR Permit is issued for a Non-Primary STR, the numerical cap for such category of STR Permits~~

~~noted in Section 3(a) [as such cap may be adjusted pursuant to the provisions of Section 3(c)(1)] shall be reduced by one (1). This reduction to the numerical cap shall have no impact on or application to an existing Non-Primary STR Permit, including when such STR Permit is considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist. Mixed-Use Non-Primary STR Permit applications shall be given priority when selected from the City's STR Permit waitlist, so long as STR Permits are available and the cap for this category is not exceeded.~~

- (d) When a parcel upon which a Dwelling exists for which an STR Permit has been issued is sold, the STR Permit shall expire upon the date the title to such parcel transfers, and the STR Permit shall not transfer to the new Property Owner. Should the new Property Owner desire to use any Dwelling on the parcel as an STR, such new Property Owner must apply for and receive an STR Permit.
- (e) Notwithstanding the foregoing, if a parcel upon which a Dwelling exists for which an STR Permit has been issued changes ownership through an inheritance, or as a result of a family transfer that results in no new property tax assessment of the parcel, the STR Permit may be transferred provided the new Property Owner(s) is/are family members of the prior Property Owner. In such circumstance, the new Property Owner may apply for an STR Permit transfer. The STR Permit transfer shall be subject to such requirements as may be imposed by the Community Development Director to confirm the new Property Owner(s) is/are a family member(s) of the prior Property Owner(s). Prior to the first use of any Dwelling on a parcel as an STR after a change of ownership as a result of an inheritance, an STR Permit transfer shall have been approved by the City. The Community Development Director shall determine if a familial relationship exists, and shall base that decision on the totality of the facts of any given circumstance in a manner that carries out the intent of this provision consistent with applicable laws.
- (f) Upon reaching the maximum number of Non-Primary, Multi-Family Home Stay, and Mixed-Use Non-Primary STR Permits, the City will establish a waitlist for the issuance of Non-Primary, Multi-Family Home Stay, and Mixed-Use Parcel STR Permits when they become available.
- (g) Upon the effective date of the STR Program, STR Permits shall be limited to

one STR Permit per Property Owner without regard to the category of STR to which such STR Permit applies (i.e., whether for a Home Stay, Non-Primary, Multi-Family Home Stay, Mixed-Use Parcel, or Primary Residence STR.) Any STR Permits issued prior to the effective date of the STR Program which conflict with this provision shall be deemed to be "grandfathered" and will remain valid, subject to all other provisions hereof until such time as the pre-existing STR Permit(s) expire(s) or is (are) revoked.

- (h) An STR Permit shall not be issued for a Dwelling located in a multi-family structure if issuance of such Permit would result in the creation of a "hotel", as defined by the Dana Point Zoning Code (i.e., six (6) or more guest rooms or suites located in a structure or group of structures). Additionally, properties with five (5) or fewer residential units that are located in a structure or group of structures may only convert a maximum of one (1) unit into an STR, and properties with six (6) or more residential units that are located in a structure or group of structures may only convert a maximum of twenty percent (20%) of the total number of residential units into STRs.
- (i) After Every five three years of the STR Program, the Community Development Director will review the Program to determine if a change to the maximum number of STR Permits should be considered. Any change to the maximum number of STR Permits shall be subject to an amendment to the Coastal Development Permit.

4. Permit Holders/Agents

- (a) STR Permits shall be issued only to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. The Property Owner shall be responsible for compliance with the provisions of this STR Program, and any STR Permit.
- (b) A Property Owner may retain an Agent or a representative to comply with the requirements of this STR Program, including, without limitation, the filing of an application for an STR Permit, the management of the STR, and the compliance with the conditions to the STR Permit. The Property Owner shall sign and notarize an agreement satisfactory to the Community Development Director demonstrating the creation of an Agent relationship. The failure of an Agent to comply with this STR Program or any STR Permit condition shall be deemed non-compliance by both the Property Owner and Agent, and both shall be subject to any adverse action by the City related to a violation, including imposition of fines and STR Permit revocation.

5. Permit Required

No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR without a valid STR Permit approved and issued by the City of Dana Point for the Dwelling.

6. Application for Permit

The Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR shall submit an application for an STR Permit to the Community Development Director. The application for an STR Permit shall be upon forms provided by the City and shall contain the following information:

- (a) The name, address, email, and telephone number of the Property Owner, and all persons or entities that are Property Owners, of the parcel upon which a Dwelling exists that is proposed for use as an STR and for which the STR Permit is requested.
- (b) The name, address, email, and telephone number of the Property Owner's Agent, if any.
- (c) The address of the Dwelling proposed to be used as an STR.
- (d) Evidence of a valid transient occupancy tax registration certificate issued by the City in connection with the proposed STR.
- (e) Proof of general liability insurance in the amount of one million dollars (\$1,000,000.00) combined single limit and an executed agreement to indemnify, defend, and save the City and California Coastal Commission harmless from any and all claims and liabilities of any kind whatsoever resulting from or arising out of the issuance of the STR Permit or the use of the Dwelling to which the STR Permit applies as an STR.
- (f) In connection with an application for a Primary Residence, or Home Stay STR the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (g) In connection with an application for a Multi-Family Home Stay STR, the

Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.

- (h) Acknowledgment that the Property Owner (and Agent if applicable) received a copy of, reviewed and understands the regulations pertaining to the operation of an STR within the city.
- (i) The STR to which the Permit applies shall not be prohibited by any legal Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other legal community standards/guidelines applicable to the parcel where the Dwelling to be used as an STR is located.
- (j) Such other information as the Community Development Director deems reasonably necessary to administer this STR Program.
- (k) Permits shall only be issued to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. If multiple Property Owners exist, one such owner may be designated as the Agent, subject to the provisions hereof related to Agents.
- (l) Only one (1) STR Permit, for one Dwelling, shall be issued to any person or entity that meets the definition of a Property Owner hereunder; and, when an STR permit is issued for a Dwelling, it is deemed to be issued to all Property Owners of such Dwelling.
- (m) A fee for issuance of an STR Permit shall be established by the City Council.

7. Application for Waitlist

A Property Owner desiring to be added to the City's waitlist for Non-Primary, Multi-Family Home Stay, and Mixed-Use Non-Primary STR Permits shall submit a waitlist application. Once received, the Property Owner will be added to the City's STR Permit waitlist.

- (a) Property Owners on the STR Permit waitlist must provide an application annually to verify continued eligibility to preserve their position on the STR

Permit waitlist.

- (b) A Property Owner's position on the STR Permit waitlist is not transferable.
- (c) The application for the STR Permit waitlist shall be upon forms provided by the City and shall contain the following information:
 - (1) The name, address, email, and telephone number of the Property Owner of the parcel upon which a Dwelling exists that is proposed for use as an STR and for which the STR Permit is requested.
 - (2) The address of the Dwelling proposed to be used as an STR.
 - (3) Additional information as the Community Development Director deems reasonably necessary to administer this STR Program.
- (d) The STR Permit waitlist fee shall be the same as the STR Permit fee. Upon selection and STR Permit issuance, the STR Permit waitlist fee paid will be applied toward the first year's STR Permit fee.
- (e) Upon selection from the STR Permit waitlist, the Property Owner shall have 14 days to submit a complete STR Permit application to the City.

8. Renewal of Permit

All Property Owner's holding STR Permits shall apply for and renew their STR Permit annually on March 1st or an alternative date as determined by the Community Development Director. STR Permit renewals shall include any changes to the information or requirements set forth in these regulations, as well as proof of current general liability insurance as required in Section 6(e) of this Program.

In the case of renewal of STR Permits issued for Primary Residence and Home Stay STRs, the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and continues to receive a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owners domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.

In the case of renewal of STR Permits issued for Multi-Family Home Stay STRs, the Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and

received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.

Any STR Permit that is inactive during a permit year (meaning no rentals occurred during the year) will not be renewed. The inactivity requirement can be waived if the Dwelling to which the STR Permit renewal applies is under renovation, as evidenced by validly issued, unexpired building permits, or for good cause as determined by the Community Development Director. Any STR Permit inactive for two permit years shall not be renewed.

9. Conditions of Permit Issuance and Renewal

- (a) STR Permits and renewals issued pursuant to this STR Program are subject to the following standard conditions:
- (1) All STR Permits shall comply with the terms of this STR Program and the provisions of this STR Program are deemed to be included in all STR Permits by the Community Development Director ~~pursuant to Sections 5.38.050(b) and (c) of the Municipal Code.~~
 - (2) The Property Owner (or Agent if applicable) shall ensure that the STR complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
 - (3) The Property Owner (or Agent if applicable) shall provide proof that STR to which the Permit applies is not legally prohibited by any legal Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other legal community standards/guidelines applicable to the parcel where the Dwelling to be used as an STR is located.
 - (4) Concurrent with the issuance of the STR Permit and annually upon its renewal, City Staff shall provide notice of the proposed action on the STR Permit to all property owners and tenants abutting the parcel, or in the case of an STR in a multi-family Dwelling the owners and tenants of all other Dwelling Units on the parcel and/or in the same structure, upon which the Dwelling proposed to operate as an STR is located. The notice shall also provide the contact information for the Property Owner (and Agent if applicable) and their twenty-four (24) hour emergency contact phone number. The notification package shall also identify the City's twenty-four (24) hour STR hotline phone number, Code Enforcement

- phone number, and Orange County Sheriff's Department phone number. The notice shall not afford the abutting owners/tenants any protest, appeal, or other related rights; rather, its intent is to provide the abutting property owners/tenants with an annual reminder as to the contact information for the various individuals and entities responsible for enforcement in the event that an issue arises with the operation of the STR.
- (5) The Dwelling for which an STR Permit is requested must pass an initial inspection by the City prior to STR Permit issuance. The City may conduct additional inspections as deemed necessary or prudent at any reasonable time, including prior to subsequent renewals.
 - (6) The Property Owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the STR.
 - (7) The STR must have and maintain a minimum of two (2) off-street parking spaces.
 - (8) The STR must have a visible house number easily seen from the street, day or night.
 - (9) All advertising for the STR shall include the City issued STR Permit number in the subject line and in the description of the STR. In addition, all photographs, maps, and diagrams of the STR that are used for advertising purposes shall impose the City-issued STR Permit number in the lower right-hand corner in a font, style, size, and color to be reasonably legible, with any dispute as to the meaning of this provision subject to interpretation by the Community Development Director.
 - (10) The primary overnight and daytime renter, who shall also be residing as a guest in the STR during any STR rental period must be an adult twenty-five (25) years of age or older. This adult must provide a telephone number to the Property Owner (or Agent if applicable) and shall be accessible to the Property Owner by telephone at all times.
 - (11) Prior to occupancy, the Property Owner (or Agent if applicable) shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the STR. The Property Owner (or Agent if applicable) shall require that same adult to sign a formal acknowledgment that he or she is legally responsible for compliance by all occupants and guests of the STR with the provisions of this STR Program, as well as a copy of the City's Good Neighbor Acknowledgment.

An unsigned copy of the City's Good Neighbor Acknowledgment shall be posted in a conspicuous location within the STR, along with a copy of the City's STR regulations. This information shall be readily available upon request of any police officer or employee of the City authorized to enforce this STR Program or State law.

- (12) The Property Owner (or Agent if applicable) shall rent the STR for a minimum stay of two (2) consecutive nights.
- (13) The maximum overnight occupancy of the STR shall be limited to two (2) persons per bedroom plus two (2) additional persons within the STR. The Community Development Director may, when unusual size, interior layout, parking, or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of an STR Permit application or renewal. The maximum daytime occupancy shall be limited to two and a half (2.5) times the overnight occupancy and not exceed twenty (20) persons; however, the Community Development Director may, when unusual size, or other physical characteristics, approve a greater maximum number of daytime occupants as part of an STR Permit application or renewal.
- (14) The maximum number of vehicles allowed at the STR shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms within the STR. The Community Development Director may, when unusual size, parking, or other physical characteristics are shown, approve a greater maximum number of vehicles as part of an STR Permit application or renewal. The Property Owner must ensure a sufficient number of parking spaces are accessible to tenants to accommodate the maximum number of vehicles allowed.
- (15) No on-site exterior signs are to be posted on a parcel advertising an STR at the location.
- (16) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler and between the hours of 5:00 p.m. the day before and 8:00 a.m. the day after the scheduled trash collection days, as provided in Chapter 6.10 of the Dana Point Municipal Code. In the event the Property Owner fails to comply with this provision, he/she shall be required to sign up for walk-up trash service provided by the City's waste disposal franchisee and provide proof to the City of the same. The Property Owner shall provide

sufficient trash collection containers and services to meet the demand of the occupants of the STR.

- (17) Each lease or rental agreement for an STR shall include the following terms, notifications, and disclosures, which shall also be posted in a conspicuous location inside the STR:
- (A) The maximum number of occupants that are permitted and notification that failure to conform to the maximum occupancy is a violation of this STR Program.
 - (B) The number of parking spaces provided and, if not adjacent to the STR, the location of assigned parking and the maximum number of vehicles that are permitted.
 - (C) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of buildings on the parcel.
 - (D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Property Owner (or Agent as applicable) for violating any and all applicable laws.
 - (E) The name of the Property Owner or Agent, and a telephone number at which that party may be reached at all times and 9-1-1 Emergency information.
 - (F) Summary of applicable Homeowners Association Conditions, Covenants, and Restrictions (CC&Rs) and bylaws, including pool location and hours.
 - (G) The terms, notifications, and disclosures must be posted during the registration process.
- (18) The Property Owner shall ensure that the occupants of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, alcohol consumption, or the use of drugs. Property Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the tenant, calling for law enforcement services or City code enforcement officers, evicting the tenant, or any other action necessary to immediately abate the disturbance.
- (19) The Property Owner or Agent as applicable shall, upon notification that occupants or tenants of an STR have created unreasonable noise or

- disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, and/or overcrowding, take action to abate the issue within thirty (30) minutes of the Property Owner or Agent being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the Property Owner or Agent may be required to arrive on site within thirty (30) minutes of a received complaint to address the issue and ensure there is not a re-occurrence.
- (20) No outside noise from the STR shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.
 - (21) The Property Owner or Agent as applicable shall include ADA information, if available, in all advertisements for the STR (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.).
 - (22) Advertisements, and information provided in the STR itself, shall disclose whether bicycles or other means of transport (scooters, skateboards, carpooling, rideshare, etc.) are available.
- (b) The Community Development Director may have the authority at any time to impose additional standard conditions, applicable to all STRs, as necessary to achieve the objectives of this STR Program, except that any changes to the Program or changes in implementation of the STR regulations shall be submitted for review by the California Coastal Commission's Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Commission's Executive Director determines that an amendment is necessary, no changes shall be made effective until a permit amendment is approved by the Commission and issued by its Executive Director.
 - (c) The Community Development Director shall have the authority to impose additional conditions on any STR Permit in the event of any violation of the conditions to the STR Permit or the provisions of this STR Program subject to compliance with the procedures specified in Section 12 of this Program 5-38-100 of the Municipal Code.
 - (d) The Property Owner or Agent as applicable shall maintain a valid transient occupancy tax registration certificate issued by the City for the STR, and shall collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

10. Short-Term Rental Operator Regulations

The following are additional regulations and clarifications applicable to all Property Owners or Agents if applicable for the operation of STRs. These regulations may be updated periodically by the Community Development Director for clarification of situations that may develop based on the implementation of the STR Program and regulations within the City.

- (a) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR if such Dwelling is an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, created as part of Single-Family Residential Duplex (as defined by Zoning Code Section 9.72), or designated as an affordable housing unit, and no STR Permit shall be issued for any such Dwelling.
- (b) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR unless such Dwelling is in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes, and multiple-family dwellings, and no STR Permit shall be issued for a Dwelling that does not meet this criteria.
- (c) Home Stay STR and Multi-Family Home Stay STR shall be subject to the following:
 - (1) Notwithstanding any other provision of this STR Program to the contrary, the Property Owner of a Home Stay STR or Multi-Family Home Stay STR shall be present at the parcel upon which the STR is located during the rental period between the hours of 10:00 p.m. to 7:00 a.m.
 - (2) A maximum of one Home Stay STR Permit may be issued for any parcel upon which multiple Dwellings exist.
 - (3) In no instance shall a Home Stay STR Permittee allow the use of an on-site camper, RV, or tent by renters as part of the STR use on a parcel.
- (d) Primary Residence STR shall be subject to the following:
 - (1) A Property Owner to whom an STR Permit for a Primary Residence STR is issued shall be limited to renting the Dwelling to which the STR Permit applies for a maximum of 60 days per 12-month period, (with the date starting on the date the STR Permit is issued) unless further restricted by legal CC&R regulations. Compliance will be monitored by the transient occupancy tax annual submittal, and such other means as deemed

necessary and appropriate by the Community Development Director.

11. Violations and Penalties

- (a) Violations are described in Conditions of Permit Issuance and Renewal. The following conduct shall constitute a violation for which the penalties specified in ~~Section 5.38.090 of the Municipal Code~~ and subsection (b) below may be imposed, or for which the STR Permit may be revoked:
- (1) The Property Owner and/or Agent has failed to comply with the standard conditions specified in Conditions of Permit Issuance and Renewal Section (a);
 - (2) The Property Owner and/or Agent has failed to comply with conditions imposed by the Community Development Director pursuant to the provisions of Conditions of Permit Issuance and Renewal Section (b) or (c);
 - (3) The Property Owner and/or Agent has willfully violated the provisions of this Program;
 - (4) The Property Owner and/or Agent has failed to comply and pay any fines imposed pursuant to subsection (b) within thirty (30) days of the date of notification; or
 - (5) The Property Owner and/or Agent has failed to comply and pay the transient occupancy tax or submit a report as required by Chapter 3.25 of the Municipal Code within the required time limit.
- (b) Penalties. The penalties for violations imposed per subsection (a) above, or the Municipal Code, shall be the responsibility of the Property Owner, and/or the Agent if applicable, and are issued per day per violation as follows:
- (1) For the first violation, the penalty shall be the maximum monetary amount allowed per State law;
 - (2) For a second violation, the penalty shall be the maximum monetary amount allowed per State law;
 - (3) For a third violation, the penalty shall result in the immediate revocation of the STR Permit. In the event the STR Permit has been revoked, the Property Owner shall thereafter be ineligible to receive an STR Permit for any category of STR to be operated on the same parcel upon which the STR for which the Permit was revoked existed.

12. Procedure for Imposition of Penalties/Revocation

Penalties, including notice of violation, shall be imposed, and STR Permits shall be revoked only in the manner provided in this Section and ~~Section 5.38 of the Municipal Code.~~

The Community Development Director shall conduct an investigation whenever he or she has reason to believe that a Property Owner (or Agent as applicable) has committed a violation described in the above ~~Section 5.38.090(a) of the Municipal Code.~~ Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Community Development Director shall issue written notice of intention to impose a penalty and/or revoke the STR Permit.

The written notice shall be served on the Property Owner, and the Agent if applicable, and shall specify the facts which, in the opinion of the Community Development Director, constitute substantial evidence to establish grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or the STR Permit will be revoked within thirty (30) days from the date the notice is given unless the Property Owner, or Agent if applicable, files with the City Clerk before the penalties or revocation becomes effective, a request for hearing before the City Manager.

Exhibit 4 – Rubric for STR 6-Year Study

**Comprehensive Rubric (Checklist) for Study and Evaluation of
City of Dana Point’s Short-Term Rental (STR) Program**

<u>STR Program Aspect</u>	<u>Study</u>	<u>Assess</u>	<u>Recommendations for any modifications to the Program, in connection with the assessments or otherwise</u>
STR Permits:	1) Number of STR permits issued on a rolling (chronological) basis ¹ for the six (6) year study period. 2) Number of STR permits rescinded or voided on a rolling (chronological) basis for the six (6) year study period. The reason for nullification of the STR permits shall be included and tabulated. 3) Average nightly rates for each STR listing (during peak season and annually) ² , including a breakdown by type of STR and neighborhood.	1) Assessment of whether the STR permit caps are adequate and/or whether the caps should be changed. 2) Assessment of whether the STR permit types are adequate and/or whether the types should be changed.	
Enforcement of Violations:	1) Summarized discussion of the number and types of STR violations for the six (6) year study period.	1) Assessment of whether the STR Program adequately addresses violations/nuisance complaints and/or whether aspects of the City’s Program or its enforcement should be changed.	

¹ Rolling (chronological) data can be represented using a run-sequence or time series plot. [Run-Sequence Plot](#), National Institute of Standards and Technology, U.S. Department of Commerce.

² Average daily/nightly rates (ADRs) are calculated as revenue per unit rented, often calculated on a monthly basis. The peak season in California runs from June to August. ADRs can be averaged annually (January 1 to December 31) for longer-term trends. For additional explanation, see definitions in the [STAR Report](#) informational guide.

<p>Housing Inventory:</p>	<p>1) Number of single-family residences and multi-family units in the Coastal Zone on a rolling (chronological) basis for the six (6) year study period, including a separate analysis for the number of affordable long-term rental units in the Coastal Zone. 2) Other relevant population trends in the Coastal Zone for the six (6) year study period.</p>	<p>1) Assessment of whether the STR Program is having adverse impacts on housing stock and affordable long-term rental units in the Coastal Zone and/or whether aspects of the City's Program should be changed to lessen adverse impacts.</p>	<p><u>Recommendations for any modifications to the Program, in connection with the assessments or otherwise</u></p>
<p>Overnight Accommodations Inventory:</p>	<p>1) Tabulated inventory of non-STR coastal overnight accommodations and public visitor-serving amenities (including affordable vs. market rate facilities, number of rooms provided in accommodations, and listing by category: e.g., hotels, hostels, campsites, etc.). 2) Average nightly room rates for non-STR overnight accommodations in Dana Point's Coastal Zone (during peak season and annually.)</p>	<p>1) Assessment of whether the STR Program is having adverse impacts on visitor use of non-STR overnight accommodations and other visitor-serving recreational facilities and/or whether aspects of the City's Program should be changed to lessen adverse impacts.</p>	
<p>Parking:</p>	<p>1) Quantitative and qualitative information for any parking issues, complaints, or other impacts to coastal access.</p>	<p>1) Assessment of whether the parking and vehicle occupancy requirements for STRs should be changed.</p>	
<p>Revenues:</p>	<p>1) Details of the City's final fee structure for STR permit applications. Previous iterations of the fee schedule should be included, too. The City shall confirm</p>	<p>1) Assessment of whether the revenue generated by the Program is sufficient for its continuance, whether additional</p>	

<p>Revenues:</p>	<p>whether the permit fees correspond to the City's costs of developing, managing, and enforcing the STR Program by providing numerical data in support. 2) Annual transient occupancy tax (TOT) revenues.</p>	<p>fees are recommended to be implemented, and/or whether the permit fee structure presents public access impacts by overburdening STR hosts and reducing the availability or affordability of STR listings.</p>	<p><u>Recommendations for any modifications to the Program, in connection with the assessments or otherwise</u></p>
<p>Waitlist:</p>	<p>1) Number of STR permit applications on the waitlist on a rolling (chronological) basis for the six (6) year study period. 2) Average length of waiting period before STR permit applications are promoted from the waitlist. 3) Average duration of STR permits, including renewals.</p>	<p>1) Assessment of whether the STR permit caps are adequate and/or whether the caps should be changed. 2) Assessment of whether the waitlisting and renewal procedures should be changed.</p>	

SUPPORTING DOCUMENT C – STR Program Tracking Metrics – Per CDP22-0010

Exhibit 4 – Rubric for STR 10-Year Study

**Comprehensive Rubric (Checklist) for Study and Evaluation of
City of Dana Point’s Short-Term Rental (STR) Program**

<u>STR Program Aspect</u>	<u>Study</u>	<u>Assess</u>	<u>Recommendations for any modifications to the Program, in connection with the assessments or otherwise</u>
STR Permits:	1) Number of STR permits issued on a rolling (chronological) basis ¹ for the ten (10) year authorization period. 2) Number of STR permits rescinded or voided on a rolling (chronological) basis for the ten (10) year authorization. The reason for nullification of the STR permits shall be included and tabulated. 3) Average nightly rates for each STR listing (during peak season and annually) ² , including a breakdown by type of STR and neighborhood.	1) Assessment of whether the STR permit caps are adequate and/or whether the caps should be changed. 2) Assessment of whether the STR permit types are adequate and/or whether the types should be changed.	
Enforcement of Violations:	1) Summarized discussion of the number and types of STR violations for the ten (10) year authorization period.	1) Assessment of whether the STR Program adequately addresses violations/nuisance complaints and/or whether aspects of the City’s Program or its enforcement should be changed.	

¹ Rolling (chronological) data can be represented using a run-sequence or time series plot. [Run-Sequence Plot](#), National Institute of Standards and Technology, *U.S. Department of Commerce*.

² Average daily/nightly rates (ADRs) are calculated as revenue per unit rented, often calculated on a monthly basis. The peak season in California runs from June to August. ADRs can be averaged annually (January 1 to December 31) for longer-term trends. For additional explanation, see definitions in the [STAR Report](#) informational guide.

Housing Inventory:	<ol style="list-style-type: none"> 1) Number of single-family residences and multi-family units in the Coastal Zone on a rolling (chronological) basis for the ten (10) year authorization period, including a separate analysis for the number of affordable long-term rental units in the Coastal Zone. 2) Other relevant population trends in the Coastal Zone for the ten (10) year authorization period. 	<ol style="list-style-type: none"> 1) Assessment of whether the STR Program is having adverse impacts on housing stock and affordable long-term rental units in the Coastal Zone and/or whether aspects of the City's Program should be changed to lessen adverse impacts. 	<p><u>Recommendations for any modifications to the Program, in connection with the assessments or otherwise</u></p>
Overnight Accommodations Inventory:	<ol style="list-style-type: none"> 1) Tabulated inventory of non-STR coastal overnight accommodations and public visitor-serving amenities (including affordable vs. market rate facilities, number of rooms provided in accommodations, and listing by category: e.g., hotels, hostels, campsites, etc.). 2) Average nightly room rates for non-STR overnight accommodations in Dana Point's Coastal Zone (during peak season and annually.) 	<ol style="list-style-type: none"> 1) Assessment of whether the STR Program is having adverse impacts on visitor use of non-STR overnight accommodations and other visitor-serving recreational facilities and/or whether aspects of the City's Program should be changed to lessen adverse impacts. 	
Parking:	<ol style="list-style-type: none"> 1) Quantitative and qualitative information for any parking issues, complaints, or other impacts to coastal access. 	<ol style="list-style-type: none"> 1) Assessment of whether the parking and vehicle occupancy requirements for STRs should be changed. 	
Revenues:	<ol style="list-style-type: none"> 1) Details of the City's final fee structure for STR permit applications. Previous iterations of the fee schedule should be included, too. The City shall confirm 	<ol style="list-style-type: none"> 1) Assessment of whether the revenue generated by the Program is sufficient for its continuance, whether additional 	

<p>Revenues:</p>	<p>whether the permit fees correspond to the City's costs of developing, managing, and enforcing the STR Program by providing numerical data in support. 2) Annual transient occupancy tax (TOT) revenues.</p>	<p>fees are recommended to be implemented, and/or whether the permit fee structure presents public access impacts by overburdening STR hosts and reducing the availability or affordability of STR listings.</p>	<p><u>Recommendations</u> <u>for any</u> <u>modifications to</u> <u>the Program, in</u> <u>connection with</u> <u>the assessments</u> <u>or otherwise</u></p>
<p>Waitlist:</p>	<p>1) Number of STR permit applications on the waitlist on a rolling (chronological) basis for the ten (10) year authorization period. 2) Average length of waiting period before STR permit applications are promoted from the waitlist. 3) Average duration of STR permits, including renewals.</p>	<p>1) Assessment of whether the STR permit caps are adequate and/or whether the caps should be changed. 2) Assessment of whether the waitlisting and renewal procedures should be changed.</p>	