

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Th10a



Click here to go to
original staff report

ADDENDUM

April 11, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **LOCAL COASTAL PROGRAM AMENDMENT NO. 1-14 (LCP-5-DPT-MAJ-14-0105-1 - SHORT-TERM RENTALS) FOR THE COMMISSION MEETING OF THURSDAY, APRIL 14, 2016.**

1. CHANGES TO STAFF REPORT

Commission staff recommends modifications to the staff report dated April 1, 2016.

A. Page 1 – Modify Summary of Staff Recommendation, as follows:

Language to be deleted is identified by ~~strike-out~~.

Staff recommends that the Commission certify LCP Amendment Request No. 1-14 with the following suggested modifications: 1) clarify that Chapter 5.38 of the Municipal Code is included in both certified IPs, and 2) add provisions to both IPs clarifying that any changes to Chapter 5.38 of the Municipal Code that may result in limiting, ~~modifying~~ or prohibiting short-term rentals in the coastal zone shall be subject to review as an LCP Amendment. The motions are on **Page Three**. The suggested modifications are on **Page Four**.

B. Page 3 – Modify Section I. Motions and Resolutions, as follows:

Language to be added to the findings is shown in **underlined italicized bold text**, and language to be deleted is identified by ~~strike-out~~.

I. MOTIONS AND RESOLUTIONS

Motion I:

~~*I move that the Commission certify Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point.*~~

I move that the Commission reject the Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point.

Staff recommends a **NO** vote of the motion. Failure of this motion will result in denial of the IP Amendment as submitted and adoption of the following resolution and findings. The motion to certify passes only by an affirmative vote of the majority of the appointed Commissioners.

Staff recommends a YES vote. Passage of this motion will result in rejection of the IP Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution I:

The Commission hereby denies certification of Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment does not conform with the provisions of the certified Land Use Plans, as amended. Certification of the Implementation Plans would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.

The Commission hereby denies certification of Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans. Certification of the Implementation Plans would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment submitted

C. Page 4 – Revise the Suggested Modifications to the Dana Point Specific Plan ‘1986 LCP’ and ‘1996 LCP’ Implementation Plan Section 2.1.9, as follows:

Original suggested modifications shown in ~~strikeout~~ and **bold, italicized and underlined** text; revisions to those modifications as a result of this addendum are shown in ~~bold double strikeout italics~~.

A. Suggested Modification to the Dana Point Specific Plan ‘1986’ LCP

The Dana Point Specific Plan; Section XI Land Use Regulations; Section v “Special Regulations and Information” **Section E. Coastal Land Use District Regulations** is amended to include the following new sub-section **16**. (Inserts are underlined):

16:

Short Term Rentals

~~D.~~ Short Term Rentals: Short term rentals, as defined in Chapter 5.38 of the City of Dana Point's Municipal Code, are allowed in all the districts within the Dana Point Specific Plan where residential uses are allowed, including but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City of Dana Point, as stipulated in Chapter 5.38 of the City's Municipal Code. **Chapter 5.38 of the City of Dana Point Municipal Code (Short-Term Rental Permits) is part of the City's certified Local Coastal Program. Any change(s) that limit, ~~modify~~ or prohibit short term rentals in the coastal zone, as determined by the Executive Director of the Coastal Commission, shall be submitted to the Coastal Commission for certification as a Local Coastal Plan Amendment.**

B. Suggested Modification to the '1996' LCP Implementation Plan

Chapter 9.07

SPECIAL USE STANDARDS

Section 9.07.260 Short Term Rentals

Short term rentals, as defined in Chapter 5.38 of the City's Municipal Code, are allowed in all the zoning districts where residential uses are allowed, including, but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City, as stipulated in Chapter 5.38 of the Municipal Code. **Chapter 5.38 of the City of Dana Point Municipal Code (Short-Term Rental Permits) is part of the City's certified Local Coastal Program. Any change(s) that limit, ~~modify~~ or prohibit short term rentals in the coastal zone, as determined by the Executive Director of the Coastal Commission, shall be submitted to the Coastal Commission for certification as a Local Coastal Plan Amendment.**

D. Page 9 – Modify Section III.B. Deny The IP Amendment Request As Submitted, as follows:

Language to be deleted is identified by ~~strike-out~~.

The City's exclusion of this chapter from the IPs raises a concern since if not included as part of the IPs, then any potential changes to Chapter 5.38 of the Municipal Code which may limit, ~~modify~~ or prohibit short-term rentals in the coastal zone could occur and not be required to be reviewed as a potential LCP Amendment to determine its consistency with the City's certified LCPs. The lack of such provisions could potentially result in actions modifying the short-term rental permit procedures which would adversely impact the general public opportunity to access the coast at these short-term rental facilities in the coastal zone and would not adequately carry out the public access and visitor-serving overnight accommodation policies in both of the Certified LCPs. Therefore, the IP

Amendment does not carry out the policies set forth in the LUPs and must be denied as submitted.

E. Pages 10-11 – Modify Section III.C. Certify The IP Amendment With Suggested Modifications, as follows:

Language to be added to the findings is shown in **underlined italicized bold text**, and language to be deleted is identified by ~~strike-out~~.

As discussed previously, the City states that Chapter 5.38 of the City's Municipal Code that lays out the procedure on how to obtain a short-term rental permit is not being included as part of the IP Amendment, as submitted. This exclusion raises a concern since if Chapter 5.38 is not included as part of the IP, then any potential changes to this Municipal Code may result in limiting, ~~modifying or~~ prohibiting short-term rentals in the coastal zone could occur and not be required to be reviewed as a potential LCP Amendment to determine its consistency with the City's certified LCPs. The lack of such provisions could potentially result in actions modifying the short-term rental permit procedures which would adversely impact the general public opportunity to access the coast by staying at these short-term rental facilities in the coastal zone and would be inconsistent with the public access and visitor-serving overnight accommodation policies in both of the Certified LCPs.

The City has pointed out that this is a new ordinance and that the contents of the ordinance may need to be adjusted in ways that do not limit or prohibit short-term rentals, and that such changes should not rise to the level of an LCP Amendment. For example, changes to Chapter 5.38 that affect the tax rate or filing fee for short-term rental permits, the requirement for providing a set amount of insurance, or the violations/penalties section of the ordinance would not need an LCP Amendment since these changes would not alter the intent of the amendment to provide visitor-serving overnight accommodation in the coastal zone. Also, the revocation of individual short-term rental permits as a way to address violations would also not require an LCP Amendment. On the other hand, any changes to Chapter 5.38 that would limit or prohibit short-term rentals in the coastal zone, such as changing the location where short-term rentals are allowed, changing the minimum number of nights required for a short-term rental use, or changing the number of vehicles allowed at a short-term rental, etc., would necessitate an LCP Amendment. Therefore, any change that limits or prohibits short-term rentals in the coastal zone shall require an LCP Amendment, but changes that modify the City's ordinances but do not limit or prohibit short term rentals in the coastal zone would not require Commission certification. The Executive Director shall determine whether any change made by the City requires Commission certification. In order to adequately carry out the protect public access and to protect and encourage visitor-serving overnight accommodations, Chapter 5.38 of the Municipal Code must be included in the IPs. As modified to include Chapter 5.38 of the Municipal Code in the IPs, the City's proposed LCP Amendment would adequately carry out the public access and visitor-serving overnight accommodation policies.

2. CORRESPONDENCE RECEIVED

On April 7, 2016, Commission staff received a letter of support of the LCP Amendment from Gabrielle Arranga Buckley (attached as Exhibit No. 1).

On April 11, 2016, Commission staff received a letter of opposition of the LCP Amendment from Ambrose Mastro, President of the Board of Directors of the Capistrano Bay District (attached as Exhibit No. 2).

To:
California Coastal Commission
So. Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Fernie Sy, Coastal Program Analyst
Ref No. LCP-5-DPT-14-1015-1

Agenda #: Th 10a (4/14/16)
App# LCP-5-DPT-14-0105-
Name: Gabrielle Arranaga Buckley
In favor of short term
rentals, Dana Pt., CA

From:
Gabrielle Arranaga Buckley
35701 Beach RD
Capistrano Beach, CA 92624

RECEIVED
South Coast Region

APR 07 2016

CALIFORNIA
COASTAL COMMISSION

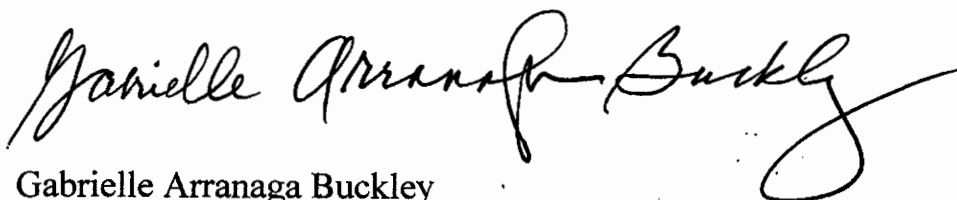
Dear Mr. Sy:

I am writing to you in support of short-term rentals on Beach Road in the City of Dana Point.

Our family has had a home on the road since 1969. Over the years we have enjoyed the beautiful California coastline and we have watched and interacted with other families from across the state and country who have enjoyed this beach while renting short term. Renters come from as far away as Chile and Scotland and as close by as Mission Viejo and San Juan Capistrano. Many, many homeowners are now homeowners on Beach Road as they, too, were renters on Beach Road and after many years decided to buy a home, often a vacation home.

I believe that limiting access to our beautiful California coastline and severely curtailing rentals is counter to one of the foundations of the California Coastal Commissions, which is to create as much public access to the California beaches as possible.

Sincerely,


Gabrielle Arranaga Buckley

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

Agenda Item: Th 10a

LCP-5-DPT-14-0105-1

Ambrose Masto - Dana Pt. Resident

OPPOSED

4-6-16

California Coastal Commission
So Coast District Office
200 OceanGate 10th Flr.
Long Beach 90802

RECEIVED
South Coast Region

APR 11 2016

CALIFORNIA
COASTAL COMMISSION

Honorable members of the Coastal Commission.

Dana Point desires legislation of STR's in all areas of the city that are currently zoned for residential use. Capistrano Bay District, an oceanfront community of approximately 200 homes is included in this decision. My concern for approval of this project is that virtually no dialogue has taken place between the District and the city of DP concerning impact on our community. Specifically, issues such as parking, traffic, bathos, nuisance calls, recalcitrant or abusive renters has not been talked about with any discussion whatsoever.

In the past year, the city has collected rental permit fees and 10% rental charges of collected rentals surcharge which has amounted to approximately 250,000 dollars. This statistic is from the city. Because of the oceanfront nature of the community, homes here are very

COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 3

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popular STRs - especially in the summer months. Our district, at our own expense, has conducted a cost survey of what these rentals cost the District. I've included actual costs incurred by the District. These costs are reimbursed by the City of D.P. Essentially the Capistrano Bay District is required to pay all costs of these rentals without any reimbursement from the City. The District has the following unreimbursed costs. 1) Extra patrols and employees to sign these renters into the community as most of these renters come on Saturday during the Summer months. Please recall that the District is responsible for all bills to the community such as security, patrols, extra employees, extra trash collection, nuisance calls, violations, dwelling live fees, traffic control at our intersection entrance, beachfront fire-pit regulations, and other safety items, including quality of life issues which arise frequently especially with RB+B rentals, alcohol abuse during parties etc.

(2)

COASTAL COMMISSION

EXHIBIT # 2
PAGE 2 OF 3

If the city, would in good faith,
listen to our concerns and
offers to help with our unreimbursed
expenses, I think we could arrange
a mutually satisfactory agreement.
Until then, I have great reservations
that the City of D.P. does not, now,
or in the past, has considered that
the STR's do indeed impact the
community and I feel it is unjust
to impose these costs on our District
without meeting with us to discuss
solutions to the problems I have
mentioned.

Sincerely, Respectfully
Ambrose S. Masts, MD
President, Board of Directors
Bay District.

(3)

COASTAL COMMISSION

EXHIBIT # 2
PAGE 3 OF 3

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



Th10a

April 1, 2016

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Karl Schwing, Coastal Program Manager
Charles Posner, Planning Supervisor
Fernie Sy, Coastal Program Analyst

SUBJECT: Major LCP Amendment Request No. 1-14 (LCP-5-DPT-14-0105-1) to the City of Dana Point's Certified Local Coastal Program. For public hearing and Commission action at the Commission's April 14, 2016 meeting in Santa Rosa.

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-14

The City of Dana Point presently has two groups of documents that serve as its certified Local Coastal Program. There is an older set of documents containing a Land Use Plan (LUP) and Implementation Plan (IP) that were originally certified when Dana Point was unincorporated and operated by the County of Orange and which were adopted by the City when it incorporated that still apply to the central geographic area of the City (i.e. that area generally located between Monarch Beach to the north and Capistrano Beach to the south). These older documents are referred to as the Dana Point Specific Plan Local Coastal Program or '1986' LCP. In addition, there is a more recent group of documents that includes three elements of the City's General Plan (the Land Use Element, Urban Design Element, and Conservation Open Space Element), the City's Zoning Code (the Implementation Plan (IP), the Monarch Beach Resort Specific Plan, and the Headlands Development Conservation Plan which apply to those areas of the City which are not covered by the 1986 LCP. These more recent documents are referred to as the '1996' LCP.

Amendment Request No. 1-14 (LCP-5-DPT-14-0105-1) amends the City's Zoning Code Ordinance, which is the Implementation Plan (IP) for the '1996' LCP, and the Dana Point Specific Plan Local Coastal Program Implementation Plan (IP) ('1986' LCP) to allow short-term rentals in all the Zoning Districts where residential uses are allowed, subject to the criteria listed in Chapter 5.38 of the City's Municipal Code. The proposed changes are reflected in City Council Resolution Nos. 13-12-03-09 and 13-12-03-10 (**Exhibit No. 1**). This LCP amendment applies city-wide in the coastal zone.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission certify LCP Amendment Request No. 1-14 with the following suggested modifications: 1) clarify that Chapter 5.38 of the Municipal Code is included in both certified IPs, and 2) add provisions to both IPs clarifying that any changes to Chapter 5.38 of the Municipal Code that may result in limiting, modifying or prohibiting short-term rentals in the coastal zone shall be subject to review as an LCP Amendment. The motions are on **Page Three**. The suggested modifications are on **Page Four**.

The suggested modifications are necessary to carry out the LUPs' requirements to provide and protect public access and visitor-serving overnight accommodations. Short-term rentals are a type of visitor-serving overnight accommodation use that provides an opportunity for the public to enjoy the coast. The proposed LCP amendment provides a means to appropriately regulate short-term rentals in a manner that will continue to allow for the provision of a range of overnight visitor-serving accommodations while also reducing negative neighborhood impacts that have been the basis for prohibiting short-term rentals in other cities. The proposed LCP amendment, as modified, will protect public access consistent with the requirements of the LCPs' Land Use Plans (LUP), which are the standard of review.

Therefore, staff recommends that the Commission, after public hearing:

- 1. Deny the IP amendment request as submitted; and,**
- 2. Certify, only if modified, the IP amendment request.**

The motions and resolutions are found on **Page Three**.

STANDARD OF REVIEW

The standard of review for the proposed amendment to the City's Zoning Code, the IP for the '1996' LCP, is the certified LUP component of the '1996 LCP'. The standard of review for the proposed amendment to the Dana Point Specific Plan Local Coastal Program IP, the IP for the '1986' LCP, is the certified LUP component of the '1986 LCP'.

LOCAL REVIEW AND DEADLINE FOR COMMISSION ACTION

The City of Dana Point Planning Commission held a public hearing for the LCP amendment on October 28, 2013. The City Council held public hearings on December 3, 2013 and January 21, 2014 (2nd reading of the Ordinance). On February 3, 2014, the City submitted the LCP amendment request for Coastal Commission certification with City Council Resolution Nos. 13-12-03-09 and 13-12-03-10. On February 18, 2014, the submission was deemed incomplete by Commission staff for additional information. Commission staff received a written response from the City on June 16, 2014. After reviewing the response, Commission staff determined that additional information was necessary and deemed the submittal still incomplete on June 30, 2014. Commission staff received a written response from the City on March 20, 2015, and after review of the submittal, deemed the LCP amendment submittal complete. On May 13, 2015, the Commission authorized a one-year extension for action on the LCP Amendment request. As such, the last date for Commission action on this item is May 19, 2016.

FOR ADDITIONAL INFORMATION

The file is available for review at the South Coast District office located in the Molina Center, 200 Oceangate, Suite 1000, Long Beach, 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Fernie Sy in the South Coast District office at (562) 590-5071.

EXHIBITS

1. City Council Resolution Nos. 13-12-03-09 and 13-12-03-10
2. Chapter 5.38 of the City's Municipal Code (Short-term Rental Permits)

I. MOTIONS AND RESOLUTIONS

Motion I:

I move that the Commission certify Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point.

Staff recommends a **NO** vote of the motion. Failure of this motion will result in denial of the IP Amendment as submitted and adoption of the following resolution and findings. The motion to certify passes only by an affirmative vote of the majority of the appointed Commissioners.

Resolution I:

The Commission hereby denies certification of Implementation Plan Amendment No. 1-14 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment does not conform with the provisions of the certified Land Use Plans, as amended. Certification of the Implementation Plans would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.

Motion II:

I move that the Commission certify Implementation Plan Amendment No. 1-14 for the City of Dana Point if it is modified as suggested in this staff report.

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the IP Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

Resolution II:

The Commission hereby certifies Implementation Plan Amendment No. 1-14 for the City of Dana Point if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plans as amended. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. SUGGESTED MODIFICATIONS

Certification of the LUP amendment is subject to the following modifications. Text added by the suggested modification is ***bold, italicized and underlined***, and text suggested to be deleted is ~~struck through~~. Only those subsections of the LUP for which modifications are being suggested are shown below.

A. Suggested Modification to the Dana Point Specific Plan '1986' LCP

The Dana Point Specific Plan; ~~Section XI Land Use Regulations; Section v~~ “Special Regulations and Information” ***Section E. Coastal Land Use District Regulations*** is amended to include the following new sub-section ***16.*** (~~Inserts are underlined~~):

16:

Short Term Rentals

~~D.~~ Short Term Rentals: Short term rentals, as defined in Chapter 5.38 of the City of Dana Point’s Municipal Code, are allowed in all the districts within the Dana Point Specific Plan where residential uses are allowed, including but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City of Dana Point, as stipulated in Chapter 5.38 of the City’s Municipal Code. ***Chapter 5.38 of the City of Dana Point Municipal Code (Short-Term Rental Permits) is part of the City’s certified Local Coastal Program. Any change(s) that limit, modify or prohibit short term rentals in the coastal zone, as determined by the Executive Director of the Coastal Commission, shall be submitted to the Coastal Commission for certification as a Local Coastal Plan Amendment.***

B. Suggested Modification to the '1996' LCP Implementation Plan

Chapter 9.07

SPECIAL USE STANDARDS

Section 9.07.260 Short Term Rentals

Short term rentals, as defined in Chapter 5.38 of the City’s Municipal Code, are allowed in all the zoning districts where residential uses are allowed, including, but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City, as stipulated in Chapter 5.38 of the Municipal Code. ***Chapter 5.38 of the City of Dana Point Municipal Code (Short-Term Rental Permits) is part of the City’s certified Local Coastal Program. Any change(s) that limit, modify or prohibit short term rentals in the coastal zone, as determined by the Executive Director of the Coastal Commission, shall be submitted to the Coastal Commission for certification as a Local Coastal Plan Amendment.***

III. FINDINGS

The Commission hereby finds and declares:

A. DESCRIPTION OF THE LCP AMENDMENT REQUEST

Amendment request No. 1-14 involves modifications to the text contained in the City's Zoning Ordinance (the Implementation Plan, or IP, for the '1996' LCP) and the Dana Point Specific Plan Local Coastal Program Implementation Plan (IP) ('1986' LCP). The Zoning Ordinance is proposed to be amended to add Section 9.07.260, and the Dana Point Specific Plan IP is proposed to be amended to add "Section XI" in the Specific Plan, in order to clarify that short-term rentals can be permitted in all districts where residential uses are allowed, subject to the criteria for obtaining a short-term rental permit listed in Chapter 5.38 of the City's Municipal Code. Since submittal of the amendment, the City has requested that the Dana Point Specific Plan IP language instead be inserted under 'Section E. Coastal Land Use District Regulations' as sub-section number 16. Commission staff agrees with this change and will provide a suggested modification to deal with this change.

Currently, the City's Zoning Code does not identify short-term rentals as a use, even though residential rentals of varying lengths have occurred historically. Short-term rentals are defined in Chapter 5.38 as:

(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.

Recently, short-term rentals have grown in popularity through the internet and popular smart-phone applications. Its rising use in the City's coastal zone has provided an opportunity for an important visitor-serving overnight accommodation use, but has also caused problems for coastal residential neighborhoods and has stirred discussion regarding impacts from their uses with respect to the preservation of neighborhood integrity, rental housing stock reduction, and public safety, including in terms of complaints about loud, late-night parties, increased traffic and parking difficulties, garbage accumulation, and other issues that have been associated with short-term rentals.

The City states that the short-term rental permit process, as detailed in Chapter 5.38 of the Municipal Code, is a compromise position that regulates and permits the practice rather than banning it as other cities have attempted to do. The City asserts that the proposed regulation set forth in Chapter 5.38 will safeguard the peace, safety and general welfare of the residents of Dana Point and their visitors by requiring minimum conditions of approval and operation. The permit process benefits property owners who desire to rent their homes as a short-term rental. The program identifies things such as the minimum number of parking spaces, maximum number of guests, removal of trash, noise controls, Transit Occupancy Tax (TOT) and also serves as a minimum standard of protection to surrounding property owners and neighborhoods.

The City has stated that no other zoning measures are warranted to implement the LCPA. No land use plan changes are proposed as well.

B. DENY THE IP AMENDMENT REQUEST AS SUBMITTED

The proposed LCP Amendment No. 1-14, would amend the City's Zoning Code Ordinance, which is the Implementation Plan (IP) for the '1996' LCP, and the Dana Point Specific Plan Local Coastal Program Implementation Plan (IP) ('1986' LCP) to allow short-term rentals in all the Zoning Districts where residential uses are allowed, subject to the criteria listed in Chapter 5.38 of the City's Municipal Code.

The standard of review for the proposed amendment to the City's Zoning Code, the IP for the '1996' LCP, is the certified LUP component of the '1996 LCP'. The standard of review for the proposed amendment to the Dana Point Specific Plan Local Coastal Program IP, the IP for the '1986' LCP, is the certified LUP component of the '1986 LCP'.

The '1986 LCP' and '1996 LCP' LUPs mirror policies in the Coastal Act that encourages the provision of public access and visitor-serving overnight accommodations. Applicable provisions of the City's '1986 LCP' and '1996 LCP' LUPs include the following:

'1986 LCP'

D. Access Component

1. Introduction

a. Coastal Act of 1976

The Coastal Act policies related to shoreline access and visitor-serving and commercial-recreational facilities include the following:

Section 30213. Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of Government Code.

Section 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30222. The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial developments, but not over agriculture or coastal-dependent industry.

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public

safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. *Development shall not interfere with the public's right of access to the sea where acquire through use, or Legislative authorization, including but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a). *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

E. Access Component

1. Introduction

a. Coastal Act Policies

Section 30252. *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.*

‘1996 LCP’

Land Use Element (LUE) Policy: *Coastal water areas suited for water oriented recreation activities shall be protected for such uses. (Coastal Act/30220)*

Land Use Element (LUE) Policy 2.10: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. (Coastal Act/30221)*

Land Use Element (LUE) Policy 2.12: *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. (Coastal Act/30252)*

Land Use Element (LUE) Policy 3.3: *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. (Coastal Act/30213, 30222, 30223)*

Land Use Element (LUE) Policy 3.11: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (Coastal Act/30211)*

Land Use Element (LUE) Policy 3.12: *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, or where adequate access exists nearby, including access as identified on Figures UD-2 and COS-4. (Coastal Act/30212)*

Land Use Element (LUE) Policy 4.3: *Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act/30210)*

The proposed LCP Amendment, as submitted, is not adequate to carry out the public access and priority visitor-serving overnight accommodations policies of the City's LUPs. The following discussion below explains how the proposed LCP Amendment is not adequate to carry out the policies of the LUPs addressing the public access and priority visitor-serving overnight accommodations:

Public Access and Visitor-Serving Overnight Accommodations

Some of the strongest legislative mandates of both of the LUPs are the preservation of coastal access and the provision and protection of visitor-serving overnight accommodations. Policies are found in both of these LUPs that dictate that public access and visitor-serving overnight accommodations are provided and protected. The IP Amendment would amend both IPs to allow short-term rentals in all districts where residential uses are allowed, subject to the criteria for obtaining a short-term rental permit listed in Chapter 5.38 of the City's Municipal Code) (**Exhibit No. 2**).

The allowance of a short-term rental permit for locations that are located within the coastal zone provides an opportunity for the public to stay at a location where they can have access to the coast. However, Chapter 5.38 of the City's Municipal Code, located under "Tile 5 – Business Regulations", that dictates the procedure on how to obtain a short-term rental permit is not being included as part of the IP Amendment, as submitted. The City has stated that this chapter is not included as part of the amendment because the City wants to retain the ability to periodically adjust these regulations in response to short-term rental operators' input as this new program commences in the City. For instance, the City has already identified the need to remove the requirements of providing proof of liability insurance for permit issuance and renewals.

The City's exclusion of this chapter from the IPs raises a concern since if not included as part of the IPs, then any potential changes to Chapter 5.38 of the Municipal Code which may limit, modify or prohibit short-term rentals in the coastal zone could occur and not be required to be reviewed as a potential LCP Amendment to determine its consistency with the City's certified LCPs. The lack of such provisions could potentially result in actions modifying the short-term rental permit procedures which would adversely impact the general public opportunity to access the coast at these short-term rental facilities in the coastal zone and would not adequately carry out the public access and visitor-serving overnight accommodation policies in both of the Certified LCPs. Therefore, the IP Amendment does not carry out the policies set forth in the LUPs and must be denied as submitted.

C. CERTIFY THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

Public Access and Visitor-Serving Overnight Accommodations

The provision of public access and visitor-serving overnight accommodation uses are important topics that are highlighted in both of the City's LUPs. Visitor-serving overnight accommodation uses are preferred in the LUPs because it maximizes the number of people who can enjoy the unique experience available only along the coast and provides an opportunity for the public to access the coast. The IP Amendment would amend both IPs to allow short-term rentals in all districts where residential uses are allowed, subject to the criteria for obtaining a short-term rental permit listed in Chapter 5.38 of the City's Municipal Code.

The City had estimated that there were over 250 short-term rentals operating in the City at the time the Short-term Rental Ordinance (Chapter 5.38 of the Municipal Code) was approved on April 2, 2013 by the City Council, even though the City's Zoning Code did not identify it as a use. Over the years these short-term rentals have raised concerns due to their negative impacts upon residents as a result of excessive noise, cars, garbage, etc. from this use. At the same time, short-term rentals have and continue to provide an important visitor function that allows groups and families another option for overnight accommodations near the beach and shoreline. The proposed amendment is a means to provide a regulatory structure to a use that is not currently explicitly regulated by the LCPs. The City states that the short-term rental permit process is identified as a compromise position to a ban on short-term rentals to safeguard the peace, safety and general welfare of the residents of Dana Point and their visitors by requiring minimum conditions of approval and operation.

The proposed amendment does not prohibit or unduly restrict the rental of residences to visitors in a manner that will diminish the public's ability to access and recreate on the coast. Instead, the proposed amendment provides an opportunity to regulate short-term rentals in a manner that protects coastal resources and access and recreational opportunities, as well as residential communities, consistent with the requirements of the LUPs. For example, the proposed amendment limits the number of vehicles allowed at a short-term rental, which will minimize the impact of short-term rentals (located nearby beaches) on beach users with regard to parking. The proposed amendment also limits the number of guests allowed at each short-term rental, which will help protect the adjacent residential community from overuse (and concomitant noise and other problems) of oversubscribed short-term rentals.

The City's decision to create a process to allow such a short-term rental use is something that Commission staff supports as opposed to other cities that have outright banned such a use. The City's decision to create a program to allow this use shows a willingness to provide and protect a use that is

consistent with the high priority policies of the LUPs regarding public access and visitor-serving overnight accommodations.

A component of obtaining a short-term rental permit as identified in Chapter 5.38, more specifically 'Chapter 5.38.080 Conditions of Permit Issuance and Renewal (2)', of the Municipal Code is that the owner shall provide proof that the short-term rentals are not prohibited by its Home Owners Association (HOA) Conditions, Covenants, and Restriction (CC&R's) or any other community standards/guidelines, applicable to the proposed short-term rental.

The City has stated that there are approximately 70 Home Owners Associations within its jurisdiction, 26 of them within the coastal zone with an approximate total number of 3,287 residential units located in these 26 HOAs. Fifteen (15) of these HOAs, which contain approximately 2,648 residential units, have CC&Rs that do not allow short-term rental use. Ten (10) of these HOAs, which contain approximately 639 residential units, have CC&Rs that allow short-term rental use. As individual short-term rental owners apply for the permit, the City verifies if their CC&Rs allow the short-term rental use. The City has stated that they opted to include the HOA's allowance for these rentals in response to the highly contentious nature of this issue which was brought forward to the Planning Commission and the City Council at numerous public meetings over a period of years. The testimony received was split between support and opposition. The City has decided to not be an arbitrator in disputes between the individual home owners and their HOAs. Therefore, per the City's code, if an HOA prohibits this use as part of their CC&R, the City cannot issue the short-term rental permit and cannot intervene in that it involves private property rights and not zoning.

The City of Dana Point has approximately 13 hotels in the coastal zone of varying ranges of affordability with a total approximate number of 1,781 units. In addition, the Doheny State Beach Campgrounds that is also located in the City of Dana Point offers 113 campsites. Therefore, while some of the HOAs found within the coastal zone do not allow short-term rentals, the City of Dana Point does provide a large number of opportunities for visitor-serving overnight accommodations, and the IP Amendment to allow short-term rentals provides an additional number of visitor-serving overnight accommodation use that gives the public an opportunity to visit and enjoy the coast. The opportunity to rent residences within California's coastal communities represents one way in which the general public enjoys the coast. In some instances, residential short-term rentals may provide a lower cost alternative to renting hotel or motel rooms for large families or groups of individuals. In all cases, short-term rentals increase the range of options available to coastal visitors.

As discussed previously, the City states that Chapter 5.38 of the City's Municipal Code that lays out the procedure on how to obtain a short-term rental permit is not being included as part of the IP Amendment, as submitted. This exclusion raises a concern since if Chapter 5.38 is not included as part of the IP, then any potential changes to this Municipal Code may result in limiting, modifying or prohibiting short-term rentals in the coastal zone could occur and not be required to be reviewed as a potential LCP Amendment to determine its consistency with the City's certified LCPs. The lack of such provisions could potentially result in actions modifying the short-term rental permit procedures which would adversely impact the general public opportunity to access the coast by staying at these short-term rental facilities in the coastal zone and would be inconsistent with the public access and visitor-serving overnight accommodation policies in both of the Certified LCPs. In order to adequately carry out the protect public access and to protect and encourage visitor-serving overnight accommodations, Chapter 5.38 of the Municipal Code must be included in the IPs. As modified to

include Chapter 5.38 of the Municipal Code in the IPs, the City's proposed LCP Amendment would adequately carry out the public access and visitor-serving overnight accommodation policies.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an Environmental Impact Report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of an LCP. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Dana Point LCP Amendment No. 1-14 consists of an amendment to the Implementation Plan (IP) for the '1996' LCP, and the Dana Point Specific Plan Local Coastal Program Implementation Plan (IP) ('1986' LCP).

As outlined in this staff report, the proposed IP Amendment if modified as suggested will be consistent with the policies of the LUPs. Thus, the Commission finds that the IP Amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUPs. Therefore, the Commission finds that approval of the LCP Amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment request No. 1-14 if modified as suggested herein.

RESOLUTION NO. 13-12-03-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REGARDING LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0001 AND REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Dana Point Planning Commission held a public hearing on October 28, 2013, to consider the adoption of Dana Point Local Coastal Program Amendment LCPA13-0001 and recommended its approval to the City Council; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on December 3, 2013, regarding the proposed Dana Point Local Coastal Program Amendment LCPA13-0001, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; and

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

Section 1. That the above recitals are true and correct and incorporated herein.

Section 2. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA13-0001 pursuant to Resolution 13-12-03-09 and Ordinance No. 14-01. LCPA13-0001 pertains to an amendment to Chapter 9.07 –Special Use Standards of the Zoning Ordinance; to allow short term rentals in all the Zoning districts where residential uses are allowed

A copy of Ordinance No. 14-01 approving ZTA13-0001 and LCPA13-0001 with the specific content of the proposed amendments is attached hereto as Exhibit A and is incorporated herein by this reference as though fully set forth herein.

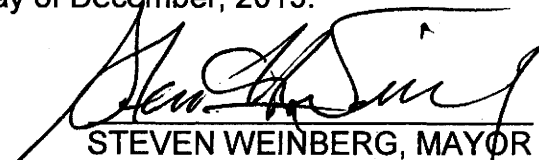
Section 3. That the California Coastal Commission is hereby requested to consider, approve and certify Dana Point Local Coastal Program Amendment LCPA13-0001 which amends the City's Zoning Ordinance to include provisions for Short Term Rentals in Chapter 9.07.

Section 4. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Dana Point Local Coastal Program Amendment LCPA13-0001 will


automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

Section 5. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 3rd day of December, 2013.


STEVEN WEINBERG, MAYOR

ATTEST:


KATHY WARD
CITY CLERK

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

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 13-12-03-08 was duly adopted and passed at a regular meeting of the City Council on the 3rd day of December, 2013, by the following roll-call vote, to wit:

AYES: Council Members Brough, Schoeffel, Mayor Pro Tem Bartlett, and Mayor Weinberg

NOES: Council Member Olvera

ABSENT: None



KATHY WARD
CITY CLERK

Exhibit: A – Ordinance No. 14-01 approving ZTA13-0001 and LCPA13-0001

ORDINANCE NO. 14-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA13-0001 TO ALLOW SHORT TERM RENTALS IN ALL THE ZONING DISTRICTS WHERE RESIDENTIAL USES ARE ALLOWED AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0001 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point
File No.: ZTA13-0001/LCPA13-0001

The City Council of the City of Dana Point does hereby ordain as follows:

WHEREAS, in January, 1994, the City of Dana Point adopted its Zoning Code and Zoning Map; and

WHEREAS, the City desires to amend its Zoning Ordinance; Chapter 9.07 – Special Use Standards; to allow short term rentals in all the Zoning districts where residential uses are allowed; and

WHEREAS, the Zone Text Amendment will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing as prescribed by law on October 28, 2013, to consider the said Zone Text Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the Planning Commission considered all factors relating to ZTA13-0001 and LCPA13-0001; and recommended the City Council approve the said Zone Text Amendment, and LCPA; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law on December 3, 2013, to consider Negative Declaration and, specifically said Zone Text Amendment, and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to ZTA 13-0001, and LCPA 13-0001; and

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

- A. That the above recitations are true and correct;
- B. The Zone Text Amendment is attached hereto as Exhibit "A" and incorporated herein by reference;
- C. That the proposed action complies with all other applicable requirements of state law and local Ordinances;
- D. That the Zone Text Amendment ZTA13-0001 is in the public interest;
- E. The City Council has reviewed and adopted the Negative Declaration;
- F. The preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code;
- G. The proposed amendment to the Zoning Code is consistent with the General Plan;
- H. The City Council adopt Zone Text Amendment ZTA13-0001 for the reasons outlined herein including but not limited to: requiring the owners of short term rentals to obtain a City issued permit authorizing such use in a manner provided by Chapter 5.38 of the Municipal Code 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 related to short-term rentals;
- I. That the City Council adopt the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. **Proper notice in accordance with the LCP Amendment procedures has been followed.**
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act. **The amendments to the Zoning Code are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources.**

3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. **As a Zone Text Amendment, no specific development is proposed.**
 4. That the level and pattern of development proposed is reflected in the Zoning Code. **The applicable sections are being amended accordingly to be consistent with state law.**
 5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**
 6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Zoning Ordinance is being amended concurrently with the LCP amendment.**
- J. That the City Council includes the following findings submitting the LCPA to the Coastal Commission:
1. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended; the California Coastal Act of 1976.
 2. The City include the Zone Text Amendment in its submittal to the Coastal Commission and state that the amendment to the Local Coastal Plan is to the implementing actions only.
 3. The City certifies that the Land Use Plan, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act in that no changes are proposed to the Land Use Plan.
 4. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
 5. The Ordinance of the City Council include the Zone Text Amendment, and Local Coastal Program Amendment numbers ZTA13-0001 and LCPA13-0001 when submitted to the Coastal Commission.

6. The City certifies that the amendments will be submitted to the Coastal Commission for review and approval as an Amendment to the Local Coastal Program.

K. That the City Council adopts the amendments to the City Zoning Code as follows:

The allowance of short term rentals shall be added in Chapter 9.07 of the Zoning Ordinance as shown in the attached "Exhibit A". This amendment to the Zoning Ordinance constitutes the LCPA.

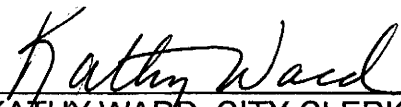
L. That the City Council adopts Zone Text Amendment ZTA13-0001, which would amend the Dana Point Local Coastal Program pursuant to LCPA13-0001. The City Council approves the amendment for the reasons outlined herein, including but not limited to: requiring the owners of short term rentals to obtain a City issued permit authorizing such use in a manner provided by Chapter 5.38 of the Municipal Code 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 related to short-term rentals.

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

PASSED, APPROVED, AND ADOPTED this 21st day of January, 2014


LISA A. BARTLETT, MAYOR

ATTEST:


KATHY WARD, CITY CLERK

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

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 14-01 was duly introduced at a regular meeting of the City Council on the 3rd day of December, 2013, and was duly adopted and passed at a regular meeting of the City Council on the 21st day of January, 2014, by the following vote, to wit:

AYES: Council Members Brough, Schoeffel, Mayor Pro Weinberg, and Mayor Bartlett

NOES: Council Member Olvera

ABSENT: None



KATHY WARD, CITY CLERK

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

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

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

That in compliance with State Laws of the State of California, ORDINANCE NO. 14-01, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA13-0001 TO ALLOW SHORT TERM RENTALS IN ALL THE ZONING DISTRICTS WHERE RESIDENTIAL USES ARE ALLOWED AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0001 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

was published in summary in the Dana Point News on the 12th day of December, 2013, and the 30th day of January, 2014, and, in further compliance with City Resolution No. 91-10-08-1, on the 5th day of December, 2013, and the 23rd day of January, 2014, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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

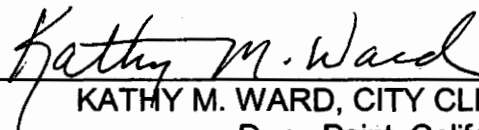

KATHY M. WARD, CITY CLERK
Dana Point, California

Exhibit "A"

ZONE TEXT AMENDMENT ZTA13-0001

The following Zoning Code Chapter is proposed to be amended as follows
(Inserts are underlined):

Chapter 9.07

SPECIAL USE STANDARDS

Section 9.07.260 Short Term Rentals

Short term rentals, as defined in Chapter 5.38 of the City's Municipal Code, are allowed in all the zoning districts where residential uses are allowed, including, but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City, as stipulated in Chapter 5.38 of the Municipal Code.

RESOLUTION NO. 13-12-03-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REGARDING LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0002 AND REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Dana Point Planning Commission held a public hearing on October 28, 2013, to consider the adoption of Dana Point Local Coastal Program Amendment LCPA13-0002 and recommended its approval to the City Council; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on December 3, 2013, regarding the proposed Dana Point Local Coastal Program Amendment LCPA13-0002, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; and

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

Section 1. That the above recitals are true and correct and incorporated herein.

Section 2. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA13-0002 pursuant to Resolution 13-12-03-10 and Ordinance No. 14-02. LCPA13-0002 pertains to an amendment to Section XI-Land Use Regulations; Section V – "Special Regulations and Information" of the Dana Point Specific Plan; to allow short term rentals in all the districts where residential uses, which are located within the boundaries of the Dana Point Specific Plan.

A copy of Ordinance No. 14-02 approving SPA13-0001 and LCPA13-0002 with the specific content of the proposed amendments is attached hereto as Exhibit B and is incorporated herein by this reference as though fully set forth herein.

Section 3. That the California Coastal Commission is hereby requested to consider, approve and certify Dana Point Local Coastal Program Amendment LCPA13-0002 which amends the City's Dana Point Specific Plan to include provisions for Short Term Rentals in Section XI-Land Use Regulations; Section V – "Special Regulations and Information".


Section 4. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Dana Point Local Coastal Program Amendment LCPA13-0002 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

Section 5. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 3rd day of December, 2013.


STEVEN WEINBERG, MAYOR

ATTEST:


KATHY WARD, CITY CLERK

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

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 13-12-03-10 was duly adopted and passed at a regular meeting of the City Council on the 3rd day of December, 2013, by the following roll-call vote, to wit:

AYES: Council Members Brough, Schoeffel, Mayor Pro Tem Bartlett, and
 Mayor Weinberg

NOES: Council Member Olvera

ABSENT: None

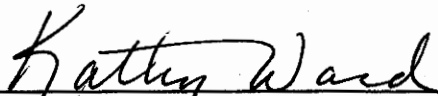

KATHY WARD
CITY CLERK

Exhibit: B – Ordinance No. 14-02 approving SPA13-0001 and LCPA13-0002.

ORDINANCE NO. 14-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT SPA13-0001 TO ALLOW SHORT TERM RENTALS IN ALL THE DISTRICTS WHERE RESIDENTIAL USES ARE ALLOWED WITHIN THE SPECIFIC PLAN'S BOUNDARIES, AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point
File No.: SPA13-0001/LCPA13-0002

The City Council of the City of Dana Point does hereby ordain as follows:

WHEREAS, upon City's incorporation in 1989, the Dana Point Specific Plan was recognized and incorporated by the City of Dana Point; and

WHEREAS, the City of Dana Point desires to amend this Specific Plan; Section XI- Land Use Regulations; Section V – "Special Regulations and Information"; to allow short term rentals in all the districts where residential uses are allowed within the boundaries of this Specific Plan; and

WHEREAS, the Specific Plan Amendment will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing as prescribed by law on October 28, 2013, to consider the said Specific Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the Planning Commission considered all factors relating to SPA13-0001 and LCPA13-0002; and recommended the City Council approve the said Specific Plan Amendment, and LCPA; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law on December 3, 2013, to consider Negative Declaration and, specifically said Specific Plan Amendment, and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to SPA 13-0001, and LCPA 13-0002; and

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

- A. That the above recitations are true and correct;
- B. The Specific Plan Amendment is attached hereto as Exhibit "B" and incorporated herein by reference;
- C. That the proposed action complies with all other applicable requirements of state law and local Ordinances;
- D. That the Specific Plan Amendment SPA13-0001 is in the public interest;
- E. The City Council has reviewed and adopted the Negative Declaration;
- F. The preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code;
- G. The proposed amendment to the Dana Point Specific Plan is consistent with the General Plan;
- H. The City Council adopt Specific Plan Amendment SPA13-0001 for the reasons outlined herein including but not limited to: requiring the owners of short term rentals to obtain a City issued permit authorizing such use in a manner provided by Chapter 5.38 of the Municipal Code 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 related to short-term rentals;
- I. That the City Council adopt the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. **Proper notice in accordance with the LCP Amendment procedures has been followed.**
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act. **The amendments to the Dana Point Specific Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources.**

3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. **As a Specific Plan Amendment, no specific development is proposed.**
 4. That the level and pattern of development proposed is reflected in the Zoning Code. **The applicable sections are being amended accordingly to be consistent with state law.**
 5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**
 6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Dana Point Specific Plan is being amended concurrently with the LCP amendment.**
- J. That the City Council includes the following findings submitting the LCPA to the Coastal Commission:
1. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
 2. The City include the Specific Plan Amendment in its submittal to the Coastal Commission and state that the amendment to the Local Coastal Plan is to the implementing actions only.
 3. The City certifies that the Land Use Plan, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act in that no changes are proposed to the Land Use Plan.
 4. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
 5. The Ordinance of the City Council include the Specific Plan Amendment, and Local Coastal Program Amendment numbers SPA13-0001 and LCPA13-0002 when submitted to the Coastal Commission.

6. The City certifies that the amendments will be submitted to the Coastal Commission for review and approval as an Amendment to the Local Coastal Program.
- K. That the City Council adopts the amendments to the Dana Point Specific Plan as follows:
- The allowance of short term rentals shall be added in Section XI-Land Use Regulations; sub-section v – "Special Regulations and Information" of the Dana Point Specific Plan as shown in the attached "Exhibit B". This amendment to the Dana Point Specific Plan constitutes the LCPA.
- L. That the City Council adopts Specific Plan Amendment SPA13-0001, which would amend the Local Coastal Program pursuant to LCPA13-0002. The City Council approves the amendment for the reasons outlined herein, including but not limited to: requiring the owners of short term rentals to obtain a City issued permit authorizing such use in a manner provided by Chapter 5.38 of the Municipal Code 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 related to short-term rentals.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this 21st day of January, 2014


LISA A. BARTLETT, MAYOR

ATTEST:


KATHY WARD, CITY CLERK

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

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 14-02 was duly introduced at a regular meeting of the City Council on the 3rd day of December, 2013, and was duly adopted and passed at a regular meeting of the City Council on the 21st day of January, 2014, by the following vote, to wit:

AYES: Council Members Brough, Schoeffel, Mayor Pro Weinberg, and
 Mayor Bartlett

NOES: Council Member Olvera

ABSENT: None


KATHY WARD, CITY CLERK

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

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

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

That in compliance with State Laws of the State of California, ORDINANCE NO. 14-02, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT SPA13-0001 TO ALLOW SHORT TERM RENTALS IN ALL THE DISTRICTS WHERE RESIDENTIAL USES ARE ALLOWED WITHIN THE SPECIFIC PLAN'S BOUNDARIES, AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

was published in summary in the Dana Point News on the 12th day of December, 2013, and the 30th day of January, 2014, and, in further compliance with City Resolution No. 91-10-08-1, on the 5th day of December, 2013, and the 23rd day of January, 2014, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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



KATHY M. WARD, CITY CLERK
Dana Point, California

Exhibit "B"

The Dana Point Specific Plan; Section XI-Land Use Regulations; Section v – "Special Regulations and Information" is amended to include the following new sub-section (Inserts are underlined):

D. Short Term Rentals: Short term rentals, as defined in Chapter 5.38 of the City of Dana Point's Municipal Code, are allowed in all the districts within the Dana Point Specific Plan where residential uses are allowed, including but not limited to detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. No owner of a short term rental shall offer to rent, or advertise for rent the short term rental to another person without a valid short-term rental permit approved and issued by the City of Dana Point, as stipulated in Chapter 5.38 of the City's Municipal Code.

Dana Point Municipal Code[Up](#) [Previous](#) [Next](#) [Main](#) [Collapse](#) [Search](#) [Print](#) [No Frames](#)**Title 5 BUSINESS REGULATIONS****Chapter 5.38 SHORT-TERM RENTAL PERMITS**

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. (Added by Ord. 13-01, 4/2/13)

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) All 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) 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.

(4) The owner shall provide a twenty-four (24) hour emergency contact located within a twenty-five (25) mile radius of the short-term rental that will be available to respond to issues at the short-term rental.

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

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

(7) Short-term rentals shall be used only for overnight lodging accommodations. They may not be used for weddings, parties, bachelor/bachelorette parties, conferences or similar events.

(8) All advertising for the short-term rental shall include the City issued permit number.

(9) The primary overnight and daytime occupant of the short-term rental must be an adult eighteen (18) 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. 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

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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.

(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. 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 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, overcrowding to take action to prevent a recurrence of such conduct by those occupants or guests within twenty-four (24) hours.

(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)

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.** The penalties for violations specified in subsection (a) shall be the responsibility of the owner as follows:

(1) For the first violation within any twelve (12) month period, the penalty shall range from a notice of violation to a fine not to exceed two hundred fifty dollars (\$250.00);

(2) For a second violation within any twelve (12) month period, the penalty shall range from a notice of violation to a fine not to exceed five hundred dollars (\$500.00);

(3) For a third violation within any twelve (12) month period, the penalty shall range from a notice of violation to a fine not to exceed one thousand dollars (\$1,000.00);

(4) For a fourth violation within any twelve (12) month period, the penalty shall range from a notice of violation to a fine not to exceed one thousand dollars (\$1,000.00), to revocation of the permit within the provisions of Section 5.38.100. (Added by Ord. 13-01, 4/2/13)

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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