

**RESOLUTION NO. 22-07-12-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING IN PART, AND AFFIRMING IN PART, THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP22-0010 (THE CDP) TO ESTABLISH A SHORT-TERM RENTAL PROGRAM TO REGULATE THE PERMITTING AND OPERATION OF SHORT-TERM RENTALS IN THE CITY, BY UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF THE CDP AND AMENDING THE PROGRAM APPROVED BY THE PLANNING COMMISSION**

The City Council 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 (STRs) in the City; and

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

WHEREAS, STRs 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.5<sup>th</sup> 1089 and *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5<sup>th</sup> 142, provide the framework that any regulation and/or prohibition of STRs 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

WHEREAS, the California Coastal Commission has made clear that it will not support a prohibition of STRs based on its interpretation of the Coastal Act; and

WHEREAS, the City understands that it is the Coastal Commission's position, which has been confirmed by the Courts in the above noted cases, that STRs are already legally authorized as residential uses, which are permitted by the City's existing zoning and Local Coastal Program in various zoning districts in the City; and

WHEREAS, because STRs are already permitted by the City's zoning and Local Coastal Program, in order to comply with the Coastal Act, a CDP is proposed to allow the regulation of STRs; and

WHEREAS, until STR regulations are established, the City will face arguments that STRs may operate at any existing residential property in the Coastal Zone, without regulation or limitation; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the adoption of the STR Program does not qualify as a "project" because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Alternatively, if the adoption of the STR Program is a "project" subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by the CCC and related case law), and the City's adoption of the STR Program would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council's actions in adopting the CDP is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08, relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the project would have new or more severe environmental impacts, or any new or more feasible mitigation measures; 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 CDP establishing the STR Program; 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, and approved the project 4-1; and

WHEREAS, on the 23<sup>rd</sup> day of May, 2022, Kim Tarantino and Mark Zanides, submitted an appeal of the Planning Commission approval; and

WHEREAS, on the 21<sup>st</sup> day of June, 2022, the City Council held a lawfully noticed hearing on the appeal of the Planning Commission's determination with respect to CDP22-0010, and continued the public hearing to July 12, 2022; and

WHEREAS, on the 12<sup>th</sup> day of July, 2022, the City Council reopened the lawfully noticed hearing on the appeal of the Planning Commission's determination with respect to CDP22-0010, and considered all testimony and arguments for and against said appeal.

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

Section 1. That the above recitations are true and correct, adopted as findings of the Council, and incorporated herein by this reference.

Section 2. Based on the evidence presented at the public hearing, the City Council denies the appeal in part, and affirms it in part, by upholding the Planning Commission's decision to adopt CDP22-0010 for the Short-Term Rental (STR) Program, and revising the STR Program approved by the Planning Commission to address community concerns as set forth in the accompanying Exhibit A, subject to the following findings and conditions of approval:

Findings:

Coastal Development Permit CDP22-0010

1. That the project is in conformity with the certified Local Coastal Program (LCP) 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 Coastal Commission has determined (which determination was confirmed by court decisions including *Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089 and *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5th 142) that STR uses are the same as any other residential use already permitted by the City's zoning and LCP, and they are therefore a permitted use in the City's Residential and Mixed-Use zones. The STR Program regulations ensure 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 four types of STRs (Non-Primary, Primary**

**Residence, Home Stay and Multi-Family Home Stay STRs) allows for improved overnight access to the coast with amenities that provide a mixed range of affordability to ensure all 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 more Home Stay STRs than are realistically needed to meet demand, and prioritizing Multi-Family Home Stay 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, in that, the STR Program does not qualify as a "project" because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Alternatively, if the adoption of the STR Program is a "project" subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by the CCC and related case law), and the City's adoption of the STR Program would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council's actions in adopting the CDP is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08 . relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the project would have new or more severe environmental impacts, or any new or more feasible mitigation measures.**
  
- 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, a review by the Community Development Director 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 any impacts of the Program on public access and/or public views.**

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 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 **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.**
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 an STR Program allows for the establishment of regulations for STRs in the City. The Coastal Commission has determined (and that determination was confirmed by Court decisions) that STR uses are the same as any other residential use already permitted by the City's zoning and LCP and is therefore a permitted use in Residential and Mixed-Use zones in connection with existing residential or mixed-use structures. The establishment of STR regulations ensures the use is compatible with residential neighborhoods and safeguards 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 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.

Conditions:

General:

1. Approval of this application permits the STR Program, which establishes permitting, regulations, and penalties for short-term rentals.
2. The STR 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 other aspects of the STR Program to determine if amendments should be made. Amendments to the Program must be processed as an amendment to the Coastal Development Permit.
3. The provisions of Municipal Code Section 5.38.080 shall remain applicable to STRs outside the Coastal Zone, but the provisions of the STR Program, and this CDP, shall not apply to STR Permits issued for STRs outside of the Coastal Zone.
4. Within six (6) months of approval of this application, applications for new short-term rentals permits in the Coastal Zone 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, the approval shall expire and shall thereafter be null and void.

PASSED AND ADOPTED this 12<sup>th</sup> day of July, 2022.



JOSEPH L. MULLER  
MAYOR

ATTEST:



---

SHAYNA SHARKE  
CITY CLERK

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

I, Shayna Sharke, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 22-07-12-01 was duly adopted and passed at a regular meeting of the City Council on the 12<sup>th</sup> day of July, 2022, by the following roll-call vote, to wit:

- AYES: Viczorek, Villar, Muller  
NOES: Federico, Frost  
ABSENT: None  
ABSTAIN: None



---

SHAYNA SHARKE  
CITY CLERK

## Exhibit A

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

#### **2. Definitions**

The following definitions shall apply to the STR Program:

- (a) "Accessory Dwelling Unit" shall mean an attached or a detached residential Dwelling that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An Accessory Dwelling Unit also includes the following: (A) An efficiency unit, and (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code."
- (b) "Agent" shall mean the representative, if any, designated by the owner in accordance with Section 5.38.040 of the Municipal Code.
- (c) "City Manager" shall mean the City Manager of the City of Dana Point or designee.
- (d) "Community Development Director" shall mean the Community Development Director of the City of Dana Point or designee.
- (e) "Dwelling Unit" shall have the same meaning as set forth in Section 9.75.040 of the Municipal Code, and the term "Dwelling" as used herein shall have the same meaning.
- (f) "Home Stay Short-Term Rental" shall mean an STR at a Dwelling (as defined in the Municipal Code) at which the Property Owner rents a portion of the Dwelling Unit for use as an STR while continuing to live in the Dwelling Unit during the period of the rental.
- (g) "Junior Accessory Dwelling Unit" shall mean a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior Accessory Dwelling Unit may include separate sanitation facilities or share sanitation facilities with the existing structure."
- (h) "Mixed-Use Parcel" shall mean a parcel upon which the City's zoning permits commercial and residential uses to exist at the same time (i.e., commercial on first floor and residential on upper



floors). By way of example only, as of the effective date of the STR Program, parcels located in the following zoning districts in the City would meet the definition of Mixed-Use Parcel: C/R; R/C – 18; P/R; TC-MU.

- (i) "Mixed-Use Parcel STR Permit" shall mean a Permit for either a Non-Primary STR or a Multi-Family Home Stay STR issued for an STR located in a Dwelling on a Mixed-Use Parcel.
- (j) "Multi-Family Home Stay Short-Term Rental" shall mean an STR at a parcel upon which a multi-family Dwelling (i.e., a duplex, tri-plex, etc.) lawfully exists, and at which all the following conditions also exist: (i) the Property Owner owns two or more Dwellings on the parcel, and (ii) the Property Owner resides in one of the Dwellings on the parcel and such Dwelling unit is the Property Owner's Primary Residence, and (iii) one of the Dwellings owned by the Property Owner is used for STR purposes.
- (k) "Non-Primary Short-Term Rental" shall mean a Dwelling used for Short-Term Rental purposes other than a Home Stay, Multi-Family Home Stay or Primary Residence Short-Term Rental.
- (l) "Permittee" shall mean the holder of an STR Permit.
- (m) "Primary Residence" shall mean a Dwelling which a Permittee uses as his or her domicile and permanent principle home for legal purposes.
- (n) "Primary Residence Short-Term Rental" shall mean an STR at a Dwelling which is the Property Owner's Primary Residence, as evidenced per the provisions hereof, which is being rented for STR purposes when the Property Owner is traveling or living elsewhere.
- (o) "Property Owner" shall mean a person who holds a recorded interest in a parcel upon which a Dwelling exists which is used for, or proposed to be used for an STR. In the case of a trust, both the trustees and any person or entity holding a beneficial interest of more than 5% in the trust are deemed to be the Property Owner. In the case of a business entity, any person having an ownership interest of more than 5% in the entity shall be deemed to be a Property Owner.
- (p) "Short-Term Rental" or "STR" shall have the same meaning as set forth in Section 5.38 of the Municipal Code.
- (q) "STR Permit" means a permit issued to the Property Owner to authorize use of a Dwelling for STR purposes pursuant to the STR Program.

### 3. STR Permit Limitations:

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

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

- i. Adjustments to cap when new Home Stay, Multi-Family Home Stay or Primary Residence STR Permits are issued:
  - A. Each time after the effective date of this STR Program that a new STR Permit is issued in the Coastal Zone for a Home Stay, Multi-Family Home Stay or Primary Residence STR Permits, the cap for Non-Primary STR Permits noted in Section (3)(a) shall be reduced by one (1).
  - B. This reduction to the numerical cap shall have no impact on or application to an existing Non-Primary STR Permit, including when such STR Permit is considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist.
- ii. Adjustments to cap when new Mixed-Use Parcel STR Permits are issued:
  - A. A maximum of 190 new Mixed-Use Parcel STR Permits may be issued for Non-Primary STRs that are located on Mixed-Use Parcels.
  - B. Mixed-Use Parcel STR Permits shall be required to pay the STR Permit fee established by the City Council in an amount calculated as follows (Total STR Permit Fee x 0.75).
  - C. Mixed-Use Parcel STR Permits may be issued without regard to the numerical cap noted in Section 3(a) above, and do not count towards determining such numerical cap.
  - D. Each time a Mixed-Use Parcel STR Permit is issued for a Non-Primary STR located within the City's Coastal Zone, the numerical cap for such category of STR Permits noted in Section 3(a) [as such cap may be adjusted pursuant to the provisions of Section 3(c)(1)] shall be reduced by one (1). This reduction to the numerical cap shall have no impact on or application to an existing Non-Primary STR Permit, including when such STR Permit is considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist.
- (d) When a parcel upon which a Dwelling exists for which an STR Permit has been issued is sold, the STR Permit shall expire upon the date the title to such parcel transfers, and the STR Permit shall not transfer to the new Property Owner. Should the new Property Owner desire to use any Dwelling on the parcel as an STR, such new Property Owner must apply for and receive an STR Permit.
- (e) Notwithstanding the foregoing, if a parcel upon which a Dwelling exists for which an STR Permit has been issued changes ownership through an inheritance, or as a result of a family transfer that

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

- (f) Upon reaching the maximum number of Non-Primary STR Permits, the City will establish a waitlist for the issuance of Non-Primary STR Permits when they become available.
- (g) Upon the effective date of the STR Program, STR Permits shall be limited to one STR Permit per Property Owner without regard to the category of STR to which such STR Permit applies (i.e., whether for a Home Stay, Non-Primary, Multi-Family Home Stay, or Primary Residence STR.) Any STR Permits issued prior to the effective date of the STR Program which conflict with this provision shall be deemed to be "grandfathered" and will remain valid, subject to all other provisions hereof until such time as the pre-existing STR Permit(s) expire(s) or is (are) revoked.
- (h) An STR Permit shall not be issued for a Dwelling located in a multi-family structure if issuance of such Permit would result in the creation of a "hotel", as defined by the Dana Point Zoning Code (i.e., 6 or more guest rooms or suites located in a structure or group of structures.)
- (i) After five years of the STR Program, the Community Development Director will review the Program to determine if a change to the maximum number of STR Permits should be considered. Any change to the maximum number of STR Permits shall be subject to an amendment to the Coastal Development Permit.

#### **4. Permit Holders/Agents**

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

## 5. Permit Required

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

## 6. Application for Permit

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

- (a) The name, address, email, and telephone number of the Property Owner, and all persons or entities that are Property Owners, of the parcel upon which a Dwelling exists that is proposed for use as an STR and for which the STR Permit is requested.
- (b) The name, address, email, and telephone number of the Property Owner's Agent, if any.
- (c) The address of the Dwelling proposed to be used as an STR.
- (d) Evidence of a valid transient occupancy tax registration certificate issued by the City in connection with the proposed STR.
- (e) Proof of general liability insurance in the amount of one million dollars (\$1,000,000.00) combined single limit and an executed agreement to indemnify, defend, and save the City harmless from any and all claims and liabilities of any kind whatsoever resulting from or arising out of the issuance of the STR Permit or the use of the Dwelling to which the STR Permit applies as an STR.
- (f) In connection with an application for a Primary Residence, or Home Stay STR the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (g) In connection with an application for a Multi-Family Home Stay STR, the Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located is the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (h) Acknowledgment that the Property Owner (and Agent if applicable) received a copy of, reviewed and understands the regulations pertaining to the operation of an STR within the city.
- (i) The STR to which the Permit applies shall not be prohibited by any Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other community standards/guidelines applicable to the parcel where the Dwelling to be used as an STR is located.
- (j) Such other information as the Community Development Director deems reasonably necessary to administer this STR Program.

- (k) Permits shall only be issued to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. If multiple Property Owners exist, one such owner may be designated as the Agent, subject to the provisions hereof related to Agents.
- (l) Only one (1) STR Permit, for one Dwelling, shall be issued to any person or entity that meets the definition of a Property Owner hereunder; and, when an STR permit is issued for a Dwelling, it is deemed to be issued to all Property Owners of such Dwelling.
- (m) A fee for issuance of an STR Permit shall be established by the City Council.

#### **7. Application for Waitlist**

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

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

#### **8. Renewal of Permit**

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

In the case of renewal of STR Permits issued for Primary Residence and Home Stay STRs, the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and continues to receive a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property

Owners domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.

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

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

#### **9. Conditions of Permit Issuance and Renewal**

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

responsible for enforcement in the event that an issue arises with the operation of the STR.

- (5) The Dwelling for which an STR Permit is requested must pass an initial inspection by the City prior to STR Permit issuance. The City may conduct additional inspections as deemed necessary or prudent at any reasonable time, including prior to subsequent renewals.
- (6) The Property Owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the STR.
- (7) The STR must have and maintain a minimum of two (2) off-street parking spaces.
- (8) The STR must have a visible house number easily seen from the street, day or night.
- (9) All advertising for the STR shall include the City issued STR Permit number in the subject line and in the description of the STR. In addition, all photographs, maps, and diagrams of the STR that are used for advertising purposes shall impose the City-issued STR Permit number in the lower right-hand corner in a font, style, size, and color to be reasonably legible, with any dispute as to the meaning of this provision subject to interpretation by the Community Development Director.
- (10) The primary overnight and daytime renter, who shall also be residing as a guest in the STR during any STR rental period must be an adult twenty-five (25) years of age or older. This adult must provide a telephone number to the Property Owner (or Agent if applicable) and shall be accessible to the Property Owner by telephone at all times.
- (11) Prior to occupancy, the Property Owner (or Agent if applicable) shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the STR. The Property Owner (or Agent if applicable) shall require that same adult to sign a formal acknowledgment that he or she is legally responsible for compliance by all occupants and guests of the STR with the provisions of this STR Program, as well as a copy of the City's Good Neighbor Acknowledgment. An unsigned copy of the City's Good Neighbor Acknowledgment shall be posted in a conspicuous location within the STR, along with a copy of the City's STR regulations. This information shall be readily available upon request of any police officer or employee of the City authorized to enforce this STR Program or State law.
- (12) The Property Owner (or Agent if applicable) shall rent the STR for a minimum stay of two (2) consecutive nights.
- (13) The maximum overnight occupancy of the STR shall be limited to two (2) persons per bedroom plus two (2) additional persons within the STR. The Community Development Director may, when unusual size, interior layout, parking, or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of an STR Permit application or renewal. The maximum daytime occupancy shall be limited to two and a half (2.5) times the overnight occupancy and not exceed twenty (20) persons; however, the Community Development Director may, when unusual size, or other physical characteristics, approve a greater maximum number of daytime occupants as part of an STR Permit application or renewal.
- (14) The maximum number of vehicles allowed at the STR shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms

within the STR. The Community Development Director may, when unusual size, parking, or other physical characteristics are shown, approve a greater maximum number of vehicles as part of an STR Permit application or renewal. The Property Owner must ensure a sufficient number of parking spaces are accessible to tenants to accommodate the maximum number of vehicles allowed.

- (15) No on-site exterior signs are to be posted on a parcel advertising an STR at the location.
- (16) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler and between the hours of 5:00 p.m. the day before and 8:00 a.m. the day after the scheduled trash collection days, as provided in Chapter 6.10 of the Dana Point Municipal Code. In the event the Property Owner fails to comply with this provision, he/she shall be required to sign up for walk-up trash service provided by the City's waste disposal franchisee and provide proof to the City of the same. The Property Owner shall provide sufficient trash collection containers and services to meet the demand of the occupants of the STR.
- (17) Each lease or rental agreement for an STR shall include the following terms, notifications, and disclosures, which shall also be posted in a conspicuous location inside the STR:
  - (A) The maximum number of occupants that are permitted and notification that failure to conform to the maximum occupancy is a violation of this STR Program.
  - (B) The number of parking spaces provided and, if not adjacent to the STR, the location of assigned parking and the maximum number of vehicles that are permitted.
  - (C) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of buildings on the parcel.
  - (D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Property Owner (or Agent as applicable) for violating any and all applicable laws.
  - (E) The name of the Property Owner or Agent, and a telephone number at which that party may be reached at all times and 9-1-1 Emergency information.
  - (F) Summary of applicable Homeowners Association Conditions, Covenants, and Restrictions (CC&Rs) and bylaws, including pool location and hours.
  - (G) The terms, notifications, and disclosures must be posted during the registration process.
- (18) The Property Owner shall ensure that the occupants of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, alcohol consumption, or the use of drugs. Property Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the tenant, calling for law enforcement services or City code enforcement officers, evicting the tenant, or any other action necessary to immediately abate the disturbance.



- (19) The Property Owner or Agent as applicable shall, upon notification that occupants or tenants of an STR have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, and/or overcrowding, take action to abate the issue within thirty (30) minutes of the Property Owner or Agent being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the Property Owner or Agent may be required to arrive on site within thirty (30) minutes of a received complaint to address the issue and ensure there is not a re-occurrence.
  - (20) No outside noise from the STR shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.
  - (21) The Property Owner or Agent as applicable shall include ADA information, if available, in all advertisements for the STR (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.).
  - (22) Advertisements, and information provided in the STR itself, shall disclose whether bicycles or other means of transport (scooters, skateboards, carpooling, rideshare, etc.) are available.
- (b) The Community Development Director shall have the authority at any time to impose additional standard conditions, applicable to all STRs, as necessary to achieve the objectives of this STR Program.
  - (c) The Community Development Director shall have the authority to impose additional conditions on any STR Permit in the event of any violation of the conditions to the STR Permit or the provisions of this STR Program subject to compliance with the procedures specified in Section 5.38 of the Municipal Code.
  - (d) The Property Owner or Agent as applicable shall maintain a valid transient occupancy tax registration certificate issued by the City for the STR, and shall collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

#### **10. Short-Term Rental Operator Regulations**

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

- (a) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR if such Dwelling is an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, created as part of Single-Family Residential Duplex (as defined by Zoning Code Section 9.72), or designated as an affordable housing unit, and no STR Permit shall be issued for any such Dwelling.
- (b) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR unless such Dwelling is in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes, and multiple-family dwellings, and no STR Permit shall be issued for a Dwelling that does not meet this criteria.

- (c) Home Stay STR and Multi-Family Home Stay STR shall be subject to the following:
  - (1) Notwithstanding any other provision of this STR Program to the contrary, the Property Owner of a Home Stay STR or Multi-Family Home Stay STR shall be present at the parcel upon which the STR is located during the rental period between the hours of 10:00 p.m. to 7:00 a.m.
  - (2) A maximum of one Home Stay STR Permit may be issued for any parcel upon which multiple Dwellings exist.
  - (3) In no instance shall a Home Stay STR Permittee allow the use of an on-site camper, RV, or tent by renters as part of the STR use on a parcel.
- (d) Primary Residence STR shall be subject to the following:
  - (1) A Property Owner to whom an STR Permit for a Primary Residence STR is issued shall be limited to renting the Dwelling to which the STR Permit applies for a maximum of 60 days per 12-month period, (with the date starting on the date the STR Permit is issued) unless further restricted by CC&R regulations. Compliance will be monitored by the transient occupancy tax annual submittal, and such other means as deemed necessary and appropriate by the Community Development Director.

**11. Violations and Penalties**

- (a) The following conduct shall constitute a violation for which the penalties specified in Chapter 5.38 of the Municipal Code and subsection (b) below may be imposed, or for which the STR Permit may be revoked:
  - (1) The Property Owner and/or Agent has failed to comply with the standard conditions specified in Conditions of Permit Issuance and Renewal Section (a);
  - (2) The Property Owner and/or Agent has failed to comply with conditions imposed by the Community Development Director pursuant to the provisions of Conditions of Permit Issuance and Renewal Section (b) or (c);
  - (3) The Property Owner and/or Agent has willfully violated the provisions of this Program;
  - (4) The Property Owner and/or Agent has failed to comply and pay any fines imposed pursuant to subsection (b) within thirty (30) days of the date of notification; or
  - (5) The Property Owner and/or Agent has failed to comply and pay the transient occupancy tax or submit a report as required by Chapter 3.25 of the Municipal Code within the required time limit.
- (b) Penalties. The penalties for violations imposed per subsection (a) above, or the Municipal Code, shall be the responsibility of the Property Owner, and/or the Agent if applicable, and are issued per day per violation as follows:
  - (1) For the first violation, the penalty shall be the maximum monetary amount allowed per State law;

- (2) For a second violation, the penalty shall be the maximum monetary amount allowed per State law;
- (3) For a third violation, the penalty shall result in the immediate revocation of the STR Permit. In the event the STR Permit has been revoked, the Property Owner shall thereafter be ineligible to receive an STR Permit for any category of STR to be operated on the same parcel upon which the STR for which the Permit was revoked existed.

## **12. Procedure for Imposition of Penalties/Revocation**

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

The Community Development Director shall conduct an investigation whenever he or she has reason to believe that a Property Owner (or Agent as applicable) has committed a violation described in Chapter 5.38 of the Municipal Code. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Community Development Director shall issue written notice of intention to impose a penalty and/or revoke the STR Permit.

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