

**CITY OF DANA POINT
PLANNING COMMISSION
WORKSHOP REPORT**

DATE: APRIL 11, 2022

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
BRENDA WISNESKI, COMMUNITY DEVELOPMENT DIRECTOR
JEFF ROSALER, COMMUNITY DEVELOPMENT MANAGER
JOHN CIAMPA, SENIOR PLANNER

SUBJECT: SHORT-TERM RENTAL PROGRAM WORKSHOP

RECOMMENDATION: Review, receive public comment, and provide input to staff on the draft Short-Term Rental Program (Supporting Document 1)

APPLICANT: City of Dana Point

BACKGROUND:

The City has worked toward addressing short-term rentals (STR) since the late 2000s. Recent efforts and progress within the past 1-2 years associated with STRs include:

- On July 21, 2020, City Council directed staff and the Planning Commission to develop an STR Program and conduct public outreach to guide the process. The Council's discussion also focused on the need for enhanced STR enforcement, penalties, and health and safety regulations.
- On September 28, 2020, the Planning Commission formed an STR Subcommittee with the appointments of Commissioners Dohner and Nelson.
- The Subcommittee conducted public outreach with stakeholders and the general public to identify enhanced and new regulations for existing STRs.
- On June 1, 2021, the City Council approved new and enhanced STR regulations, that generally applied to all types of STRs throughout the City.

Since the City's adoption of its enhanced regulatory provisions in 2021, various court decisions have made clear that compliance with the Coastal Act is needed for any regulation of short term rentals. First, the Court of Appeal issued a decision overturning the City of Santa Barbara's ban on short term rentals, based largely on the fact that it determined that short term rentals were permitted uses as part of any approved residential use, based on the provisions of the City's Local Coastal Program. (*Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089.) In the last few days another case was decided by the Court of Appeal, in which it determined the City of Manhattan Beach's prohibition on

short term rentals was invalid for lack of Coastal Commission approval, since its regulations allowing properties to be rented, which were approved by Coastal Commission, did not place a limit the number of nights for rentals. (*Keen v. City of Manhattan Beach*; Case No. B307538; filed 04/06/22.)

To ensure compliance with the evolving case law, the City has continued its efforts for the development of an STR Program that will comply with the Coastal Act, with a focus on gaining additional input on issues such as whether to cap the number of short term rental permits issued in the City, and if so, whether the cap should apply in certain areas only (as opposed to the City as a whole) and/or whether the cap would some types of short term rentals (as opposed to all types of short term rentals). As part of this most recent effort, the City's public outreach efforts include, but are not limited to the following:

- To inform the community of the City's efforts and encourage input on the STR Program, updates and meeting notifications were posted on social media and emails were sent to the STR interested parties (list of over 500). Additionally, an informational flyer was sent to all property owners and tenants in the City of the Planning Commission public workshop conducted on November 8, 2021. And, each Planning Commission meeting has included an update on the STR Subcommittee's progress.
- The STR Subcommittee conducted a series of stakeholder meeting, convening four groups representing STR management companies, existing STR permit holders, neighbors of STRs, and community groups. The stakeholders met separately via zoom on two occasions. First, in January 2021, to assist in formulating the new regulations and enforcement measures adopted by the City Council on June 1, 2021. And, second, in August 2021, to provide input on the subject STR program. Following each meeting, video recordings and meeting minutes were posted on the City's STR webpage (bit.ly/DanaPointSTR). Please see Supporting Document 2 for the meeting minutes.
- On November 8, 2021, the Planning Commission held a public workshop via Zoom to obtain input from the public-at-large and guide the development of an STR Program. Over 100 individuals attended the meeting. Please see Supporting Document 3 for the workshop notes.
- On April 1, 2022, the City received comments from the California Coastal Commission (CCC) (Supporting Document 4), which the Subcommittee reviewed and incorporated additional provisions into the draft Program.

In particular, the comments received as part of the City's latest public outreach efforts included support for the establishment of primary and home stay short-term rentals, permit caps, permit transfer procedures, specific regulations for multi-family properties, and a limit on the number of short term rental permits that may be issued to individual owners.

DISCUSSION:

The draft STR Program was developed by utilizing Section 5.38 Short-Term Rental Permits (Supporting Document 5) of the Dana Point Municipal Code as the foundation. Additional

provisions were included based upon feedback received from the public, and the CCC, as evaluated and discussed by the STR Subcommittee .

Generally speaking, the subcommittee developed the below-listed set of recommendations after considering feedback from the various the stakeholders, keeping in mind its ultimate goal of balancing the following interests: (1) preserving the City's affordable rental stock for its residents, (2) providing low cost, affordable coastal accommodations at a variety of prices, locations, and lodging types; (3) protecting the peaceful and quiet enjoyment of the community by its residents; and (4) respecting the private property rights of all property owners (both those who favor of those who oppose short term rentals.) The result of this process is the draft Program, which includes regulations and conditions associated with three types of STRs (non-primary, primary, and home stay), a city-wide short term rental permit cap, permit limitation for multi-family structures, procedures for short term rental permit transfers, and ownership limitations.

In order to facilitate the discussion at the upcoming public workshop, a summary of the recommendations supported by the Subcommittee is listed below. Each recommendation will be discussed in further detail at the workshop.

STR Program Regulations in addition to DPMC Section 5.38

- STR Types: allow three types: primary, non-primary, and home stay STRs, as defined as:
 - "Primary Short Term Rental" The property is the owner's primary residence, and it is rented when traveling or living elsewhere.
 - "Non-Primary Short Term Rental "shall mean that the owner rents out homes other than their primary residence to visitors.
 - "Home Stay Short Term Rental" shall mean that the owner rents out a portion of their home while continuing to live in the home while visitors are renting. In the case of a multi-family (duplex, tri-plex, etc.) property, the owner resides in one of the units while the other unit on the same property is rented to visitors.
- Permitted Zones: all three types allowed in all residential and mixed use zones in the City.
- Permit Cap: Non-primary capped at 185 permits citywide. No cap for primary and home stay STRs.
 - Permit cap will be evaluated in five years. If increased, an amendment to the Coastal Development Permit is required.
- Multi-Family Structures: apartments one STR per building. No limit for condominiums.
- Transfer of permits: only for inherited properties.
- Permits Per Owner: one STR permit per owner. Existing owners with multiple permits are permitted to retain their permits until the property is sold.
- Waitlist: establish a waitlist for new STR permits to be issued once the cap is met.

- Prohibition(s): STRs prohibited in Accessory Dwelling Units, Junior Accessory Dwelling Units, Single Family Residential Duplexes (SB9), and designated affordable housing.
- Operator Regulations – specific regulations for each type of STR
 - Home Stay – owner must reside in the residence when the property is rented from 10:00 p.m. to 7:00 a.m.
 - Primary – rented a maximum of 60 days annually

During the public hearing phase for increasing the regulations of Chapter 5.38 and updating the STR program, common concerns were heard regarding the City's efforts to enforce unpermitted STRs. Residents referenced the online tool AirDNA for identifying these STR advertisements. It has been mentioned in multiple City meetings that over 300 illegally operating STRs can be found utilizing this online tool. AirDNA scrapes both AirBnB and VRBO advertisements to determine potential market viability for those looking to buy a home to utilize as an STR. This platform aids investors by providing data to determine if an area is a strong market to invest in. City staff conducted a thorough review of the data presented on AirDNA to determine the validity of the information on this website. The conclusions of this investigation will be presented to the Planning Commission at the April 11, 2022 meeting.

Staff and the Subcommittee request that both the Planning Commission and the public consider the information provided and provide any further feedback to Staff relating to the draft STR Coastal Development Permit Program.

NEXT STEPS

1. Incorporate any comments/feedback from tonight's public workshop into the STR Program, upon Planning Commission direction.
2. Planning Commission to consider the Short-Term Rental Coastal Development Permit (tentatively scheduled for May 9, 2022).

NOTIFICATION/FOLLOW-UP:

Interested parties requesting to be notified were provided advanced notice of the Planning Commission's Public Workshop. The City also posted the notice of the workshop on the City's website and social media.

SUPPORTING DOCUMENTS:

1. Draft STR Program
2. Stakeholder Meetings Minutes, August 16-19, 2021
3. Public Meeting Comment Summary, November 8, 2021
4. CCC STR Program Comment Letter, April 1, 2022
5. Municipal Code Section 5.38 Short Term Rental Business Regulations

Supporting Document 1: Draft STR Program

DRAFT Coastal Development Permit Short-Term Rental Program

1. Introduction

The purpose of this Short-Term Rental Program is to require the owner or owners of a residential dwelling unit that operates as a short-term rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this 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 short-term rentals.

2. Definitions

This glossary provides definitions for terms used in the City of Dana Point Short-Term Rental Program. For this Chapter, the following definitions shall apply:

(a) "Accessory Dwelling Unit" shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. 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, Multiple Family" shall mean a structure or structures designed to contain three or more dwelling units on one lot under single or separate ownership.

(f) "Home Stay Short Term Rental" shall mean that the owner rents out a portion of their home while continuing to live in the home while visitors are renting. In the case of a multi-family (duplex, tri-plex, etc.) property, the owner resides in one of the units while the other unit on the same property is rented to visitors.

(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) "Non-Primary Short-Term Rental" shall mean that the owner rents out homes other than their primary residence to visitors.

(i) "Owner" shall mean the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject property.

(j) "Primary Short-Term Rental" The property is the owner's primary residence, and it is rented when traveling or living elsewhere.

(k) "Short term rental" is defined as 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. "Short-term rental" historically and continues to be included in the definition of "hotel" for purposes of collecting transient occupancy tax pursuant to Chapter 3.25 of this Code.

(l) "Transient" means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a more extended period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior to and after the effective date of the ordinance codified in this Chapter may be considered.

3. Number of Short-Term Rentals Allowed

A maximum of 185 permits may be issued for non-primary short-term rentals for properties inside and outside the Coastal Zone. There is no limit to the total number of permits issued for Home Stay and Primary Short-Term Rentals in the City.

- (a) When a property is sold, the short-term rental permit expires and does not transfer to the new owner. The new owner must apply for a short-term rental permit.
- (b) Upon reaching the maximum number of non-primary short-term rental permits, the City will establish a waitlist for the issuance of permits when they become available.
- (c) New short-term rental permits shall be limited to one permit per owner for non-primary and home stay short-term rentals.
- (d) An Owner with more than one short-term rental permit issued before the effective date of this Program, may retain the permits until the property is sold or permit(s) are revoked.

After five years of the short-term rental Program, the Community Development Director will review to program to determine if an increase in the maximum number of permits should be considered. If demands warrants an increase to be considered, an amendment to the Coastal Development Permit shall be required.

4. Permit Transfers

Short-term rental permits shall not transfer to a new property owner, with the exception of when a property changes ownership through an inheritance. Upon the inheritance of the property, the new owners shall apply for a permit transfer. The permit transfer is subject to City approval. The permit

transfer shall be approved by the City prior to the first rental of the property after the change of ownership.

5. Agents

An 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 a permit that has been signed and notarized by the owner, the management of the short-term rental, and the compliance with the conditions to the permit. The permit shall be issued only to the owner of the short-term rental. The owner of the short-term rental is responsible for compliance with the provisions of this Chapter, and the failure of an agent to comply with this Chapter shall be deemed non-compliance by the owner and agent and subject to fines.

6. Permit Required

No owner of a short-term rental located within a zoning district where residential uses are permitted shall rent, offer to rent, or advertise for rent the short-term rental to another person without a valid short-term rental permit approved and issued by the City of Dana Point.

7. Application for Permit

The owner or owners shall submit an application for a short-term rental permit to the Director of Community Development. The application for a short-term rental 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 owner of the short-term rental for which the permit is to be issued.
- (b) The name, address, email, and telephone number of the agent, if any, of the owner of the short-term rental.
- (c) Evidence of a valid transient occupancy tax registration certificate issued by the City for the short-term rental.
- (d) 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 short-term rental.
- (e) Acknowledgment of receipt and inspection of a copy of all regulations pertaining to the operation of a short-term rental within the City.
- (f) Such other information as the Director of Community Development deems reasonably necessary to administer this Chapter.
- (g) Permits shall be limited to one per person/entity.
- (h) Permit fees shall be established by the City Council.

8. Application for Waitlist

The owner or owners of the property shall submit a waitlist application to be added to the City's waitlist for a short-term rental permit. Owners on the waitlist must provide an application annually to verify continued eligibility; however, the position on the waitlist will not change. The application for the short-term rental waitlist shall be upon forms provided by the City and shall contain the following information:

- (a) The name, address, email, and telephone number of the owner of the short-term rental for which the permit is to be issued.
- (b) Additional information as the Director of Community Development deems reasonably necessary to administer this Chapter.
- (c) The waitlist fee shall be the same as the STR permit fee. Upon selection and permit issuance, the first year's permit fee will be paid by the waitlist fee.
- (d) Upon selection from the waitlist, the property owner shall have 14 days to submit a complete application to the City.

9. Renewal of Permit

The owner or owners shall apply for and renew the short-term rental permit annually on March 1st or an alternative date as determined by the Director of Community Development. Permit renewals shall include any changes to the information or requirements set forth in these regulations, proof of current general liability insurance, and proof of the property's homeowners tax exemption status for primary and home stay short-term rentals.

Permits that are inactive during the permit year will have their permit revoked. The inactivity requirement can be waived if the property is under renovation with permits that have resulted in inactivity or other issues subject to the Community Development Director's discretion. In no event shall a permit remain inactive for more the two permit years collectively.

10. Conditions of Permit Issuance and Renewal

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

(1) The owner shall ensure that the short-term rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.

(2) The owner shall provide proof that short-term rentals are not prohibited by its Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other community standards/guidelines applicable to the proposed short-term rental.

(3) Concurrent with the issuance of the short-term rental permit and annually upon its renewal, City Staff shall provide notice to all abutting property owners and tenants that the property is operating as a short-term rental. The notice shall also provide the contact information for the short-term rental owner and property manager and their twenty-four (24) hour emergency contact phone number. The notification package shall also identify the City's twenty-four (24) hour short-term rental hotline phone number, Code Enforcement phone number, and Orange County Sheriff's Department phone number. The notice shall not afford the abutting property owners any protest, appeal, or other related rights; rather, its intent is to provide the abutting property owners 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 short-term rental.

(4) The short-term rental unit in which a permit is being requested must pass an initial inspection by the City prior to permit issuance. The City may conduct additional inspections as deemed necessary or prudent prior to subsequent renewals.

(5) The owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the short-term rental.

(6) The short-term rental must have a minimum of two (2) off-street parking spaces.

(7) The short-term rental must have a visible house number easily seen from the street, day or night.

(8) All advertising for the short-term rental shall include the City issued short-term rental permit number in the subject description of the property. In addition, all photographs, maps, and diagrams of the property that are used for advertising purposes shall impose the City-issued short-term rental permit number in the lower right-hand corner in an appropriate font, style, size, and color to be legible.

(9) The primary overnight and daytime renter, who shall also be residing as a guest of the short-term unit, must be an adult twenty-five (25) years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.

(10) Prior to occupancy, the owner or agent shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the short-term rental. The owner or agent 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 short-term rental 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 short-term rental, along with a copy of the City's short-term rental regulations. 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.

(11) The owner shall require all occupants to agree to a minimum stay of two (2) consecutive nights.

(12) The maximum overnight occupancy of the short-term rental shall be limited to two (2) persons per bedroom plus two (2) additional persons within the short-term rental. The Director of Community Development may, when unusual size, interior layout, parking, or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of a 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 Director of Community Development may, when unusual size, or other physical characteristics, approve a greater maximum number of daytime occupants as part of a permit application or renewal.

(13) The maximum number of vehicles allowed at the short-term rental 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 short-term rental. The Director of Community Development may, when unusual size, parking, or other physical characteristics are shown, approve a greater maximum number of vehicles as part of a permit application or renewal. The owner must make a sufficient number of parking spaces accessible to tenants to accommodate the maximum number of vehicles allowed.

(14) No on-site exterior signs are to be posted advertising a short-term rental.

(15) 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 contract company and provide proof to the City of the same. The owner of the short-term rental shall provide sufficient trash collection containers and services to meet the demand of the occupants.

(16) Each lease or rental agreement for a short-term rental shall include the following terms, notifications, and disclosures, which shall also be posted in a conspicuous location inside the short-term rental:

(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 short-term rental, 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 the property.

(D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the owner for violating any and all applicable laws.

(E) The name of the managing agency, agent, rental manager, local contact person or owner of the unit, 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.

(17) The owner shall ensure that the occupants of the short-term rental 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. 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.

(18) The Owner, property manager, or emergency contact shall, upon notification, that occupants or tenants of his or her short-term rental 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 owner, property manager, or emergency contact being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the owner, property manager, or emergency contact 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.

(19) No outside noise from the short-term rental shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.

(20) The operator shall include ADA information, if available, in the advertisement of the short-term rental (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.).

(21) Advertisements and information must be provided in the unit to disclose whether bicycles or other means of transport (scooters, skateboards, carpooling, rideshare, etc.) are available.

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

(c) The Director of Community Development shall have the authority to impose additional conditions on any 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 owner must maintain a valid transient occupancy tax registration certificate issued by the City for the short-term rental; the owner must collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

11. Short-Term Rental Operator Regulations

The following are additional regulations and clarifications for all short-term rental operators. These regulations may be updated periodically for clarification of situations that may develop based on the implementation of the short-term rental regulations within the City.

(a) Accessory Dwelling Units, Junior Accessory Dwelling Units, units created as Single-Family Residential Duplexes, and designated affordable housing units shall not be permitted for any short-term rentals.

(b) A multi-family residential development on a single lot (e.g., apartment) is limited to one permit per property. Permits for condominium units will only be regulated by the permit cap.

(c) Home Stay short-term rentals shall:

1. An owner must be in the residence, or in another residence on the property, during the rental period between the hours of 10:00 p.m. to 7:00 a.m.

2. A Home Stay short-term rental permit may be issued for a maximum of one unit when there are multiple units on the property.

3. In no instance shall a home stay short-term rental permit holder utilize an on-site camper, RV, or stay in a tent on the property to qualify for a home stay short-term rental permit.

(d) Primary short-term rentals shall:

1. Limited to renting their home a maximum of 60 days a year (date started at issuance of primary residence short-term rental permit). Compliance will be monitored by the Transient Occupancy Tax annual submittal.

12. 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 Conditions of Permit Issuance and Renewal Subsections (b) and (c) may be imposed, or the permit revoked:

(1) The owner and/or agent has failed to comply with the standard conditions specified in Conditions of Permit Issuance and Renewal Section (a);

(2) The owner and/or agent has failed to comply with conditions imposed by the Director of Community Development pursuant to the provisions of Conditions of Permit Issuance and Renewal Section (b) or (c);

(3) The owner and/or agent has willfully violated the provisions of this Program;

(4) The 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 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 specified in subsection (a) shall be the responsibility of the owner 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 short-term rental permit. In the event the short-term rental permit has been revoked, the property owner shall be forbidden from re-applying for another short-term rental permit for the same property indefinitely.

13. Procedure for Imposition of Penalties/Revocation

Penalties, including notice of violation, shall be imposed, and permits shall be revoked only in the manner provided in this Section.

The Director of Community Development, or designee, shall conduct an investigation whenever he or she has reason to believe that an owner has committed a violation described in Section 5.38.090(a). Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Director of Community Development shall issue written notice of intention to impose a penalty and/or revoke the permit.

The written notice shall be served on the owner, shall specify the facts which, in the opinion of the Director of Community Development, 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 permit will be revoked within thirty (30) days from the date the notice is given unless the owner and/or operator files, with the City Clerk and before the penalties or revocation becomes effective, a request for hearing before the City Manager or designee.

Supporting Document 2: Minutes from Stakeholder Meetings August 16-19, 2021

**CITY OF DANA POINT
PLANNING DEPARTMENT
STR MANAGEMENT COMPANIES STAKEHOLDER ACTION MINUTES**

Date: August 16, 2021	City Hall
Time: 4:05 p.m. – 5:05 p.m.	33282 Golden Lantern Dana Point, CA 92629

CALL TO ORDER STR Management Companies Stakeholder Meeting

Eric Nelson called the STR Management Companies Stakeholder Meeting to order at 4:05 p.m.

ROLL CALL

Staff Present: Brenda Wisneski (Director of Community Development), Patrick Munoz (City Attorney), Jennifer Farrell (Deputy City Attorney), Jeff Rosaler (Community Development Manager), Johnathan Ciampa (Senior Planner), Allison Peterson (Senior Administrative Assistant)

Subcommittee Members Present: Eric Nelson, Roy Dohner

STR Management Companies Stakeholders Present: Carla Moore, Jeff Perry, Miriam Rupke

ITEMS COVERED IN PRESENTATION

- 1. Introductions & Update – Subcommittee Member Nelson**
- 2. Summary of recent court case – City Attorney, Patrick Munoz**
- 3. Process for Evaluating STR Regulations – Senior Planner John Ciampa**
- 4. STR Statistics – Senior Planner John Ciampa**
- 5. Stakeholder Recommendations for STR Regulations – Subcommittee Member Nelson**
- 6. Questions and Answers – Subcommittee Member Nelson**

MEETING COMMENTS

Miriam Rupke stated that STR types should not be differentiated by zones. She said none of the properties she has managed, nor what she owns, is a home stay. She stated home stays are a fraction of overall permits, and only allowing home stays in specific zones will eliminate a large amount of STRs. Miriam believes that STRs should not be limited to just the coastal zone. She said that we have a small number of permits in comparison to neighboring cities, and we have a good system in place, especially with the recent changes.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 16, 2021 STR MANAGEMENT COMPANIES STAKEHOLDER ACTION MINUTES
4:05 p.m. – 5:05 p.m.

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Jeff Perry agreed with Miriam that STRs should not be defined by type and limited by classifications and zones. He said that owners' needs change, property uses change, and it would not be fair to eliminate their STRs based on these changes. Perry said he represents several property owners that are eager to transfer to weekly rentals. He also would like STR permits to be transferable.

Miriam Rupke stated that the City of Newport beach allows STR permits to be transferred. She would like current permit holders to be grandfathered in to a new program. Miriam is opposed to limits by zones and districts, and she is open to a reasonable cap.

Jeff Perry commented that people purchase homes based on what they can afford and eliminating STRs on the basis of types and categories is unfortunate because it could be taking from people's wants and needs. He would like the financial affordability to be considered.

Miriam Rupke agreed with allowing permit transfers as it improves the marketability of homes.

Patrick Munoz said whatever the rules are at the time of an adoption, and whether a home is inside or outside of the coastal zone, is something that home sellers should be paying attention to in terms of transfer changes and how that may impact disclosures.

Carla Moore said it would be a big asset to allow STR transfers so long as properties are in good standing. She suggested stating a future date for transfers so potential new owners can get prepared to meet the necessary qualifications.

Miriam Rupke questioned the purpose of classifying STRs. She believes that proper STR management is what makes a STR appropriate. Miriam is opposed to home stays as she feels this will attract younger crowds.

Jeff Perry commented that maximum stays are not necessary and too restrictive.

Carla Moore agreed with Jeff Perry. She also said 8.8% of the current STRs is where the focus is right now, and these types of STRs limit the owner's ability to earn income. Carla believes the focus should be on non-primary STRs.

Patrick Munoz clarified that if a home has a STR rental permit, there is no requirement to rent the home out short term. He said the thinking behind classifying STRs is to reduce the potential for nuisance problems. Patrick also stated there would potentially be different rules behind each classification.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 16, 2021 STR MANAGEMENT COMPANIES STAKEHOLDER ACTION MINUTES
4:05 p.m. – 5:05 p.m.

PAGE 3

Carla Moore stated she can see putting a cumulative number cap on STR permits and not classifying permits at all. She also believes HOAs are going to take care of limiting STRs.

Miriam Rupke agreed with Carla Moore. She reiterated that she does not see the need for limitations. She emphasized that management is what is important, and permits should be revoked if a STR is not following the rules.

Carla Moore said she thinks some of the opposition for STRs is that it takes from long-term renters, making it difficult for year-round tenants to find property. She believes that homeowners should determine what the best use is for their property.

Brenda Wisneski confirmed Carla's thoughts on the orientation of the potential provision, and she stated that it came from Housing Advocates. She said that point of view being presented is the potential to have one property owner and an entire building becoming STRs. She believes having a provision on multi-family properties would be wise.

John Ciampa went over next steps.

ADJOURNMENT

Eric Nelson adjourned the meeting at 5:05 p.m.

CITY OF DANA POINT
PLANNING DEPARTMENT
STR PERMIT HOLDERS STAKEHOLDER ACTION MINUTES

Date: August 17, 2021
Time: 4:05 p.m. – 5:07 p.m.

City Hall
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER STR Permit Holders Stakeholder Meeting

Eric Nelson called the STR Permit Holders Stakeholder Meeting to order at 4:05 p.m.

ROLL CALL

Staff Present: Brenda Wisneski (Director of Community Development), Jennifer Farrell (Deputy City Attorney), Jeff Rosaler (Community Development Manager), Johnathan Ciampa (Senior Planner), Allison Peterson (Senior Administrative Assistant)

Subcommittee Members Present: Eric Nelson, Roy Dohner

STR Permit Holders Stakeholders Present: Jeff Stanford, Miriam Rupke, Deanna Slocum, 9496329957, Patrick Mnulty, Bill Gaita

ITEMS COVERED IN PRESENTATION

- 1. Introductions & Update – Subcommittee Member Nelson**
- 2. Summary of Recent Court Case – Deputy City Attorney, Jennifer Farrell**
- 3. Process for Evaluating STR Regulations – Senior Planner John Ciampa**
- 4. STR Statistics – Senior Planner John Ciampa**
- 5. Stakeholder Recommendations for STR Regulations – Subcommittee Member Nelson**
- 6. Questions and Answers – Subcommittee Member Nelson**

MEETING COMMENTS

Miriam Rupke stated that most STR permit holders are non-primary and does not think the other types should have such a large amount of focus.

Deanna Slocum suggested we focus on non-primary permit holders as well. She wanted to know the data for non-primary permit holders so rules can be adjusted appropriately.

Jeff Stanford agreed that the focus should be on non-primary STRs. He asked for education on the Coastal Commission oversight.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 17, 2021 STR PERMIT HOLDERS STAKEHOLDER ACTION MINUTES
4:05 p.m. – 5:07 p.m.

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Miriam Rupke stated home stay STRs target a younger demographic and are like hostels. Her fear is that the City will eliminate non-primary STRs.

Deanna Slocum expressed concern that a hotel would purchase residential homes and turn them into STRs. She believes this is fundamentally different than STR permit holders that are local and managing locally. Deanna wanted to know what Dana Point is going to do to protect the neighborhoods. She also commented that STR regulations should be about density rather than type.

Bill Gaita stated that single-family neighborhoods should not be filled with STRs. His belief is that bigger companies will buy up these homes and rent them out. Bill suggested the bulk of STRs in denser areas close to mixed-use locations, allowing just a small percentage in residential neighborhoods after reviewing the make-up of specific neighborhoods.

Miriam Rupke disagreed with Bill Gaita stating that her STR is in a neighborhood and the neighbors have commended her for her management, saying long-term tenants are the issue. She believes management of the property is what is important. She also stated the belief that HOAs would cover Bill's concerns about STRs in neighborhoods.

Bill Gaita said that most HOAs for private residences do not have language for how to handle STRs.

Miriam Rupke believes transfer of STRs should be allowed and would improve the marketability of homes.

Deanna Slocum disagreed with Miriam Rupke on transferability of STRs. She expressed concern over the level of neighborhood focus and standards. She would prefer new homeowners re-apply.

Bill Gaita agreed with Deanna Slocum and suggested transfers operate similar to marina slips where permits may be transferred only within the family upon death of permit holder.

Jeff Stanford wondered if a lawsuit would take place if transfers were allowed upon the sale of a home that has an STR permit.

Tiffany Katuls mentioned she owns homes in other states and STRs are largely nontransferable. She brought the issue of having a cap, STRs keep being transferred and the waiting list never moves.

Deanna Slocum expressed concern over STR permits running with the land and how that could create a zoning issue and changing the fundamental character of a home.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 17, 2021 STR PERMIT HOLDERS STAKEHOLDER ACTION MINUTES
4:05 p.m. – 5:07 p.m.

PAGE 3

Bill Gaita expressed concern over a potential massive influx of summer rentals if STRs are allowed for a maximum of so many days a year. He believes the City should put a cap on the amount of STRs allowed in the City.

Deanna Slocum commented that there should be a set of regulations for primary and home stay and a different set of regulations for non-primary STRs.

Tiffany Katul agreed with Deanna Slocum. She also believes that if the City puts caps and limits anywhere, it will put a lot more work on the City to ensure people are abiding.

Deanna Slocum stated that renters are being displaced by market rates, not by STRs.

Bill Gaita, Jeff Stanford, Tiffany Katuls, and Miriam Rupke agreed with Deanna Slocum.

Deanna Slocum wanted to know if there is data available on who the permit holders are and the quantity of permits each permit holder has. Deanna suggested the City may use this information to direct future plans.

John Ciampa said there is information on single holder and multiple permit holders that can be provided in the future. He also went over next steps for the STR pilot program.

ADJOURNMENT

Eric Nelson adjourned the meeting at 5:07 p.m.

CITY OF DANA POINT
PLANNING DEPARTMENT
STR NEIGHBORS STAKEHOLDER ACTION MINUTES

Date: August 18, 2021
Time: 4:04 p.m. – 5:11 p.m.

City Hall
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER STR Neighbors Stakeholder Meeting

Eric Nelson called the STR Neighbors Stakeholder Meeting to order at 4:04 p.m.

ROLL CALL

Staff Present: Brenda Wisneski (Director of Community Development), Patrick Munoz (City Attorney) Jeff Rosaler (Community Development Manager), Johnathan Ciampa (Senior Planner), Allison Peterson (Senior Administrative Assistant)

Subcommittee Members Present: Eric Nelson, Roy Dohner

STR Neighbors Stakeholders Present: Kim Tarantino, Buck Hill, Betty Hill, Thomas Miller, Laura Lanier, Felicia Verner

ITEMS COVERED IN PRESENTATION

- 1. Introductions & Update – Subcommittee Member Nelson**
- 2. Update Recent Court Case – Deputy City Attorney, Jennifer Farrell**
- 3. Process for Evaluating STR Regulations – Senior Planner John Ciampa**
- 4. STR Statistics – Senior Planner John Ciampa**
- 5. Stakeholder Recommendations for STR Regulations – Subcommittee Member Nelson**
- 6. Questions and Answers – Subcommittee Member Nelson**

MEETING COMMENTS

Buck Hill stated he prefers STRs in Dana Point operate the way Laguna Beach operates their program. He would like to see STRs in mixed-use and commercial areas and home stays in residential area.

Betty Hill agreed with Buck Hill, although she felt home stays would be hard to regulate. Betty would like to see limitations set.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 18, 2021 STR NEIGHBORS STAKEHOLDER ACTION MINUTES
4:04 p.m. – 5:11 p.m.

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Kim Tarantino wanted to know how zoning requirements are bypassed to allow STRs. She also mentioned that she sees many more STRs offered online than what is allowed. She believes the City is missing out on TOTs.

Brenda Wisneski asked Kim to provide the data she found. She mentioned that the City pays a third-party vendor to have these sites scrubbed, and she would appreciate seeing if there are inaccuracies.

Patrick Munoz commented that the Coastal Commission states there is no permissive zoning in Dana Point when it comes to STRs. Patrick explained how permissive zoning works.

Kim Tarantino commented that she believes the Coastal Commission would prefer home stays.

Patrick Munoz confirmed that he had a conversation with Coastal Commission's legal council on Monday and they said the Coastal Commission is interested in providing traditional STRs as an option.

Brenda Wisneski confirmed that the Coastal Commission is looking for variety and they would like a range of options available to the public.

Betty Hill suggested that Dana Point require STR permit numbers on the listings. She also wondered if Airbnb collects TOTs and provides them to the City.

Eric Nelson confirmed that Betty's suggestion of placing STR permit number on listing is currently in place.

Brenda Wisneski responded to Betty Hill and said the City is looking into Airbnb collecting TOTs.

Kim Tarantino would like to see STR permit caps by district, except on home stays.

Betty Hill commented that home stays are hard to regulate.

Laura Lanier would like to see a cap on STR permits and believes all categories should be available for STRs. Laura expressed opposition to transferrable STRs, believing each person should apply and go through the inspection and regulations.

Kim Tarantino believes there should be a minimum number of consecutive nights, not maximum.

Betty Hill shared concern that a home could have every weekend rented, impacting the neighborhood and still not meet maximums.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 18, 2021 STR NEIGHBORS STAKEHOLDER ACTION MINUTES
4:04 p.m. – 5:11 p.m.

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Laura Lanier agreed that a minimum number of more than two nights should be required.

Betty Hill suggested a maximum number of weekends.

Felicia Verner stated it is imperative that the minimum stay be increased to at least ten days. She believes there should be a minimum of ten days or longer. She commented that Beach Road does not accommodate the number of cars that STRs bring. She does not think there can be proper emergency response with all the cars in the way.

Betty Hill expressed concern that multi-unit complexes will become mini hotels. She would like to protect low-income renters. Betty suggested having a percentage of STRs limited to 25% in complexes.

Laura Lanier agreed with Betty Hill on limiting STRs in multi-unit complexes.

Betty Hill suggested the City make sure they don't appear to be targeting minorities.

John Ciampa went over the next steps for the STR pilot program.

Kim Tarantino asked about how Code Enforcement is going to deal with rental arbitrage. She said there are apartments available to rent on a year lease, and the lessee then rents out the unit on places like Airbnb.

Jeff Rosaler responded by stating that notices of violations are sent to the property as well as the property owner, enabling the owner to be informed.

Kim Tarantino asked Patrick Munoz to summarize the Kracke case in Santa Barbara.

Patrick Munoz offered to provide the full case to Kim Tarantino and provided a summary.

Jeff Verner expressed concern about STRs renters not complying to regulations.

ADJOURNMENT

Eric Nelson adjourned the meeting at 5:11 p.m.

CITY OF DANA POINT
PLANNING DEPARTMENT
STR COMMUNITY GROUP STAKEHOLDER ACTION MINUTES

Date: August 19, 2021
Time: 4:02 p.m. – 5:05 p.m.

City Hall
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER STR Community Group Stakeholder Meeting

Eric Nelson called the STR Community Group Stakeholder Meeting to order at 4:02 p.m.

ROLL CALL

Staff Present: Brenda Wisneski (Director of Community Development), Jennifer Farrell (Deputy City Attorney), Jeff Rosaler (Community Development Manager), Johnathan Ciampa (Senior Planner), Allison Peterson (Senior Administrative Assistant)

Subcommittee Members Present: Eric Nelson, Roy Dohner

STR Community Group Stakeholders Present: Barbara Wilson, Don Russell, Karen Morris, Carol Wilson, Toni Nelson, Mark Zanides

ITEMS COVERED IN PRESENTATION

- 1. Introductions & Updates – Subcommittee Member Nelson**
- 2. Recent Court Action – Deputy City Attorney, Jennifer Farrell**
- 3. Process for Evaluating STR Regulations – Senior Planner John Ciampa**
- 4. STR Statistics – Senior Planner John Ciampa**
- 5. Stakeholder Recommendations for STR Regulations – Subcommittee Member Nelson**
- 6. Questions and Answers – Subcommittee Member Nelson**

MEETING COMMENTS

Toni Nelson stated that she believes most residents do want non-primary STRs in their neighborhood. She commented that primary STRs are hard to regulate, and she does not believe people have an issue with home stays. Toni said she likes the Laguna Beach ordinance and felt Coastal Commission likes it too. She suggested only a certain percentage of mixed-use should be allowed for STRs.

Don Russell shared a recent negative experience with a STR within the Beach Road community and believes that STRs renters are continually pushing the envelope.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 19, 2021 STR COMMUNITY GROUP STAKEHOLDER ACTION MINUTES
4:02 p.m. – 5:05 p.m.

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Mark Zanides commented that there is a misunderstanding about what the Coastal Commission wants. He does not believe the Coastal Commission is unreasonably and rigidly in favor of STRs. He said the Kracke case makes it clear that regulations should be developed in coordination with the Coastal Commission. He does not believe that proceeding without the Coastal Commission is viable. He wanted to know what efforts are being made to work with Coastal Commission staff. Mark also wanted to know why the City is not pursuing unregistered STRs.

Brenda Wisneski confirmed that the City has had ongoing conversations with the Coastal Commission, the latest being this past Monday. She stated that the Coastal Commission is an important contributor.

Eric Nelson confirmed that the City does not want unlicensed STRs, and the city has prosecuted as many as they can.

Jeff Rosaler said that there will always be unlicensed STRs. He said that in the past 5 years, they have pursued over 1800 unlicensed STRs. He also confirmed that we use a third-party vendor that tracks unlicensed STRs, and the City looks at the data daily.

Mark Zanides stated that violation penalties are not enough to provide a deterrent.

Eric Nelson stated the City's current fine is at the maximum allowed by the State.

Jennifer Farrell confirmed that because we are not a charter city, we are limited to how much can be penalized. She said if the State allows fines to increase, the City will levy to increase the fines.

Toni Nelson stated that she pulled public records requests and saw that a large amount of fines were not collected. She requested an update at the next meeting to show actual fines levied, collected, and the number of people prosecuted.

Jennifer Farrell stated the City wants to collect fines and Code Enforcement puts in a lot of effort to collect taxes. However, Code Enforcement is limited to what assets they can attach.

Jeff Rosaler confirmed the fines that can be charged to STR violators are limited. He said there is a pending Senate bill that, if passed, it would enable the City to raise the fines. Jeff also said the City uses a third-party vendor to collect fines, follows up on citations, and sends the violators to the Franchise Tax Board if uncollected.

Toni Nelson commented that the overarching belief is STRs are unwanted in neighborhoods. She felt it unfair to have most STRs in Capo Beach and Lantern District. She would like equalization among districts.

CITY OF DANA POINT
PLANNING DEPARTMENT

August 19, 2021 STR COMMUNITY GROUP STAKEHOLDER ACTION MINUTES
4:02 p.m. – 5:05 p.m.

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Barbara Wilson would like to see caps on STRs. She believes raising the number of STRs will negatively affect lower income rentals and does not want STRs in all neighborhoods. She asked that the City take their time when putting this together.

Toni Nelson expressed her opposition to transferrable STR permits.

Mark Zanides agreed with Toni on transferability.

Toni Nelson commented that the cap on primary STRs should be 90 days and unlimited with home stays.

Mark Zanides said Laguna Beach has a good statute to look at.

Toni Nelson suggested all current STR holders get one year to retire their STRs at the start of a new program.

Barbara Wilson agreed with Toni Nelson on retiring current STRs. Barbara emphasized her desire to keep STRs out of neighborhoods.

Carol Wilson said there are ways to control STRs as she has had them removed from VRBO.

John Ciampa stated the next steps for the STR pilot program.

Brenda Wisneski stated that a mailer is going out to all property owners and renters notifying them of upcoming ways to participate in this process, as well as local hotels.

ADJOURNMENT

Eric Nelson adjourned the meeting at 5:05 p.m.

Supporting Document 3: Comment Summary from Public Meeting November 8, 2021

**CITY OF DANA POINT
PLANNING COMMISSION
SHORT-TERM RENTAL PROGRAM WORKSHOP NOTES**

November 8, 2021
6:03pm - 8:12 pm

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER STR Workshop

Eric Nelson called the STR Program Workshop Meeting to order at 6:03 p.m.

ROLL CALL

Staff Present: Brenda Wisneski (Director of Community Development), Jennifer Farrell (Deputy City Attorney) Jeff Rosaler (Community Development Manager), Johnathan Ciampa (Senior Planner), Allison Peterson (Senior Administrative Assistant)

Subcommittee Members Present: Eric Nelson, Roy Dohner

ITEMS COVERED IN PRESENTATION

1. Introductions & Update – Subcommittee Member Nelson
2. STR Update - Subcommittee Member Nelson
3. STR Statistics – Senior Planner John Ciampa
4. STR Regulation Framework –Subcommittee Member Nelson
5. Questions and Answers – Subcommittee Member Nelson

MEETING COMMENTS

Luanne Biggs (Capo Beach) – taken back that there's only 9 non-primary STRs, why wouldn't we allow it? She wants to people to use their home for their own purposes

Deborah Derloshon (Dana Point) – would love to see homestay in multifamily units, not single-family homes. Likes designated areas favorable to STRs. Believes STRs are hotels.

Kelly Purdue (Dana Point) - spoke

Miriam Rupke (Capo Beach) – likes the way Newport Beach does it.

Kim Tarantino (Capo Beach) – AirDNA shows many more STRs offered (380)

Carla Moore (Irvine) – operates STRs. Agrees with Kim. She wants people to be fined if they are operating without a permit

CITY OF DANA POINT
PLANNING COMMISSION

November 8, 2022 SHORT-TERM RENTAL PROGRAM WORKSHOP NOTES
6:03pm – 8:12pm

PAGE 2

Joseph Yaeger (Monarch Beach) – focused on limited STRs in multi-family units. 20% is too high. Maybe 10%

Joseph Tepsi (Capo Beach) – agrees with Joseph Y. Not a fan of permit caps

Shelley Furse (Dana Point) – Wants residential neighborhoods to have permit caps

Dave Weidrich (Dana Point) – spoke. How do you assure there is a proactive management response?

Jim Light (Newport Beach) – owns condo in DP

Eric Moreno (Capo Beach) – transferable and managed

Russ Magnum (Dana Point) - spoke

Matt Yacoub (Monarch Beach) – would like a STR permit, would like to understand potential degradation from past surveys

Bret Johnson (Dana Point) – spoke in favor and believes tax dollars will be a benefit to City

Felicia Lurner (Capo Beach) – against STRs

Pamela Dragomanovich (Newport Beach) – representing father-in-law in Dana Point. Does not want more STRs issued because her dad has an STR and she doesn't want more in the market.

Barbara Wilson (Dana Point) – against STRs

Paul Wyatt (Dana Point) – Agrees with Barbara Wilson

YaoYao Wang (Upland) – owns a home in Dana Point. For STRs

Amy Fluent (Dana Point) – STR manager for 20 years. Can be done correctly

Dan Shaughnessy (Dana Point) – would be fine with no more permits.

Phil Web (San Marino) – representing family in Capo Beach

Deanna Slocum (Capo Beach) – owns home in DP and has STR

Nate Holiday (Rancho Santa Margarita) – owns home on Beach Road. What is fair, equitable, and consistent is what he wants whether that is with or without STRs.

**CITY OF DANA POINT
PLANNING COMMISSION**

November 8, 2022 **SHORT-TERM RENTAL PROGRAM WORKSHOP NOTES**
6:03pm – 8:12pm

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ADJOURNMENT

Eric Nelson adjourned the meeting at 8:12 p.m.

Supporting Document 4: CCC STR Program Comment Letter April 1, 2022

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

GAVIN NEWSOM, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E. Ocean Blvd, Suite 300
Long Beach, CA 90802
(562) 590-5071



April 1, 2022

Johnathan Ciampa, Senior Planner
City of Dana Point, Community Development Department
33282 Golden Lantern, Suite 209
Dana Point, California 92629

Delivered via electronic mail: JCiampa@DanaPoint.org

Re: City of Dana Point Draft Short-Term Rental (STR) Program

Dear Johnathan Ciampa:

Coastal Commission staff appreciate the opportunity to review and comment on the City of Dana Point's Draft Short-Term Rental (STR) Program. We acknowledge the significant collaboration that has taken place to date between interested stakeholders, and City and State agency representatives, in the development of the Program. Given the impacts of the project on public access, recreational amenities, and coastal resources along the Coastal Zone of Dana Point, additional and more thorough review will be required as part of a necessary coastal development permit (CDP) or Local Coastal Program amendment (LCPA) for the proposed Program.

The following comments address, in a preliminary manner, the issue of the Program's consistency with existing policies and regulations of the City's LCP and of the California Coastal Act of 1976 (specifically Chapter 3). This letter is an overview of the main concerns Commission staff have identified at this time based on the information that has been presented. The comments contained herein are preliminary in nature, and those of Coastal Commission staff only, and should not be construed as representing the official opinion of the Coastal Commissioners.

Background:

On February 3, 2014, the City submitted LCPA Request No. 1-14 (LCP-5-DPT-14-0105-1) to amend the Implementation Plan (IP) for both the '1996 LCP' and the '1986 LCP' for Coastal Commission certification regarding short-term rentals (STRs), as defined in Chapter 5.38 of the City's Municipal Code. At that time, STRs grew in popularity through the increased use of electronic reservation systems and online platforms, and Dana Point's coastal location has been especially appealing to out-of-town visitors. In general, STRs have provided an important opportunity to increase visitor-serving overnight accommodations throughout the Coastal Zone, in accordance with Coastal Act Sections 30210, 30211, and 30213. Nonetheless, it has been noted that STRs can also cause problems for coastal residential neighborhoods, and there has been extensive discussion among interested stakeholders regarding impacts from their uses, including but not limited to: changes to community character, rental housing stock reduction, public safety concerns, increased traffic and parking issues, noise impacts, and increased litter accumulation, which are coastal resource issues of concern in part referenced in Coastal Act Section 30214. As

such, the City's position has been to attempt regulating and permitting STR uses, rather than outright banning them.

The City had asserted that the proposed regulations set forth in the LCPA would safeguard the peace, safety, and general welfare of the residents of Dana Point, while also facilitating public access throughout the Coastal Zone for residents and visitors alike. The City's original submittal included conditions of approval and operation of STRs, which identified aspects such as the minimum number of parking spaces, maximum number of guests, removal of trash, noise controls, and transient occupancy tax (TOT). No land use plan changes were proposed. The Commission suggested minimal modifications to the City's submitted LCPA, which included further clarification that if the Program is to change in the future, the City would require an additional LCPA.

The Commission approved LCPA No. 1-14 on April 14, 2016 with the suggested modifications. Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of the LCP amendment was scheduled for November 4, 2016. Ahead of the hearing, the City received two referendum petitions against the underlying ordinances encompassing the LCPA, and on November 2, 2016, the City notified the Commission that the City was withdrawing the STR LCPA from final consideration and certification. Since then, City staff has been in communication with Commission staff with regard to efforts by the City to implement a new STR Program.

Shortly thereafter, on December 6, 2016, the Commission published a resource for local governments on short-term/vacation rentals in the California Coastal Zone, which can be found on the Commission's website.¹ Per the Commission's guidance, short term/vacation rental regulation in the coastal zone should occur within the context of the certified Dana Point Local Coastal Program (LCP) and/or be authorized pursuant to a coastal development permit (CDP).

In response to a conference call between City and Commission staff, the City provided a letter to the Commission on September 9, 2019, which detailed the City's existing visitor-serving amenities as part of its STR ordinance evaluation process, to ensure that there is an appropriate balance of visitor-serving amenities available within the coastal zone. Most recently, the City has circulated its latest draft STR Program on February 17, 2022, which is the next step in the process toward new STR regulations.

Comments:

1.) Existing and Proposed STR Policies

The Commission has historically supported vacation rental regulations that provide for all of the following:²

¹https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Devt_Directors_120616.pdf

²https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals.pdf

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of TOT
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

The short-term rental regulations proposed by the City must conform with existing LCP policies and the Chapter 3 policies of the Coastal Act, namely Section 30213 which encourages the provision of lower-cost visitor-serving facilities and overnight room rentals, as well as also other policies such as adequate parking, protection of scenic and aesthetic qualities and community character of an area, and prioritization of coastal-related and visitor-serving uses in the coastal zone.

The Draft STR Program currently under review is substantially similar to the STR program proposed as part of LCPA No. 1-14.³ However, there are a few key differences. First, the City now defines “primary” and “non-primary” short-term rentals, which is differentiated by whether the property that is being rented out is the owner’s primary residence or not. The City also adds nuance by defining a variety of other rental configurations (e.g., junior/accessory dwelling units, multiple family dwellings, and home stay short-term rentals). The City then contemplates a cap (i.e., a maximum number of STRs allowed) of 185 permits that may be issued for non-primary short-term rentals, yet does not limit the total number of permits that can be issued for home stay and primary STRs. The City also lays out permit transfer, permit waitlist, and annual renewal procedures. Finally, the City contemplates minor changes to the conditions of permit issuance and violations and penalties, removes the amortization and amnesty period, and adds additional stipulations for the operation of STRs in different rental configurations.

In general, the City’s Draft STR Program is comprehensive and addresses many of the issues and points that the Commission has historically considered for STRs in other jurisdictions along the Coastal Zone. In the following sections, Commission staff outline where there may still be areas of concern.

³ <https://documents.coastal.ca.gov/reports/2016/4/th10a-4-2016.pdf>

2.) Lower-Cost Overnight Accommodations

LUP Land Use Element Policy 3.3 states that “priority should be given to those projects that provide for coastal recreational opportunities for the public. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.” Section 30213 of the Coastal Act further states that developments providing public recreational opportunities are preferred.

Short-term rentals may provide increased public enjoyment of the coast by offering overnight accommodations at various price points and types. In many instances, STRs may provide a lower cost alternative to renting hotel or motel rooms for families and groups of individuals, and in all cases, STRs increase the range of options available to coastal visitors. The staff report for LCP Amendment No. 1-14 further discusses the link between the provision of STRs and lower-cost overnight accommodations and recreational opportunities in the Coastal Zone.

There are many factors that go into establishing costs for STRs. Permit fees and TOT typically get incorporated into the cost of the STR as an administrative or overhead fee. Under the Draft STR Program proposal, the TOT will be assessed and exacted per Chapter 3.25 of the Municipal Code, and permit fees will be established by the City Council. On February 24, 2022, Commission staff reached out to City staff to gather additional information about how the permit fees are determined. City staff explained that the fees will likely be the same as in previous years at \$150. While Commission staff find no issue with the permit fee as currently set, it is very important that the Draft STR Program include additional provisions about how the fee is generally set. If the permit fees are entirely at the discretion of City Council with no recourse to petition changes, as is currently implied, then the administrative or overhead costs may affect the overall affordability of some of the STRs offered in Dana Point, which will get passed onto visitors and potentially impact the availability of lower-cost overnight accommodations in general. Therefore, Commission staff ask that the City develop a fee-setting mechanism, preferably adjusted per the Consumer Price Index (CPI), that will promote, rather than inhibit, the availability and operation of lower-cost overnight accommodations and public recreational opportunities along the coast.

Commission staff also ask the City to explore and flesh out the currently proposed restrictions on using accessory dwelling units, onsite campers, RVs, or tents as home stay STRs. In the past, the Commission has discouraged hotel developers from providing dormitories or other micro-room arrangements to fulfill affordability obligations. The rationale is that to encourage true lower-cost overnight accommodations and recreational opportunities for wide segments of the public, the rooms offered should be inviting and appealing to prospective visitors. As such, Commission staff understand that placing restrictions on certain types of STRs may actually be in furtherance of Section 30213 and other Chapter 3 policies of the Coastal Act. It is also important that STRs are not operated at the expense of designated affordable housing. Nevertheless, Commission staff recognize that it is important to encourage lower-cost overnight accommodations at a wide range of price points and types, even if they may not be conventional. For example, if operated

properly, an ADU that is converted to a STR for brief periods of time may prove to be an excellent lower-cost overnight accommodation, while also minimizing impacts on the neighboring residences and surrounding land uses. Thus, Commission staff ask that the City further expound on the rationale behind some of the restrictions proposed for the operation of short-term rentals.

3.) Public Access and Visitor-Serving Uses

The Coastal Act contains numerous public access and recreation policies in Chapter 3 (Sections 30210-30214, 30221-30223, 30252, 30253, 30255), and the Dana Point certified LUP further supports maximum public access and recreational opportunities (LUP Land Use Element Policies 2.10, 2.12, 3.3, 3.11, 3.12, 4.3). As discussed earlier, STRs may encourage public access to the coast. Generally, the Draft STR Program provides balance between the needs of visitors and residents in Dana Point's Coastal Zone. Nonetheless, there are a few remaining issues that Commission staff would like to address.

First, a component of obtaining a STR permit as identified in the Draft STR Program is that the owner shall provide proof that the STRs are not prohibited by its Home Owners Association (HOA) Conditions, Covenants, and Restrictions (CC&R's) or any other community standards/guidelines applicable to the proposed STR. The City has previously decided to remain impartial and avoid acting as arbitrator in disputes between the individual homeowners and their HOAs, and the City has stated that they cannot issue STR permits and cannot intervene if an HOA prohibits use of STRs in their CC&R's as it involves private property rights and not zoning. However, the most recent 2020 STR Survey has shown that approximately forty-two percent (42%) of participants are residents of HOAs. While this does not correlate to an exact figure, it appears that an outsized portion of the City's population may be excluded from participating in the STR Program. This means that large portions of Dana Point's Coastal Zone may not be eligible for the provision of STRs, which may public access. Commission staff are aware of this issue, and it has been discussed at length in the staff report for LUP Amendment No. 1-14; however, Commission staff urge the City to find ways to mitigate for this inherent obstacle to providing equitable public access and recreational opportunities along the coast.

Second, Commission staff would recommend that the City further develop details around the 185 cap for non-primary STR permits. Commission staff understand that the City is currently undergoing a housing crisis and therefore wants to ensure that current housing stock is not depleted by STRs. However, it remains unclear how the City has arrived at the 185 figure. Other local jurisdictions in the Coastal Zone have placed caps on the number of non-primary STRs (or non-occupied STRs), but it has historically been a point of contention for members of the public when there has been an unsubstantiated or unconvincing rationale.⁴ Furthermore, Goal 3 of the LUP Land Use Element is to direct growth of the community as to maintain and improve the quality of life, which may be accomplished by Policy 3.1, which requires new development to contribute its share of the cost of providing necessary public services and facilities through equitable development fees and exactions. Commission staff believe that this LUP Policy would also apply to the

⁴ <https://documents.coastal.ca.gov/reports/2021/12/W13b/w13b-12-2021-addenda.pdf>

availability of STR permits in the first place, as well as the associated fees exacted. Thus, as further mentioned in the Cumulative Impacts section of this letter, the City should be prepared to provide a type of mechanism that allows for the increase in the STR permit issuance cap over time based on the growth of the City's population, infrastructure, and visitor-serving uses. Currently, the City's cap would be static, which is not in full conformance with LUP Land Use Element Policy 3.1, 3.2, 3.3, and 3.4. In previous Commission actions, local jurisdictions have also specified whether the cap would be exhausted in the Coastal Zone first, or if a particular portion of the STR permits would be earmarked for the Coastal Zone only, which the City of Dana Point currently does not include in its Draft STR Program and should consider.

Similarly, the Draft STR Program includes a new maximum daytime occupancy of two and half (2.5) times the overnight occupancy and not greater than twenty (20) persons, in lieu of a previous requirement that STRs could not be used for "weddings, parties, bachelor/bachelorette parties, conferences or similar events." The maximum overnight occupancy remains at two (2) persons per bedroom plus two (2) additional persons within the STR, but the Director of Community Development may grant an exception when there are extenuating circumstances that may allow for a greater maximum number of overnight occupancies. However, there are no similar allowances or variances that would allow for DCD exceptions in case there is a demonstrated need to have greater daytime occupancies. Commission staff agree that the new language is better tailored to avoid overcrowding, noise, and nuisance resulting from large gatherings at STRs, since it allows for certain events and get-togethers to take place while avoiding potential for overuse of the STRs (which may result in "unreasonable noise or disturbances, engage[ment] in disorderly conduct, or violat[ion] provisions of the Municipal Code"). However, the new blanket maximum daytime use requirement needs to be further detailed, since it has important public access implications. If there is a rationale behind a cap of twenty (20) persons, it should be better demonstrated in order to substantiate the need for this requirement. The primary overnight and daytime occupant of the STR is also now required to be twenty-five (25) years of age or older, rather than eighteen years of age or older (as previously approved by the Commission), which also needs further substantiation and explanation.

In recent Commission actions,⁵ maximizing public access for all people included a commitment to non-discriminatory, fair, and equal operation of STRs by providing Americans with Disabilities Act (ADA)-accessible features and safeguards for protected classes. As currently proposed, the Draft STR Program does not include language that would maximize public access for all individuals in the community as required by the LCP. To ensure that the Program's policies are adequately carried out, Commission staff suggest that the City include language encouraging equal and fair treatment of all people participating in the STR process. In particular, it would be helpful to have additional provisions regarding the availability of ADA-accessible features during STR registration, and the City should ask STR operators to include additional ADA information in their listings (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.) It would also be beneficial to include enforcement of

⁵ <https://documents.coastal.ca.gov/reports/2021/12/W13b/w13b-12-2021-report.pdf>

penalties in cases where a STR operator is alleged to be practicing discriminatory behavior on the basis of race, sex, color, religion, etc.

Lastly, the Draft STR Program changes the penalties associated with violations of the STR permit conditions and operation regulations. The penalties “shall be the maximum allowed per State law.” Is the City referring to monetary fines imposed by SB-60? If so, it does not necessarily need to be explicitly stated in the Program’s language, but there should be indication that the first two violations result in penalties that are monetary in nature. Will the Director of Community Development also have discretion in applying penalties in cases where violations are particularly egregious, leading to the preemptive revocation of the STR permit? This section also states that “the property owner shall be forbidden from re-applying for another STR permit for the same property indefinitely.” What if the property changes ownership, or the same person (who has committed violations) moves to another property? Would the penalties mentioned herein still apply or carry over? These unresolved issues may inherently affect the availability of STRs in particular locations throughout Dana Point, which thus directly relate to issues of public access and recreation and must be thoroughly considered or specified as part of the Program.

4.) Transportation and Mobility

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Land Use Plan (Land Use Element) Policy 1.8 states:

The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses.

The Draft STR Program contains language that is substantially similar to the provisions of LCP Amendment No. 1-14. Condition of Permit Issuance and Renewal No. 6 states that “the short-term rental must have a minimum of two (2) off-street parking spaces,” and Condition No. 13 requires that “the maximum number of vehicles allowed at the short-term

rental shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedroom within the short-term rental.” However, Commission staff have now identified potential inconsistencies with LCP policies, namely Section 9.35.080(e). In order to reconcile these inconsistencies and sufficiently meet the parking demand of the STR, Commission staff recommend that the City reference relevant sections of the Zoning Code or Implementation Plan (IP) so that the parking requirements more appropriately suit the relevant Coastal Act sections and LCP policies.

LUP Land Use Element Policy 3.7 “encourage[s] safe and convenient bicycle and pedestrian access throughout the community.” Commission staff recommend that as part of Condition of Permit Issuance and Renewal No. 16, which dictates the terms, notifications, and disclosures that must be posted within the STR, the City include an additional requirement that the STR operator disclose whether bicycles or other means of nonautomobile transport are available (e.g., scooters, skateboards/longboards, carpooling and ridesharing options, proximity to public transit, etc.). We also recommend that Condition No. 16 be modified to include the requirement that the terms, notifications, and disclosures be posted during the registration process as well. Finally, continued coordination with community members and local and regional stakeholders is encouraged in order to enhance multimodal transportation availability and improve the connectivity of STRs to the City’s existing public transportation system and mobility strategies in the future, thereby conforming with LUP Land Use Element Policy 1.8, 3.6, 3.7, and Coastal Act Section 30252.

5.) Cumulative Impacts

Since implementation of the Draft STR Program may have public access and recreation considerations, Section 9.27.030(a) (Development Standards, Coastal Access) of the Zoning Code/IP is relevant for the issuance of STR CDPs. In particular, this section establishes that development shall not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources. STRs provide recreational coastal access as defined in IP Section 9.75.030 but may also have cumulative impacts that impact existing residential communities and surrounding land uses, and as such, regulatory mechanisms must be provided to achieve compatibility and enhance relationships among land uses and coastal access in the community per LUP Land Use Element Policy 2.1, 2.2, 2.3, and Coastal Act Section 30250.

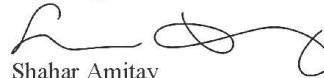
Please include additional detail in the Draft STR Program regarding how cumulative impact will be measured and mitigated. In cases where implementation of the Program may adversely affect coastal access or other coastal resources by, for example, overcrowding or conflicting with existing recreational and visitor-serving land uses, please describe the methods and metrics that the City would use to study, identify, and attempt to solve the cumulative impact issue. For example, would the City change the permit cap, suspend issuance of permits, increase penalties and enforcement, or enact any combination of these measures? If the Program is found to be too restrictive by requiring unreasonable limits on STRs that discourage visitor-serving and recreational opportunities, would the City consider augmenting the permit cap or change operation regulations to encourage additional STRs in the Coastal Zone? In short, additional discussion on balancing visitor-

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serving uses with existing residential and coastal-dependent uses is paramount to finding the Draft STR Program consistent with the Coastal Act and LCP.

Thank you again for the opportunity to review and comment on the City's Draft STR Program. If you have any questions or concerns, please do not hesitate to contact us at the Coastal Commission's Long Beach office.

Sincerely,



Shahar Amitay
Coastal Program Analyst

cc: Brenda Wisneski, City of Dana Point
Jeff Rosaler, City of Dana Point
Belinda Ann Deines, City of Dana Point
Shannon Vaughn, California Coastal Commission
Eric Stevens, California Coastal Commission

Supporting Document 5: Municipal Code Section 5.38 Short Term Rental Business Regulations

4/4/22, 9:41 AM

Chapter 5.38 SHORT-TERM RENTAL PERMITS

Dana Point, California Municipal Code

Title 5 BUSINESS REGULATIONS

Chapter 5.38 SHORT-TERM RENTAL PERMITS

5.38.010 Purpose.

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5.38.090 Violations/Penalties.

5.38.100 Procedure for Imposition of Penalties/Revocation.

5.38.110 Permits and Fees Not Exclusive.

5.38.120 Amortization and Amnesty Period.

5.38.010 Purpose.

The purpose of this Chapter is to require the owner or owners of a residential dwelling unit that is used as a short-term rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this Chapter in order to safeguard the peace, safety and general welfare of the residents of Dana Point and their visitors and guests by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to short-term rentals. It is the express purpose of this Chapter to prohibit nuisances that might exist in the absence of regulations, including specific nuisances associated with special events such as weddings, parties, bachelor/bachelorette parties, conferences, corporate meetings, or similar events that might negatively impact residents. (Added by Ord. 13-01, 4/2/13; amended by Ord. 21-02, 6/1/21)

5.38.020 Definitions.

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

- (a) "Agent" shall mean the representative, if any, designated by the owner in accordance with Section [5.38.040](#).
- (b) "City Manager" shall mean the City Manager of the City of Dana Point or designee.
- (c) "Community Development Director" shall mean the Community Development Director of the City of Dana Point or designee.
- (d) "Owner" shall mean the person(s) or entity(ies) that hold(s) legal and/or equitable title to the short-term rental.
- (e) "Short-term rental" is defined as 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. "Short-term rental" historically and continues to be included in the definition of "hotel" for purposes of collecting transient occupancy tax pursuant to Chapter [3.25](#) of this Code.
- (f) "Transient" means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior and subsequent to the effective date of the ordinance codified in this Chapter may be considered. (Added by Ord. 13-01, 4/2/13)

5.38.030 Permit Required.

No owner of a short-term rental located within a zoning district where residential uses are allowed shall rent, offer to rent, or advertise for rent the short-term rental to another person without a valid short-term rental permit approved and issued in the manner provided for by this Chapter. (Added by Ord. 13-01, 4/2/13)

5.38.040 Agents.

An 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 a permit that has been signed and notarized by the owner, the management of the short-term rental, and the compliance with the conditions to the permit. The permit shall be issued only to the owner of the short-term rental. The owner of the short-term rental is responsible for compliance with the provisions of this Chapter and the failure of an agent to comply with this Chapter shall be deemed non-compliance by the owner. (Added by Ord. 13-01, 4/2/13)

5.38.050 Application for Permit.

The owner or owners shall submit an application for a short-term rental permit to the Director of Community Development. The application for a short-term rental permit shall be upon forms provided by the City and shall contain the following information:

- (a) The name, address and telephone number of the owner of the short-term rental for which the permit is to be issued.
- (b) The name, address and telephone number of the agent, if any, of the owner of the short-term rental.
- (c) Evidence of a valid transient occupancy tax registration certificate issued by the City for the short-term rental.
- (d) 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 short-term rental.
- (e) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a short-term rental within the City.
- (f) Such other information as the Director of Community Development deems reasonably necessary to administer this Chapter. (Added by Ord. 13-01, 4/2/13)

5.38.055 Renewal of Permit.

The owner or owners shall apply for and renew annually at permit issuance anniversary date with any changes to the information or requirements set forth in Section 5.38.050 and shall provide a current proof of general liability insurance pursuant to Section 5.38.050(d). (Added by Ord. 13-01, 4/2/13)

5.38.060 Denial of Permit.

No application for an original permit or a subsequent renewal shall be denied if it meets the conditions of permit issuance pursuant to Section 5.38.080 unless a permit for the same short-term rental has been revoked or is in the process of being revoked pursuant to Section 5.38.100 of this Chapter. (Added by Ord. 13-01, 4/2/13)

5.38.070 Filing Fee.

An application for a short-term rental permit shall be accompanied by a fee established by resolution of the City Council; provided, however, the fee shall be no greater than necessary to defer the cost incurred by the City in administering the provisions of this Chapter. (Added by Ord. 13-01, 4/2/13)

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) The owner shall ensure that the short-term rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.

(2) The owner shall provide proof that short-term rentals are not prohibited by its Homeowners Association Conditions, Covenants and Restrictions ("CC&Rs") or any other community standards/guidelines, applicable to the proposed short-term rental.

(3) Concurrent with the issuance of the short-term rental permit, and annually upon its renewal, City Staff shall provide notice to all abutting property owners and tenants that the property is operating as a short-term rental. The notice shall also provide the contact information for the short-term rental owner and property manager, and their twenty-four (24) hour emergency contact phone number. The notification package shall also identify the City's twenty-four (24) hour short-term rental hotline phone number, Code Enforcement phone number, and Orange County Sheriff's Department phone number. The notice shall not afford the abutting property owners any protest, appeal, or other related rights; rather, its intent is to provide the abutting property owners 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 short-term rental.

(4) The short-term rental unit in which a permit is being requested must pass an initial inspection by the City prior to permit issuance. The City may conduct additional inspections as deemed necessary or prudent prior to subsequent renewals.

(5) The owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the short-term rental.

- (6) The short-term rental must have a minimum of two (2) off-street parking spaces.
- (7) The short-term rental must have a visible house number easily seen from the street, day or night.
- (8) All advertising for the short-term rental shall include the City issued short-term rental permit number in the subject description of the property. In addition, all photographs of the property that are used for advertising purposes shall impose the City issued short-term rental permit number in the lower right-hand corner in an appropriate font, style, size, and color to be legible.
- (9) The primary overnight and daytime occupant of the short-term rental must be an adult twenty-five (25) years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.
- (10) Prior to occupancy, the owner shall obtain the name, address and driver's license number or a copy of the passport of the primary adult occupant of the short-term rental. The owner 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 short-term rental 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 short-term rental, along with a copy of the City's short-term rental regulations including, but not limited to, this Chapter 5.38. 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.
- (11) The owner shall require all occupants to agree to a minimum stay of two (2) consecutive nights.
- (12) The maximum overnight occupancy of the short-term rental shall be limited to two (2) persons per bedroom plus two (2) additional persons within the short-term rental. The Director of Community Development may, when unusual size, interior layout, parking or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of a permit application or renewal. The maximum daytime occupancy shall be limited to two and a half (2.5) times the overnight occupancy and not to exceed twenty (20) persons.
- (13) The maximum number of vehicles allowed at the short-term rental 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 short-term rental. The Director of Community Development may, when unusual size, parking or other physical characteristics are shown, approve a greater maximum number of vehicles as part of a permit application or renewal. The owner must make a sufficient number of parking spaces accessible to tenants to accommodate the maximum number of vehicles allowed.
- (14) No on-site exterior signs are to be posted advertising a short-term rental.

(15) 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. 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 contract company and provide proof to the City of the same. The owner of the short-term rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.

(16) Each lease or rental agreement for a short-term rental shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the short-term rental:

(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 short-term rental, the location of assigned parking and 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 the property.

(D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the owner for violating any and all applicable laws.

(E) The name of the managing agency, agent, rental manager, local contact person or owner of the unit, 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.

(17) The owner shall ensure that the occupants of the short-term rental 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, the consumption of alcohol, or the use of illegal drugs. 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.

(18) The Owner, property manager, or emergency contact shall, upon notification that occupants or tenants of his or her short-term rental 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 owner, property manager, or emergency contact being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the owner, property manager, or emergency contact 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.

(19) No outside noise from the short-term rental shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.

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

(c) The Director of Community Development shall have the authority to impose additional conditions on any 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 owner must maintain a valid transient occupancy tax registration certificate issued by the City for the short-term rental; the owner must collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code. (Added by Ord. 13-01, 4/2/13; amended by Ord. 21-02, 6/1/21)

5.38.090 Violations/Penalties.

(a) Violations. Except as described in Section 5.38.080(c), the following conduct shall constitute a violation for which the penalties specified in Subsection (b) may be imposed, or the permit revoked:

(1) The owner and/or agent has failed to comply with the standard conditions specified in Section 5.38.080(a);

(2) The owner and/or agent has failed to comply with conditions imposed by the Director of Community Development pursuant to the provisions of Section 5.38.080(b) or (c);

(3) The owner and/or agent has willfully violated the provisions of this Chapter;

(4) The 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 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 this Code within the required time limit.

(b) Penalties. When imposed by way of an administrative citation, the penalties for violations specified in Subsection (a) shall constitute infractions and shall be the responsibility of each responsible party. Each citation may be issued per day and per violation as follows:

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

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

(3) For a third violation the penalty shall result in the immediate revocation of the short-term rental permit. In the event the short-term rental permit has been revoked, the property owner shall be forbidden from re-applying for another short-term rental permit for the same property indefinitely.

(d) For fines imposed under this Section for second and subsequent violations of the same ordinance, regulation, condition, or permit within one (1) year from the date of the first violation, the citation recipient of a fine may request a hardship waiver by completing a hardship waiver form and returning the form to the City Clerk within ten (10) days of the date stated on the citation. The waiver request shall include a sworn affidavit and any supporting documents or materials demonstrating to the satisfaction of the City Manager or his or her designee that: (1) the recipient of the fine has made a bona fide effort to comply after the first violation, and (2) payment of the full amount of the fine would impose an undue financial burden on the recipient. The City Clerk shall serve written notice of the determination of the City Manager's or his or her designee on the recipient of the fine by first class mail. Service shall be deemed complete at the time the notice is deposited into the mail and addressed to the person at the address indicated on the hardship waiver form. The notice shall include a brief description of the reasons for the determination to approve or not approve the hardship waiver. The written determination of the City Manager shall be final. If the City Manager determines not to approve a hardship waiver, the recipient of the fine shall within ten (10) days of service of that determination either remit the deposit amount to the City Clerk or appeal the citation in compliance with the applicable procedures in this Code. (Added by Ord. 13-01, 4/2/13; amended by Ord. 21-02, 6/1/21; Ord. 21-08, 11/16/21)

5.38.100 Procedure for Imposition of Penalties/Revocation.

Penalties, including a notice of violation, shall be imposed, and permits shall be revoked, only in the manner provided in this Section.

The Director of Community Development, or designee, shall conduct an investigation whenever he or she has reason to believe that an owner has committed a violation described in Section 5.38.090(a). Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Director of Community Development shall issue written notice of intention to impose a penalty and/or revoke the permit. The written notice shall be served on the owner, shall specify the facts which, in the opinion of the Director of Community Development, 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 permit will be revoked within thirty (30) days from the date the notice is given unless the owner and/or operator files, with the City Clerk and before the penalties or revocation becomes effective, a request for hearing before the City Manager or designee. (Added by Ord. 13-01, 4/2/13)

5.38.110 Permits and Fees Not Exclusive.

Permits and fees required by this Chapter shall be in addition to any license, permit or fee required under any other chapter of this Code. The issuance of any permit pursuant to this Chapter shall not relieve the owner of the obligation to comply with all other provisions of this Code pertaining to the use and occupancy of the short-term rental or the property on which it is located. (Added by Ord. 13-01, 4/2/13)

5.38.120 Amortization and Amnesty Period.

Owners of short-term rentals shall apply for a permit pursuant to this Chapter by no later than January 15, 2014. Owners of short-term rentals who, prior to the effective date of the ordinance codified in this Chapter, failed to obtain a transient occupancy registration certificate pursuant to Chapter 3.25 of this Code,

may do so without penalty notwithstanding the provisions of Chapter 3.25, if an application for the certificate is filed by January 15, 2014. (Added by Ord. 13-01, 4/2/13)

Contact:

City of Dana Point: 949-248-3500

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