

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

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**DATE:** MAY 9, 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:** COASTAL DEVELOPMENT PERMIT CDP22-0010 TO ESTABLISH A  
SHORT-TERM RENTAL PROGRAM

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**RECOMMENDATION:** That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP22-0010

**APPLICANT:** City of Dana Point

**REPRESENTATIVE:** City of Dana Point

**REQUEST:** Approval of a Coastal Development Permit to establish a program allowing Short-Term Rentals

**LOCATION:** City-wide

**NOTICE:** A 1/8 page Notice of the Public Hearing was published within a newspaper of general circulation on April 25, 2022, and posted on April 25, 2022, at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana Point Library. On April 28, 2022, the STR Interested Parties List was emailed notification of the public hearing.

**ENVIRONMENTAL:** Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section Categorically Exempt per State Code Sections 15162 and Categorical Exemptions Class 1 - Section 15301 – Existing Facilities.

**ISSUES:**

- Consistency with the Dana Point General Plan, Dana Point Zoning Code (DPZC), and Local Coastal Program (LCP);
- Compatibility with surrounding neighborhoods; and
- Satisfaction of all findings required pursuant to the DPZC and LCP for approval of a Coastal Development Permit (CDP).

**BACKGROUND:**

Short-term rentals (STRs) have historically been a part of Dana Point and many other coastal communities. The increased popularity of STRs due to the growth of online platforms resulted in the need to establish regulations to ensure they are compatible in residential neighborhoods. The City historically took the position that STRs are not a permitted use in the City. However, several hundred had come to exist without regulation or enforcement. In 2013, the City Council addressed the issue by adopting an ordinance which contained business regulations related to STRs and requiring a business permit for their use. While the City's transient occupancy tax (TOT) ordinance would have always applied to STRs (even if operating illegally), upon creation of the permit program, the City began collecting TOT for the first time in connection with this use.

The Council subsequently adopted a zoning amendment to designate STRs as a permitted use in all residential districts, provided any such use would also have to comply with the business regulation ordinance, business permit requirements, and TOT payment. The zoning regulation required an amendment to the City's Local Coastal Program (LCP) by the California Coastal Commission (CCC). Hence, it did not become effective until 2016, when the ordinance, along with modifications required by the CCC, were formally approved by the Council. While the zoning ordinance was pending CCC approval, per Council direction, the City issued permits for STRs pursuant to the business regulations that were adopted in 2013. It did this for a variety of reasons, including to avoid the cost of litigation that might otherwise occur related to whether STRs that had historically operated were legal non-conforming uses as many operators had asserted.

Following the approval of the zoning regulations that would have become part of the City's LCP, a referendum petition was circulated which effectively required that the City Council either rescind the STR zoning ordinance, or put it to a vote. The Council chose to rescind the ordinance, but knowing the CCC viewed STRs as a use that cities must allow, it directed staff to allow the existing 183 permitted STRs to continue operating (although directed that no new permits should be issued) until a new zoning ordinance was adopted. It further directed staff to develop alternative regulations in an effort to address community concerns with more restrictive enforcement and fines. The City's efforts to implement the City Council direction have included the following actions:

- In 2018, the City Council formed a Subcommittee to re-evaluate STRs and guide the development of new regulations to address community concerns.
- On October 1, 2019, the City Council adopted policy objectives to be used when drafting the STR regulations ([Supporting Document 4](#)): (1) Maintain the character of our neighborhoods by not encouraging absentee corporate investment; (2) Firmly protect against nuisances; (3) Balance the rights and responsibilities of all residents and homeowners, and honor HOA regulations.
- In March 2020, the City Council commissioned a statistically valid resident survey focused on short-term rentals. Results are available on the [City's website](#).
- 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.
- On September 28, 2020, the Planning Commission formed an STR Subcommittee with the appointments of Commissioners Dohner and Nelson to guide the development of new and enhanced regulations and conduct public outreach.
- On January 18-21, 2021, the Subcommittee conducted virtual Zoom meetings with stakeholder groups to obtain comments on new and enhanced regulations.
- On April 12, 2021, the Planning Commission conducted a Public Workshop to obtain comments on new and enhanced regulations for STRs.
- On June 1, 2021, the City Council approved new and enhanced STR business regulations..
- On August 16-19, 2021, the Subcommittee conducted virtual Zoom meetings with stakeholder groups to obtain their comments on the development of an STR Program.
- On November 8, 2021, and April 11, 2022, the Planning Commission held Public Workshops to obtain public input on the STR Program.
- On April 1, 2022, the Subcommittee received comments from the CCC District Staff on the draft STR Program.
- On April 11, 2022, the Planning Commission conducted a workshop to review the draft STR Program developed by the Subcommittee and receive public input.

In addition to the public meetings identified above, the Subcommittee conducted extensive public outreach to engage the community to ensure all interested parties were informed of the City's efforts to establish STR regulations. The notification efforts included an informational mailer that was sent to all property owners and residents in the City (16,000 recipients), social media posts, notifications to an interested parties list of 600 individuals, and updates provided to at all Planning Commission meetings.

### **STR Court Cases**

Since the City adopted 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. While several relevant cases exist, three of are worthy of particular note. 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 it determined that short term rentals were

permitted uses as part of any approved residential use, and that they were authorized since residential uses were authorized by Santa Barbara's Local Coastal Program. Moreover, the Court held that any regulations aimed at STRs are not effective in the Coastal Zone unless they are adopted in compliance with the Coastal Act (*Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089.) While the City has arguments it might make to distinguish the *Santa Barbara* decision, if it were to be applied in Dana Point, it would mean that any residential property in the Coastal Zone could, by right, operate a STR since residential uses are permitted by the City's LCP. Moreover, that the City's existing regulations would not be effective unless and until approved by a Coastal Development Permit (CDP), or amendment to the City's LCP.

In April, 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. The Court found that the City's LCP allowed properties to be rented, and did not place a limit the number of nights allowed for such rentals. Hence, any change prohibiting rentals of a short duration would require compliance with the Coastal Act (i.e., either a CDP or amendment to the City's LCPA.) (*Keen v. City of Manhattan Beach*; Case No. B307538; filed 04/06/22.) If this case is applied in Dana Point, a similar result would occur since neither the City's LCP, nor any CDP regulates or otherwise restricts the number of nights of a residential property rental.

A third case worthy of note was decided in January this year related to STRs in Palm Springs. (*Protect our Neighborhoods v. City of Palm Springs* (*Protect our Neighborhoods v. City of Palm Springs* (2022) 73 Cal. App. 5th 667.) While the facts again are perhaps distinguishable from those in Dana Point, the *Palm Springs* Court in essence ruled that STRs are a permissible use at residentially zoned properties. This is significant in that, if applied in Dana Point, it would mean the rationale of the *Santa Barbara* case applies both within and outside of the Coastal Zone. In other words, absent regulations applicable to STRs which exist outside the Coastal Zone, a STR could operate at any residentially zoned property.

Bearing in mind the above cases, it is important to understand the legal framework surrounding the proposed action. Notably, if the holdings discussed above are applied in the City, any sort of ban or prohibition on STRs in the Coastal Zone would have to be included in either a CDP or amendment to the City's LCP to be valid, and the CCC has made clear it will not support such a ban. Moreover, until such time as either a CDP or LCP amendment addressing regulations is in place, the City will face arguments that STRs may operate at any existing residential property in Coastal Zone, without regulation.

Rather than continuing to take the position STRs are not currently permitted as part of approved residential uses (which would be subject to a legal challenge), staff is recommending that the Planning Commission recognize the trend in the reported cases is to find STRs are permitted as part of any residential use. As such, there is no need for an LCP amendment, or any other zoning amendment, because the use is already permitted with any residentially zoned property. In order to comply with the Coastal Act, a CDP is

proposed to allow the regulation of STRs, which we must presume are already legally authorized by existing zoning and the City’s LCP.

With respect to properties located outside of the Coastal Zone, Municipal Code Section 5.38.080(b), provides the Director of Community Development the authority to impose additional standard conditions to all short term rentals. As a result, if the Planning Commission approves the CDP, the Director could adopt its provisions for use throughout the City (for instance, the cap on STR permits), and this can occur without requiring an amendment to Chapter 5.38. Presuming the CDP becomes effective, the Director intends to move forward in this manner to carry out the Council’s direction that the regulations related to STR’s be uniform throughout the City.

**STR Program Comparison with 2016 STR Ordinance**

During the April 11, 2022, Planning Commission Public Workshop, speakers stated that the proposed STR Program is the same as the 2016 STR regulations that were rescinded following a potential referendum. Table 1 highlights the key differences between the 2016 regulations and the proposed STR Program. Notable modifications from the 2016 regulations include (1) establishing a non-primary STR permit cap of 185; (2) 30 minute nuisance response time; (3) prohibiting outside noise from 10:00 pm to 7:00 am; (4) limiting one permit per owner, and (5) limit one permit per multi-family apartment building.

**Table 1 - 2016 STR Ordinance vs. Proposed STR Program**

<b>Regulations</b>	<b>2016 Ordinance</b>	<b>Proposed STR Program</b>
<b>Notification</b>	None	Notify abutting neighbors
<b>Permit Cap</b>	None	185 non-primary
<b>Minimum renter age</b>	18	25
<b>Maximum daytime occupancy</b>	None specified	2.5 times the overnight occ. Not to exceed 20
<b>Trash regulations</b>	No cans in public 5pm day before and 8am day after service	Additionally, provide walkup trash service after first trash violation
<b>Noise</b>	No creation of unreasonable noise or disturbances	No outside noise from 10pm-7am
<b>Multi-Family</b>	No permit limit	1 permit per building (apartments)
<b>Permit Limit</b>	None	1 per owner
<b>Nuisance Reponse Time</b>	None specified	30 minutes
<b>Fines</b>	1 <sup>st</sup> violation \$250, 2 <sup>nd</sup> \$500, 3 <sup>rd</sup> \$1,000, 4 <sup>th</sup> \$1,000 – to revocation (within a 12 month period)	Maximum allowed per state law - 1 <sup>st</sup> nuisance violation \$1,500, 2 <sup>nd</sup> \$3,000, 3 <sup>rd</sup> \$5,000 (over the life of the permit).

Regulations	2016 Ordinance	Proposed STR Program
Violations	4 <sup>th</sup> violation in a 12 month period revocation	3 <sup>rd</sup> violation revocation (over the life of the permit)

### STR Program Comparision with Laguna Beach STR Ordinance

The Subcommittee reviewed the City of Laguna Beach’s STR regulations (certified by CCC on September 18, 2020) to incorporate appropriate provisions into the proposed Program. The certified regulations were also useful in providing relevant insight into the CCC approved approaches to manage STRs. The Laguna Beach STR Ordinance was also referenced by several public speakers as a model for the City to follow. Table 2 below compares key regulations from the Laguna Ordinance to the STR Program.

The Laguna Beach STR allows existing STRs (approximately 79 permits) in residential zones to continue, but new STRs would be limited to commercial districts. Justifiication for this approach is that that there are approximately 772 residential dwellings existing in Laguna Beach’s commercial zones which are distributed throughout the city. This unconventional distribution of residential uses in the Laguna Beach commercial zones is inconsistent with Dana Point in that residential uses in commecrical zones are only permitted in the mixed use zones in Town Center and Doheny Village. The limited number of potential STR units that results would not be supported by CCC.

**Table 2 – Laguna Beach vs. Dana Point STR Regulations**

Regulations	Laguna Beach	Dana Point
<b>Residential Zones</b>	No new permits. 79 existing permits run with the land	Permitted
<b>Comercial/Mixed Use Zones</b>	Permitted in Commercial and Mixed-Use Zones	Permitted in Mixed-Use Zones
<b>Existing Permits</b>	Continue to operate. Run with the land.	Continue to operate. Annual renewal.
<b>Permit Transfer</b>	Transferable	Not transferable
<b>Cap (Non-Primary)</b>	300	185
<b>Multi-Family Limitation</b>	20% of building	1 per building (not applicable to condominiums)
<b>Daytime Occupation</b>	2 per bedroom, max 20	2.5 night occ., max 20
<b>Home Share STRs</b>	Permitted in SFR/MFR. Additional 165 permit cap	Permitted in SFR/MFR/Mixed Use - unlimited

### CCC Comment Letter on Draft STR Program

STRs supplement traditional visitor-serving overnight accommodations that promote public access and visitor-serving opportunities to coastal communities. The provision of overnight

visitor-serving accommodations, such as STRs, serves a significant purpose as a subset of visitor-serving uses that promote public coastal access and provides California residents and visitors one way to enjoy the coast.

In order to be consistent with Chapter 3 of the Coastal Act, the City's approach is to appropriately regulate the establishment and operation of STRs rather than overly restrict this use or otherwise significantly diminish its visitor-serving utility. On February 18, 2022, the STR Subcommittee directed staff to request input from the CCC in connection with the draft STR Program. On April 1, 2022, the City received comments from the CCC (Supporting Document 2) and incorporated the necessary modifications into the Program to ensure Coastal Act compliance. A summary of the CCC comments and responses is provided below.

1. *Establish provisions on how the STR permit fee is set and modified.*

The City Council established an STR permit fee of \$150 which is reflective of the cost of administering the permit process. Cities are limited to charging fees which do not exceed the estimated reasonable cost of providing the services for which the fee is charged. Any modification of the fee would require supporting documentation and subject to a public hearing before the City Council.

2. *Explore the use of Accessory Dwelling Units (ADU) as STRs to provide lower-cost overnight accommodations.*

The State identified that there is a housing crisis and established ADU regulations to increase the supply of affordable housing units, therefore, ADUs are restricted from operating as STRs per State Law.

3. *The City should consider mitigating the inherent obstacle of HOAs that restrict STRs.*

Potential restrictions posed by HOAs have not limited the vast array of overnight accommodations for visitors in the City including hotels, timeshares, STRs, and campsites. Therefore, the City will continue honor CC&R regulations established by HOAs.

4. *Justify the 185 non-primary cap.*

As noted above, the City began issuing STR permits per the Council action that occurred in 2013. The City issued these permits to STR operators at a time when no limitation or cap on the number of permits was in place. When it stopped issuing STR permits in 2016, 183 such permits were in existence. Currently, with permit transfers having occurred and no new permits having been issued since 2016, the number of permits in the City is 131. The proposed permit cap is based upon, and consistent with the historic demand for STR permits when no limitation existed. The cap does not apply to primary and home stay STRs, which will offer additional permit options. The cap is to ensure the City's limited rental housing stock is preserved and avoids saturation of STRs. The cap would be revisited every five years, and if modifications are proposed, an amendment to the STR Program CDP would be required.

5. *Justify the daytime cap of 20 persons.*

The proposed daytime cap is consistent with STR regulations approved by the CCC for other coastal municipalities. The daytime cap is based on the size of the STR unit. For example, a two bedroom STR would be limited to six (6) overnight occupants with nine (9) daytime guests.

6. *Encourage equal and fair treatment of all people participating in the STR process by requesting STR operators to include ADA information in the listings.*

The requested ADA provision is incorporated into the draft STR Program under Section 10(a)(20).

7. *Modify Section 10(a)(16) to include the terms, notifications, and disclosures be posted during the registration process.*

The requested modification is incorporated into the draft STR Program.

8. *Disclose whether bicycles or other means of non-automobile transport are available.*

Section 10(a)(21) is added to the Program to identify alternative modes of transportation in the marketing of an STRs.

9. *Analyze the cumulative impact of the STR Program on public access.*

The City's existing supply of overnight accommodations (Supporting Document 4) along with the STR Program's balanced approach increases the availability of overnight (market rate and affordable) accommodations while protecting neighborhoods, long-term housing stock, and public access.

The City has established a balanced approach for STRs by proposing primary, non-primary, and home stay STRs to create a range of affordable options for visitors. The City's balanced Program with the existing hotel and campsite amenities adequately meets the demand for overnight accommodations in the City and protects long-term rental housing. Home stay STRs are, by design, an affordable option by allowing the renting of individual rooms or an attached unit versus an entire house. Additionally, by not establishing a cap for this permit type, the opportunity for lower-cost overnight accommodations are increased in the City.

The establishment of the proposed STR Program with the allowance of non-primary, primary, and home stay STRs further increases the City's availability of affordable overnight accommodations, which surpass other coastal cities based on Dana Point's size.

**DISCUSSION:**

The Subcommittee developed the STR Program with the 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.

The draft STR Program was developed utilizing Section 5.38 Short-Term Rental Permits (Supporting Document 5) of the Dana Point Municipal Code as the foundation which was amended on June 1, 2021, to provide for a series of 'good neighbor' operational restrictions (related to noise, parking, occupancy limits, special events, etc.) as well as an overall City authorization process (including required registration, inspection, operation requirements, performance standards, hosting platform regulations, and a revocation process). Additional provisions were included based on City Council policy, public input, CCC comments, researching other City's STR Programs, and as evaluated by the STR Subcommittee. Modifications were made to the definitions for clarification per comments made at the April 11, 2022 public workshop. A summary of the STR regulations is as follows:

- STR Types: 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, triplex, 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 STR types are allowed in all residential and mixed-use zones in the City.
- Permit Cap: non-primary STRs are capped at 185 permits city-wide. 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 can retain their permits until the property is sold.
- Notification: all abutting properties shall be notified of an STR permit issuance that includes operator contact information.
- HOA Approval: permit issuance is subject to authorization by HOA, if applicable.
- Initial Inspection: the STR shall pass an initial inspection.

- Minimum Age: minimum age for a renter is 25 years.
- Maximum Nighttime Occupancy: two persons per bedroom plus two
- Maximum Daytime Occupancy: 2.5 times the overnight occupancy, not to exceed 20 persons.
- Noise: no outside noise from 10:00 pm to 7:00 am.
- Waitlist: establish a waitlist for new STR permits to be issued once the cap is met.
- Prohibition(s): STRs are 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 pm to 7:00 am.
  - Primary – rented a maximum of 60 days annually
- Fines: maximum monetary amount allowed per state law
- Penalties: three violations for the life of the permit. Third violation results in revocation of the STR permit.

**CORRESPONDENCE**: As of the date the report was written, no correspondences had been received since the April 11, 2022 public workshop.

**CONCLUSION**: Staff finds that the proposed STR Program is consistent with the policies and provisions of the City of Dana Point General Plan, Dana Point Zoning Code, and Local Coastal Program by allowing of STRs that are limited and regulated to ensure affordable overnight accommodations are provided to visitors while protecting neighborhoods and housing stock. As the STR Program is found to comply with the City's LCP, staff recommends the Planning Commission adopt the attached draft Resolution, approving Coastal Development Permit 22-0010 subject to the findings and conditions of approval contained therein. The CDP, upon adoption will apply to regulate STRs in the Coastal Zone in a manner consistent with the Coastal Act. As authorized by Municipal Code Section 5.38.080, the Community Development Director will apply the additional standards set forth in the CDP as a condition of all permits issued for STRs outside of the Coastal Zone. In this manner, a uniform approach to the regulation of STRs will exist throughout the City.

  
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John Ciampa, Senior Planner

  
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Brenda Wisneski, Director  
Community Development Department

**ATTACHMENTS:**

**ACTION DOCUMENT:**

1. Draft Planning Commission Resolution No. 22-05-09-XX
  - a. Exhibit A - STR Program

**SUPPORTING DOCUMENTS:**

2. Planning Commission Public Workshop Minutes April 11, 2022
3. CCC STR Program Comment Letter, April 1, 2022
4. City Council STR Policy – Meeting Minutes October 21, 2019
5. Coastal Overnight and Access Visitors Inventory
6. Municipal Code Section 5.38 Short Term Rental Business Regulations

**ACTION DOCUMENT 1: Draft Planning Commission Resolution No. 22-05-09-XX**

**RESOLUTION NO. 22-05-09-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP22-0010 TO ESTABLISH A SHORT-TERM RENTAL PROGRAM TO REGULATE THE PERMITTING AND OPERATION OF SHORT-TERM RENTALS IN THE CITY**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, the City of Dana Point filed a verified application for a Coastal Development Permit to establish a short-term rental program (STR Program) to regulate the permitting and operation of short-term rentals in the City; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, short-term rentals have historically been a part of Dana Point and enhanced regulatory provisions and fines were adopted in 2021 to limit community impacts and impose strict enforcement measures; and

WHEREAS, relevant court decisions, (*Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089.) (*Keen v. City of Manhattan Beach*; Case No. B307538; filed 04/06/22) provide the framework that any regulation and/or prohibition of short-term rentals in the Coastal Zone, requires compliance with the Coastal Act, such as with an amendment to the City's Local Coastal Program (LCP), or issuance of a Coastal Development Permit (CDP), and the California Coastal Commission has made clear that it will not support a prohibition of short-term rentals based on its interpretation of the Coastal Act. Moreover, until short-term rental regulations are established, the City will face arguments that short-term rentals may operate at any existing residential property in Coastal Zone, without regulation; and

WHEREAS, to comply with the Coastal Act, a CDP is proposed to allow the regulation of STRs, which the City presumes, based on the above noted cases, are already legally authorized as part of residential uses permitted by existing zoning and the City's Local Coastal Program; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per State Code Sections 15162 and Categorical Exemptions Class 1 - Section 15301 – Existing Facilities; and

WHEREAS, the Planning Commission did, on the 9<sup>th</sup> day of May, 2022, hold a duly noticed public hearing as prescribed by law to consider said request and the STR Program (attached hereto as Exhibit A); and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP22-0010.

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NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A. That the above recitations are true and correct and incorporated herein by this reference.
- B. Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves CDP20-0028 for the STR Program attached hereto as Exhibit A subject to the following conditions of approval:

Findings:

Coastal Development Permit CDP22-0010

1. That the project is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096) **in that, the STR Program allows the establishment of regulations for STRs in the City. The court decision (*Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089.) determined that STR uses are the same as a residential use and they are therefore a permitted use in Residential and Mixed Use zones. The STR Program regulations ensures STRs are compatible with residential neighborhoods and safeguards the peace, safety and general welfare of the residents of Dana Point. The regulations prohibit excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse. The establishment of regulations for STRs and a permitting process ensures the City provides a mix of overnight accommodations to provide coastal access to visitors as required by the Coastal Act and the City's LCP. The City's existing supply of overnight accommodations along with the STR Program's balanced approach increases the availability of overnight (market rate and affordable) accommodations while protecting neighborhoods, long-term housing stock, and public access.**
2. If located between the nearest public roadway and the sea or shoreline of any body of water, that the project is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096) **in that, the establishment of the STR Program increases public access in the Coastal Overlay District in the City by creating additional opportunities for overnight accommodations for visitors. The establishment of three types of STRs (non-primary, primary, and home stay STRs) allows for improved overnight access to the coast with amenities that provide a mixed range of affordability to ensure all**

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types of visitors can access the coast in Dana Point. The establishment of the STR Program is in addition to the 1,864 hotel rooms and 120 campsites within the City limits. Allowing unlimited homestay STRs expands the potential for affordable overnight accommodations since these STRs are, by design, an affordable option by allowing the renting of individual rooms or an attached unit versus an entire house.

3. That the project conforms to Public Resources Code Section 21000 (the California Environmental Quality Act - CEQA) and following, that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any potentially significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096) **in that, the project qualifies as Categorically Exempt from review under CEQA pursuant to State Code Sections 15162 in that a Negative Declaration was approved for the STR ordinance in 2013. Additionally the project qualifies as a Categorical Exemption Class 1 - Section 15301 – Existing Facilities in that the STR use is a residential use as established by the CCC and related case law and is not an intensification of existing, permitted residential use. The STR Program establishes regulations to ensure the use is compatible with adjacent residential uses.**
4. That the proposed development will not encroach upon any existing physical access-way legally utilized by the public or any proposed public accessway identified in an adopted Local Coastal Program Land Use Plan, nor will it obstruct any existing public views to and along the coast from any public road or from a recreational area **in that, the project is for the establishment of an STR Program to establish regulations for the permitting and operation of STRs and does not result in any physical development that would encroach on any access-way or public view identified in the City's LCP. The STR Program creates a range of affordable overnight accommodations to increase access to the coast for visitors of Dana Point. The STR Program requires, at a minimum, permit cap evaluation every five years; however, the City has the authority to review the Program sooner and propose amendments to the CDP to incorporate modifications and/or mitigation to address the impacts of the Program on public access and/or long-term rental housing.**
5. That the project has been sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources **in that, the project is for the establishment of an STR Program to establish regulations for the permitting and operation of STRs and does not result in any physical development that would create adverse impacts to environmentally sensitive habitats and scenic resources identified in the City's LCP. The establishment of the**

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**STR Program will improve public access to the coast and not result in adverse impacts to the environment or recreational areas.**

6. That the project minimizes the alteration of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards resources **in that, the project is for the establishment of an STR Program to establish regulations for the permitting and operation of STRs and does not result in any physical development.**
7. That the project is visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas resources **in that, the project is for the establishment of an STR Program to establish regulations for the permitting and operation of STRs and does not result in any physical development. The STR Program creates a range of affordable overnight accommodations to increase access to the coast for visitors of Dana Point. The Program requires, at a minimum, permit cap evaluation every five years; however, the City has the authority to review the Program sooner and propose amendments to the CDP to incorporate modifications and/or mitigation to address the impacts of the Program on public access and/or long-term rental housing.**
8. That the project conforms with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs **in that, the establishment of STR Program allows for the establishment of regulations for STRs in the City. Court decisions have determined that STR uses are the same as a residential use and is therefore a permitted use in Residential and Mixed Use zones within existing residential or mixed use structures. The establishment of STR regulations ensures the use is compatible with residential neighborhoods and establish regulations 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. The establishment of regulations for STRs and a permitting process ensures the City provides a mix of overnight accommodations to provided coastal access to visitors as required by the Coastal Act and the City's LCP. The City's existing supply of overnight accommodations along with the STR Program's balanced approach increases the availability of overnight (market rate and affordable) accommodations while protecting neighborhoods, long-term housing stock, and public access.**

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Conditions:

**General:**

1. Approval of this application permits short-term rental Program to permit the permitting, regulations, and penalties for short-term rentals.
2. The Short-Term Rental Program shall be reviewed by the Community Development Director at least every five (5) years to re-evaluate the permit cap, regulations, penalties, and all aspects of the STR Program to determine if amendments must be made. Amendments to the Program must be processed as an amendment to the Coastal Development Permit.
3. As authorized by Municipal Code Section 5.38.080, the Community Development Director will apply the additional standards set forth in the STR Program as a condition of all permits issued for STRs outside of the Coastal Zone to ensure a uniform approach to the regulation of STRs throughout the City.
4. Within six (6) months of approval of this application, applications for new short term rentals permits shall be accepted by the City for review.
5. Approval of this application is valid for a period of 24 months (two years) from the noted date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.



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PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 9<sup>th</sup> day of May, 2022 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John Gabbard, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Brenda Wisneski, Director of  
Community Development

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**Exhibit A**

**DRAFT Coastal Development Permit Short-Term Rental Program**

**1. Introduction**

The following sets forth the rules and regulations for the City of Dana Point's Short-Term Rental Program (the "STR Program"), the purpose of which is to require the owner or owners of a residential dwelling unit that operates as a Short Term Rental ("STR"), as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this STR Program to safeguard the peace, safety and general welfare of the residents of Dana Point, their guests, and out of town visitors, by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to STR.

**2. Definitions**

This following definitions shall apply to the STR Program:

(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.

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(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 the City's Municipal 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(owner) 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 STR Program may be considered.

### **3. Number of Short-Term Rentals Allowed**

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

- (a) When a property is sold, the STR permit expires and does not transfer to the new owner. The new owner must apply for an STR permit.
- (b) Upon reaching the maximum number of non-primary STR permits, the City will establish a waitlist for the issuance of permits when they become available.
- (c) New STR permits shall be limited to one permit for a home stay, non-primary, or primary STR per owner.
- (d) The number of STR permits that may be issued within a multifamily structure may be further limited to prevent the use of the structure to be defined as a "hotel", as defined by the Dana Point Zoning Code.
- (e) An Owner with more than one STR permit issued before the effective date of this STR Program may retain the permits until the property is sold or permit(s) are revoked.  
After five years of the STR Program, the Community Development Director will review the 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**

STR 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

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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 STR Program, including, without limitation, the filing of an application for a permit that has been signed and notarized by the owner, the management of the STR, and the compliance with the conditions to the permit. The permit shall be issued only to the owner of the STR. The owner of the STR is responsible for compliance with the provisions of this STR Program, and the failure of an agent to comply with this STR Program shall be deemed non-compliance by the owner and agent and subject to fines as if a violation of the City's Municipal Code.

**6. Permit Required**

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

**7. Application for Permit**

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

- (a) The name, address, email, and telephone number of the owner of the STR 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 STR.
- (c) Evidence of a valid transient occupancy tax registration certificate issued by the City for the STR.
- (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 STR.
- (f) Acknowledgment of receipt and inspection of a copy of all regulations pertaining to the operation of an STR within the City.
- (g) Such other information as the Director of Community Development deems reasonably necessary to administer this STR Program.
- (h) Permits shall be limited to one per person/entity.
- (i) 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 an STR 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 STR waitlist shall be upon forms provided by the City and shall contain the following information:

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- (a) The name, address, email, and telephone number of the owner of the STR for which the permit is to be issued.
- (b) Additional information as the Director of Community Development deems reasonably necessary to administer this STR Program.
- (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 STR permit annually on March 1<sup>st</sup> 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 STRs.

Permits that are inactive during a permit year will be 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 than two permit years.

**10. Conditions of Permit Issuance and Renewal**

- (a) Permits and renewals issued pursuant to this STR Program are subject to the following standard conditions:
  - (1) The owner shall ensure that the STR complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
  - (2) The owner shall provide proof that STRs are not prohibited by its Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other community standards/guidelines applicable to the proposed STR.
  - (3) Concurrent with the issuance of the STR permit and annually upon its renewal, City Staff shall provide notice to all abutting property owners and tenants that the property is operating as an STR. The notice shall also provide the contact information for the STR 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 STR 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 STR.
  - (4) The STR 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 STR.
  - (6) The STR must have a minimum of two (2) off-street parking spaces.

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- (7) The STR must have a visible house number easily seen from the street, day or night.
- (8) All advertising for the STR shall include the City issued STR 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 STR 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 STR 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 STR. 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 STR with the provisions of this STR Program, as well as a copy of the City's Good Neighbor Acknowledgment. An unsigned copy of the City's Good Neighbor Acknowledgment shall be posted in a conspicuous location within the STR, along with a copy of the City's STR regulations. This information shall be readily available upon request of any police officer or employee of the City authorized to enforce this STR Program or State law.
- (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 STR shall be limited to two (2) persons per bedroom plus two (2) additional persons within the STR. 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 STR shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms within the STR. The 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 an STR.
- (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 STR shall provide sufficient trash collection containers and services to meet the demand of the occupants.
- (16) Each lease or rental agreement for an STR shall include the following terms, notifications, and disclosures, which shall also be posted in a conspicuous location inside the STR:
- (A) The maximum number of occupants that are permitted and notification that failure to conform to the maximum occupancy is a violation of this STR Program.

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(B) The number of parking spaces provided and, if not adjacent to the STR, the location of assigned parking and the maximum number of vehicles that are permitted.

(C) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of 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 STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, alcohol consumption, or the use of drugs. 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 STR have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, and/or overcrowding, take action to abate the issue within thirty (30) minutes of the 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 STR 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 STR (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 STR, as necessary to achieve the objectives of this STR Program.

(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 STR Program 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 STR; the owner must collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

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**11. Short-Term Rental Operator Regulations**

The following are additional regulations and clarifications for all STR operators. These regulations may be updated periodically for clarification of situations that may develop based on the implementation of the STR 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 STR.
- (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 STR 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 STR 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 STR permit holder utilize an on-site camper, RV, or stay in a tent on the property to qualify for a home stay STR 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 STR permit) unless further restricted by CC&R regulations. 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.



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(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 STR permit. In the event the STR permit has been revoked, the property owner shall be forbidden from re-applying for another STR 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: Planning Commission Public Workshop Minutes 4/11/22**

**CITY OF DANA POINT  
PLANNING COMMISSION  
REGULAR MEETING ACTION MINUTES**

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April 11, 2022  
6:00pm - 7:28pm

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

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**CALL TO ORDER REGULAR MEETING**

**Chair Nelson** called the Regular Meeting of the Dana Point Planning Commission to order at 6:00pm.

**PLEDGE OF ALLEGIANCE**

**Commissioner Opel** led the Pledge of Allegiance.

**ROLL CALL**

Planning Commission Members Present: Chair Eric Nelson, Vice-Chair Roy Dohner, Commissioner Mary Opel, Commissioner John Gabbard, Commissioner Ashok Dhingra

Planning Commission Members Absent: None

Staff Present: Brenda Wisneski (Director of Community Development), Jennifer Farrell (Deputy City Attorney), Jeff Rosaler (Community Development Manager), John Ciampa (Senior Planner), Allison Peterson (Management Analyst), and DJ Sutorius (Senior Administrative Assistant)

**A: APPROVAL OF MINUTES**

**ITEM 1: Minutes of the Regular Planning Commission Meeting March 28, 2022**

**ACTION:** Motion made by Vice-Chair Dohner, seconded by Commissioner Gabbard, to approve the Minutes of the Regular Planning Commission Meeting of March 28, 2022. Motion carried 4-0-1.

**AYES:** Nelson, Dohner, Opel, Gabbard  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** Dhingra

**B. PUBLIC COMMENTS**

There were no Public Comments.

**C. CONSENT CALENDAR**

There were no Items on the Consent Calendar.

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CITY OF DANA POINT  
**PLANNING COMMISSION**

April 11, 2022  
6:00pm – 7:28pm

REGULAR MEETING ACTION MINUTES

PAGE 2

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**D. PUBLIC HEARING**

There were no Public Hearings.

**E. OLD BUSINESS**

**ITEM 2: Introduction of Draft Short -Term Rental Program**

<u>Applicant:</u>	City of Dana Point
<u>Location:</u>	Citywide
<u>Recommendation:</u>	Review, receive public comment, and provide comments on the draft Short-Term Rental Program.

**Jeff Rosaler** (Community Development Manager) provided a presentation and answered questions from the Planning Commission.

**John Ciampa** (Senior Planner) provided a presentation and answered questions from the Planning Commission.

**PUBLIC COMMENTS**

**Barbara Wilson** (Dana Point) spoke in opposition of the program.

**Sabrina Must** (Dana Point) spoke in favor of the program.

**Carla Moore** (Irvine) spoke in favor of the program.

**Jim Schad** (Dana Point) spoke in favor of the program.

**Buck Hill** (Dana Point) spoke in favor of the program.

**Matthew Agren** (on behalf of Dana Point resident, Rodger Marlen) spoke in opposition of the program.

**Paul Wyatt** (Dana Point) spoke in opposition of the program.

**Deanna Slocum** (Dana Point) spoke in favor of the program.

**Toni Nelson** (Dana Point) spoke in opposition of the program.

**Betty Hill** (Dana Point) spoke in opposition of the program.

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CITY OF DANA POINT  
**PLANNING COMMISSION**

April 11, 2022  
6:00pm – 7:28pm

REGULAR MEETING ACTION MINUTES

PAGE 3

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**F. NEW BUSINESS**

There was no New Business.

**G. STAFF REPORTS**

There were no Staff Reports.

**H. COMMISSIONER COMMENTS**

**Commissioner Gabbard** thanked the Short-Term Rental subcommittee for their efforts.

**Vice-Chair Dohner** stated that the City Staff did a great job preparing for the workshop.

**I. ADJOURNMENT**

**Chair Nelson** adjourned the meeting at 7:28pm. The *next* Regular Meeting of the Planning Commission will be held on Monday, April 25, 2022, in the City Council Chambers located at 33282 Golden Lantern, Suite 210, Dana Point, California.

  
Eric Nelson, Planning Commission

**SUPPORTING DOCUMENT 3: 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](mailto: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.<sup>1</sup> 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:<sup>2</sup>

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<sup>1</sup>[https://documents.coastal.ca.gov/assets/la/Short\\_Term\\_Vacation\\_Rental\\_to\\_Coastal\\_Planning\\_& Devt\\_Directors\\_120616.pdf](https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Devt_Directors_120616.pdf)

<sup>2</sup> [https://documents.coastal.ca.gov/assets/la/Sample\\_of\\_Commission\\_Actions\\_on\\_Short\\_Term\\_Rentals.pdf](https://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.<sup>3</sup> 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.

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<sup>3</sup> <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 LCP 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 LCP 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.<sup>4</sup> 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

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<sup>4</sup> <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,<sup>5</sup> 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

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<sup>5</sup> <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.

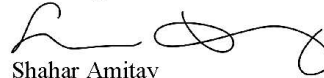
Please include additional detail in the Draft STR Program regarding how cumulative impact will be measured and mitigated. In cases where implementation of the Program may adversely affect coastal access or other coastal resources by, for example, overcrowding or conflicting with existing recreational 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-

CCC Staff Comments on City of Dana Point Draft Short-Term Rental (STR) Program  
Page 9 of 9

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

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**SUPPORTING DOCUMENT 4: City Council STR Policy–Meeting Minutes October 21, 2021**

City of Dana Point  
City Council Regular Meeting Minutes

October 1, 2019

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*CALIFORNIA, APPROVING THE APPLICATION FOR THE STATE OF CALIFORNIA PARKS AND WATER BOND OF 2018 PER CAPITA GRANT PROGRAM; and*

- 2) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEES TO APPLY FOR SUBJECT GRANTS.
- 8. ADOPT A RESOLUTION AUTHORIZING THE CITY OF DANA POINT TO SUBMIT A LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION**

- 1) ADOPTED RESOLUTION 19-10-01-02 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE CITY OF DANA POINT TO SUBMIT A LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION; and*

- 2) AUTHORIZED THE CITY MANAGER TO SIGN ALL NEEDED DOCUMENTATION UNDER THE CALIFORNIA COASTAL COMMISSION (CCC) GRANT PROGRAM, AND AMEND THE BUDGET AS DESCRIBED IN THE FISCAL IMPACT SECTION.

**PUBLIC COMMENTS**

Barbara Wilson (Dana Point) stated that she was concerned with the recording of the September 17, 2019 meeting, but is relieved to hear of the back-up technology now in place.

**PUBLIC HEARINGS**

There were no Public Hearings.

**UNFINISHED BUSINESS**

There were no Unfinished Business items.

**NEW BUSINESS**

- 9. COUNCILMEMBER FEDERICO: SHORT TERM RENTAL SUBCOMMITTEE POLICY DIRECTION**

Council Member Jamey M. Federico provided a report.

Mayor Joseph L. Muller opened Public Comment.

Roger Malcom (Capistrano Beach) spoke in opposition of allowing Short Term Rentals.

Deby Snow Grover (Property Manager) spoke in favor of allowing permitted Short Term Rentals.

Ken Piloti (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Shevy Akason (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Betha Lea Everett (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Greg Linn (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Gabrielle Buckley (Pasadena) spoke in favor of allowing permitted Short Term Rentals.

Barbara Wilson (Dana Point) spoke in favor of allowing Short Term Rentals with a hosted stay policy.

Deanna Slocum (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Miriam Rupke (Capistrano Beach) spoke in favor of allowing permitted Short Term Rentals.

Susanne Christensen (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Jason Colaco (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Betty Hill (Capistrano Beach) spoke in opposition of allowing permitted Short Term Rentals.

Dana Yarger (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Hoyin Ip (Dana Point) spoke of the importance of transparency in committees and groups.

Melissa Spanglin (Capistrano Beach) spoke in favor of allowing permitted Short Term Rentals.

Jeff Lumer (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Felicia (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Mayor Joseph L. Muller closed Public Comment.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL:

- 1) FORMALLY ADOPT POLICY OBJECTIVES THAT STAFF AND THE SHORT TERM RENTAL SUBCOMMITTEE WILL USE IN DRAFTING ANY PROPOSED ORDINANCE. ANY SHORT TERM RENTAL ORDINANCE MUST:
  - a. MAINTAIN THE CHARACTER OF OUR NEIGHBORHOODS BY NOT ENCOURAGING ABSENTEE CORPORATE INVESTMENT.
  - b. FIRMLY PROTECT AGAINST NUISANCES.
  - c. BALANCE THE RIGHTS AND RESPONSIBILITIES OF ALL RESIDENTS AND HOMEOWNERS AND HONOR HOA REGULATIONS; AND
- 2) DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE MEETINGS BE OPEN TO THE PUBLIC; AND

- 3) AUTHORIZE THE CITY MANAGER TO CONTRACT FOR THE COMPLETION OF A STATISTICALLY VALID RESIDENT SURVEY FOCUSED ON SHORT TERM RENTAL POLICY.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER DEBRA LEWIS THAT THE CITY COUNCIL VOTE ON EACH ACTION SEPARATELY FROM COUNCIL MEMBER FEDERICO'S MOTION; AND ADD TO THIS MOTION TO DIRECT ANY SHORT TERM RENTAL POLICY DECISION TO GO TO A VOTE OF THE PEOPLE.

The substitute motion failed due to a lack of a second.

COUNCIL MEMBER JAMEY M. FEDERICO AMENDED THE ORIGINAL MOTION, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL VOTE ON EACH ACTION SEPARATELY AND AMENDED LANGUAGE IN ACTION 2 TO DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE CONDUCT PUBLIC OUTREACH

Each separate action carried by the following votes:

- 1) FORMALLY ADOPT POLICY OBJECTIVES THAT STAFF AND THE SHORT TERM RENTAL SUBCOMMITTEE WILL USE IN DRAFTING ANY PROPOSED ORDINANCE. ANY SHORT TERM RENTAL ORDINANCE MUST:
  - a. MAINTAIN THE CHARACTER OF OUR NEIGHBORHOODS BY NOT ENCOURAGING ABSENTEE CORPORATE INVESTMENT.
  - b. FIRMLY PROTECT AGAINST NUISANCES.
  - c. BALANCE THE RIGHTS AND RESPONSIBILITIES OF ALL RESIDENTS AND HOMEOWNERS AND HONOR HOA REGULATIONS

AYES: Council Member Jamey M. Federico, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Joseph L. Muller

NOES: Council Member Debra Lewis

ABSENT: None

- 2) DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE CONDUCT PUBLIC OUTREACH

AYES: Council Member Jamey M. Federico, Council Member Debra Lewis, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Joseph L. Muller

NOES: None

ABSENT: None

- 3) AUTHORIZE THE CITY MANAGER TO CONTRACT FOR THE COMPLETION OF A STATISTICALLY VALID RESIDENT SURVEY FOCUSED ON SHORT TERM RENTAL POLICY

AYES: Council Member Jamey M. Federico, Council Member Debra Lewis, and Mayor Pro Tem Paul N Wyatt

NOES: Council Member Richard A. Viczorek, and Mayor Joseph L. Muller

ABSENT: None



## SUPPORTING DOCUMENT 5: Coastal Overnight and Access Visitors Inventory

### Coastal Overnight and Access Visitor Serving Facilities

#### Affordable/Low-Cost Overnight Accommodations

- Doheny State Beach Campground - 120 campground spaces (group site accommodates 40 people)
- Crystal Cove (in-lieu fees from Ritz Carlton) – 24 cottages/118 people
- Wave Hotel at the Strand (under construction) –52 hostel beds
- Seaside Inn – 28 rooms
- Lantern Point (under City Review) - 51 rooms (25% affordable, 75% market rate)
- Dana Point Marina Inn – 136 rooms

#### Market Rate Overnight Accommodations

- Best Western Marina Shores Hotel – 87 rooms
- Laguna Cliffs Marriott – 378 rooms
- Riviera Beach and Spa – 129 rooms
- Monarch Beach Resort – 400 rooms
- Ritz-Carlton – 396 rooms
- Wave Hotel at the Strand (under construction) – 57 rooms
- Resort Hotel at Cannon's (CCC Appeal) - 100 rooms
- Green Lantern Hotel – 53 rooms
- Blue Lantern Inn – 29 rooms
- Capistrano Surfside Inn – 37 rooms
- DoubleTree – 196 rooms
- Best Western Inn by the Sea – 29 rooms

#### Coastal Access Facilities

- 15 coastal access points and multiple scenic lookouts
- Funicular cable car access to Strands Beach
- Headlands trails and lookout points
- State Beach (coastal access and event venue)
- Harbor
- Trolley

**SUPPORTING DOCUMENT 6:** 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.

5.38.020 Definitions.

5.38.030 Permit Required.

5.38.040 Agents.

5.38.050 Application for Permit.

5.38.055 Renewal of Permit.

5.38.060 Denial of Permit.

5.38.070 Filing Fee.

5.38.080 Conditions of Permit Issuance and Renewal.

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)

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### **Contact:**

City of Dana Point: 949-248-3500

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