

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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**RECORD PACKET COPY**

August 22, 2002

Mon 7a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
DIANA LILLY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE****SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-2002 A & B
TO THE CITY OF IMPERIAL BEACH LOCAL COASTAL PROGRAM
(For Public Hearing and Possible Action at the Meeting of September 9-13, 2002)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The subject LCP Amendment was submitted and filed as complete on July 18, 2002. A one-year time extension was granted on August 7, 2002.

The City is proposing to amend its certified LCP implementation plan in several ways. The first component of the amendment involves short-term rentals. The intent of the amendment is to prohibit short-term (less than 30 consecutive days) rental of residential properties throughout the city, except in the Seacoast Commercial Zone and the Seacoast Mixed Use Overlay Zone. The prohibition would not apply to bed and breakfast-type inns, motels, hotels, or timeshare developments.

The second component of the amendment involves adding a definition of "Secondhand or Used Merchandise" to the definitions section of the zoning code, and changing the code to prohibit stores offering secondhand or used merchandise throughout the city.

In May 2001, the Commission reviewed an amendment to the City's ordinance to add secondhand stores to the list of permitted uses subject to the approval of a Conditional Use Permit in the C-1 zone, and to prohibit them in the C-2 and C-3 zones. The City subsequently informed staff that the secondhand store ordinance transmitted to the Commission as a component of the LCP amendment was different from the ordinance actually passed and adopted by the City Council. Because the City Council had not adopted the ordinance language that the Commission certified, the Commission's approval of that portion of the amendment is not effective. The City has resubmitted the correct ordinance, which, as described above, would prohibit secondhand stores throughout the city.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that, following a public hearing, the Commission approve the proposed City of Imperial Beach Implementation Plan Amendment 1-2002 A & B as submitted. Visitor-serving uses such as vacation rentals are a high priority under the Coastal Act. However, the proposed prohibition on short-term rentals of residential facilities is not expected to adversely impact visitors because the prohibition will not apply in the City's visitor-serving designated area (the Seacoast Commercial Zone), or to the residential units located in the Seacoast commercial area. In past reviews of the City's land use designations, the Commission has never considered or required residentially zoned areas to be part of the City's reserve of tourist-oriented uses or overnight accommodations. The Commission has previously determined that the City's existing visitor-serving designations are adequate to serve the needs of visitors, and the proposed amendment will not result in any change to these designations.

Staff is also recommending approval of the prohibition on secondhand stores as submitted. Secondhand stores are not a high-priority use and prohibiting them is not expected to have any adverse impact on coastal resources.

Attached are the City's resolutions of approval for both the short-term rental (Exhibit #1) and secondhand store LCPA (Exhibit #3). The amendment consists entirely of additions to the existing zoning code; there are no revisions to any of the existing certified implementation plan proposed. Exhibit #2 contains the criteria, standards and conditions that will be used by the City in approving future short-term residential rental in the Seacoast Commercial area.

The appropriate resolutions and motions begin on page 3. The findings for approval of the Implementation Plan Amendment as submitted begin on page 4.

ADDITIONAL INFORMATION

Further information on the City of Imperial Beach LCP Amendment #1-2002 may be obtained from Diana Lilly, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

On June 30, 1981, the City of Imperial Beach formally submitted its Land Use Plan (LUP) for Commission approval. The plan, as originally submitted, comprised the City's entire General Plan (10 elements and a policy plan). Since the plan contained a large volume of material that was not coastal-related and policies addressing coastal issues were found throughout many of the elements, staff summarized the coastal policies into one document. This policy summary along with the Land Use Element was submitted to the Commission as the LCP Land Use Plan.

On September 15, 1981, the Commission found substantial issue with the LUP, as submitted, denied and then conditionally approved the LUP with recommended policy changes for all policy groups. The City resubmitted the LCP Land Use Plan in early 1982, incorporating most of the Commission's suggested policy modifications. This included modification language related to the preservation and protection of Oneonta Slough/Tijuana River Estuary and South San Diego Bay, preservation and enhancement of coastal access and the provision for visitor-serving commercial uses in the Seacoast District. On March 16, 1982, the Commission certified the City of Imperial Beach LCP Land Use Plan as submitted. The land use plan was effectively certified by the Commission on November 18, 1982. In 1983, prior to certification of the Implementation Plan, the Commission approved an amendment to the LUP to correct a mapping error.

On August 15, 1983, the City began issuing coastal development permits pursuant to Section 30600.5 (Hannigan provisions) of the Coastal Act based on project compliance with its certified LUP. The City then submitted its entire Zoning Ordinance in order to implement the provisions of the certified Land Use Plan. The zoning ordinance was completely rewritten in order to implement the LUP. On September 26, 1984, the Commission approved the LCP/Implementation Plan as submitted. As of February 13, 1985, the City has been issuing coastal development permits under a certified local coastal program. Subsequent to the Commission's actions on the land use plan and implementation plan, there have been twenty-three amendments to the certified local coastal program.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment Number 1-2002 for the City of Imperial Beach as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a NO vote. Failure of this motion will result in certification of the Implementation Program 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 TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment Number 1-2002 for the City of Imperial Beach certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of 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 Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF IMPERIAL BEACH IMPLEMENTATION PLAN AMENDMENT 1-2002, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The first component of the LCP amendment affects the operation of short-term rentals. The intent of the amendment is to prohibit short-term (less than 30 consecutive days) rental of residential properties throughout the city, except in the Seacoast Commercial Zone and the Seacoast Mixed Use Overlay Zone. Specifically, the amendment would add language to four different sections of the zoning code as follows:

- A description of "Time share unit" would be added to the Definitions chapter of the zoning code;
- A "prohibition of short-term rental of residential property for remuneration" would be added to the Miscellaneous Uses chapter, and the terms "remuneration", "residential property" and "short-term rental of residential property" would be defined; a limited number of existing short-term residential rentals would be permitted until January 1, 2007; and arranging for or using a residential property for a short-term rental would be made an infraction;

- Short-term rentals would be added as permitted use in the C-2 Seacoast Commercial Zone (subject to conditions established by the City);
- Short-term rentals would be added as permitted use in the MU-2 Mixed Use Overlay (subject to conditions established by the City).

The prohibition on short-term rentals would not include legally established bed and breakfast inns, motels, hotels, and timeshare developments. The addition of the Timeshare definition has been included simply because the City's existing code lacked such as definition. The amendment would not change the areas where timeshares are currently permitted and would define a time share unit as:

"a unit in a project in which a purchaser receives a right in perpetuity, for life, or for a term of years to the recurrent exclusive use or occupancy of a lot, parcel, unit or segment of real property annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods onto which the project has been divided."

The second component of the amendment involves adding a definition of "Secondhand or Used Merchandise" to the definitions section of the zoning code, and changing the code to prohibit stores offering secondhand or used merchandise throughout the city.

In May 2001, the Commission reviewed an amendment to the City's ordinance to add secondhand stores to the list of permitted uses subject to the approval of a Conditional Use Permit in the C-1 zone, and to prohibit them in the C-2 and C-3 zones. The City subsequently informed staff that the secondhand store ordinance transmitted to the Commission as a component of the LCP amendment was different than the ordinance actually passed and adopted by the City Council. Because the City Council had not adopted the ordinance language that the Commission certified, the Commission's approval of that portion of the amendment was not effective. The City has resubmitted the correct ordinance, which, as described above, would prohibit secondhand stores throughout the city.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

1. Prohibition of Short-term Residential Rentals. The certified LUP has a number of goals and policies relevant to the rental of residential units. Goal 11 states in part:

GOAL 11 SMALL BEACH ORIENTED TOWN

a. Residential Neighborhoods

Future plans should foster keeping residential neighborhoods stable, well-maintained, and pedestrian oriented [...]

d. Visitor/Resident Balance

The California Coast is an extremely desirable place to live, work and recreate that belongs to all the people. As such, congenial and cooperative use by both residents and visitors is recognized. Such use should capture the best attributes of the City and creatively determine the acceptable place, scale, intensity, rate and methods for development consistent with resource protection and the retention of the character of a small beach-oriented town.

Policy L-3 Residential Uses and Neighborhoods states in part:

c. Single Family/Multi-Family Balance

The retention and expansion of stable, owner-occupied, single family neighborhoods is essential in order to maintain the goal of a small beach-oriented town. These areas shall be protected from intrusion of traffic and conflicting land uses such as multifamily structures or commercial developments.

d. High Density Residential

Higher density neighborhoods shall be located near public transportation facilities. Development shall emphasize human scale, aesthetically pleasing buildings with active and passive private and common open space. Areas shall be protected from the intrusion of traffic and conflicting land uses.

Table L-2, LAND USE DESIGNATIONS AND SPECIFICATIONS states in part:

R-1500 Residential (3 stories)

The R-1500 Residential land use designation provides for the development of detached and attached single family and multi-family dwellings (duplexes, apartments, condominiums, townhomes) with a maximum density of one unit per every 1,500 sq. ft. of land. This designation will permit as many as 29 units per net acre of land. Uses such as parks, libraries, churches, schools, family day-care homes, and other uses, which are determined to be compatible with and oriented toward serving the needs of the zone are also allowed. The intent of this designation is to provide for an intense residential living environment in typically two and three-story units. Extensive landscaping and recreational amenity packages should be provided in development of this density.

C-2 Seacoast Commercial (3 stories)

The Seacoast Commercial land use designation provides for land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in this designation will be visitor-serving retail such as specialty stores, surf shops, restaurants, hotels and motels, etc. In order to promote a more pedestrian-oriented community character, as well as to reduce the high volume of vehicle trips attracted by drive-thru establishments, drive-thru services for restaurants, banks, dry cleaners, and other similar auto related business establishments shall be prohibited in this zone. Residential uses may (included below) be permitted above the first floor at a maximum density of one unit per every 1,500 square feet of land. Discretionary permit review by the City shall be required for such residential use.

MU-2 Mixed Use Overlay

The Mixed Use Overlay land use designation provides for future expansion of uses allowed in the C-2 Land Use Designation in an orderly way without requiring the amendment of the General Plan. In this overlay designation, commercial activities would be allowed to expand into areas otherwise designated as Residential. Discretionary permit review by the City shall be required for such commercial use.

The **L-4 Commercial Uses and Areas** contains specific policies for commercial uses and areas, and states:

e. Seacoast Commercial (C-2 & MU-2)

The Seacoast commercial area shall serve as a visitor serving, pedestrian-oriented commercial area. Existing residential uses shall be slowly transitioned to new visitor serving commercial uses. As part of the design review, 2nd or 3rd stories may be required to be set-back from Seacoast Drive.

Timeshares shall be prohibited on the first floor unless 25% are reserved for overnight accommodation.

Policy L-6 states:

L-6 Tourist Commercial Uses

Imperial Beach should provide, enhance and expand tourist commercial uses to the extent that they can be compatible with the small beach oriented town character of the City.

The purpose and intent of the proposed ordinance amendment is to limit the use of residential properties for short-term (vacation length) rentals. The City has reported that

in early 2001, owners of condominium units along South Seacoast Drive began complaining about neighboring units being rented out on a weekend basis. The complaints stated that these overnight patrons created excessive noise, parking problems and trash.

South Seacoast Drive is designated R-1500, a high-density residential designation. The City has indicated that under the provisions of the certified LCP, commercial vacation facilities were never supposed to be permitted in a residential area. According to the City, while owners of residential properties are free to rent out their properties, rentals offered on a daily or weekly basis fall under the City's definition of a "Hotel", which is "any establishment offering commercial transient lodging accommodation on a less than monthly basis to the general public..." (Municipal Code Section 19.04.410). The certified LCP does not permit commercial establishments such as hotels in residentially zoned areas.

However, in the past, business license applications for residential rentals were not routed to the City's Community Development Department for planning and zoning clearance, and thus, a number of licenses for short-term rentals were issued, and Transient Occupancy Taxes (TOT) were collected through these permits. For example, as of December 11, 2000, there were nine TOT payers located in the area south of Imperial Beach Boulevard along Seacoast Drive. Because the owners of these sites were operating in good faith that they were in compliance with local ordinances, the proposed amendment contains a "grandfathering" provision that will allow for these nine units to continue to be used for short-term rentals until 2007. As proposed, no other short-term residential rentals will be permitted outside the Seacoast Commercial area from this point on.

It is likely that in the past there have been other residential units along Seacoast Drive being offered to the public for short-term rentals that did not have valid business licenses, and thus were not operating legally; however, because there are not official records on these units, it is difficult to quantify the number of them.

The Commission's concern with the proposed amendment is the potential impacts to visitors by the elimination of a source of overnight visitor-serving accommodations. On the one hand, there are beach communities where vacation rentals are the predominant use of residential units during the summer, and prohibiting these uses could have a significant impact on the character of the community and the supply of overnight accommodations. On the other hand, the Commission recognizes the importance of preserving the character of residential neighborhoods, and has not typically considered residential areas as part of a City's supply of visitor-serving commercial facilities. The Commission has instead maintained that that adequate area be zoned and designated for visitor-serving commercial uses in the LCP.

In the case of the proposed amendment, the City of Imperial Beach has indicated it is not its intent to eliminate legally established short-term rentals through this amendment, but to specify where short-term rentals may be allowed (in the commercial areas near the

ocean) and to maintain the integrity of the residential zones and neighborhoods. The certified LUP does not have any policies specifically addressing short-term residential rentals, but it does have policies that support both the provision of stable, well-maintained residential neighborhoods and the provision and expansion of tourist commercial uses. As several LUP policies quoted above indicate, it is necessary to find a balance between visitor-serving and residential uses.

The proposed amendment would allow short-term residential rentals to occur in the C-2 (Seacoast Commercial) zone and MU-2 Overlay zone. Together, these two designations cover the beach area from approximately Palm Avenue south to Imperial Beach Boulevard (see Exhibit #4). The Seacoast Commercial zone is the city's visitor-serving commercial zone. With its mixture of retail, restaurant, and recreational facilities, this area is the most attractive location for short-term, tourist-oriented accommodations. The purpose of the zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. The dominant type of commercial use in this zone is visitor-serving retail leaseholds which include uses such as specialty stores, surf shops, restaurants, hotels and motels. According to the City, most recent developments along Seacoast Drive in the C-2 area have been mixed-use housing/commercial projects, which have increased the housing stock available for short-term rentals.

The MU-2 Mixed Use Overlay is applied to the R-1500 high density residential designation located seaward of the Seacoast Commercial designation (see Exhibit #4). It is intended to be a transition zone between residential and commercial uses. In this overlay designation, commercial activities are allowed to expand into areas otherwise designated as Residential, and existing residential uses are to be slowly transitioned to new visitor serving commercial uses. Thus, this area appears to be ideally suited for short-term rentals. Overall, the City estimates there are 80-100 dwelling units typically being offered for short-term rental in the Seacoast area.

In its previous certification of the City's LCP, the Commission determined that the City's Seacoast Commercial and MU-2 overlay together constituted adequate visitor-serving area, and this amendment would not reduce that area. The residentially-designated beachfront dwelling units have never been considered as part of the City's reserve of visitor-serving overnight accommodations. Given that only 9 units on Seacoast Drive were legally operating short-term rentals in the recent past, (and these units will be allowed to operate for the next five years), it appears that the proposed amendment will not have a significant impact on the availability of residential vacation rentals in any case.

The proposed amendment strikes a balance between the protection of residential areas and the accommodation of visitor-serving facilities, consistent with the policies of the certified LCP. As noted above, the residential zone R-1500, where most of the problems with short-term rentals have occurred, was never intended to accommodate commercial facilities such as vacation rentals. Vacation rentals will continue to be allowed in the South Seacoast area, which is better suited for and able to accommodate the use. In

conclusion, the proposed amendment conforms with, and is adequate to carry out, the certified land use plan.

2. Prohibition of Secondhand Stores. The certified LUP has several goals and policies that discuss the commercial uses and areas. Policy L-4 states in part:

L-4 Commercial Uses and Areas

c. Fostering New Commercial Development

Commercial development should be encouraged to increase the City's tax base, and evaluated in terms of the effect it will have on the economy and quality of living in the City. Particular emphasis should be placed on the development of new businesses and fostering commercial uses providing goods and services to residents and visitors.

Policy L-6 as stated above, encourages the provision enhancement and expansion of tourist commercial uses.

As discussed above, in general, the Commission's concern with prohibiting a type of use would be if it were a coastal-dependent, coastal-related, agricultural, recreational, or visitor-serving use, all of which are high-priority uses under the Coastal Act. The City's LUP permits the development of a range of commercial uses, but does not require the provision of secondhand stores. Secondhand stores are not a high priority use under the certified LUP or the Coastal Act, and no impacts to coastal resources are anticipated to result from prohibiting them. Therefore, since the proposed amendment, as submitted, conforms to the certified land use plan, the proposed ordinance can be found in conformance with and adequate to implement the certified LUP.

PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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 CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment, the Commission finds that approval of the subject LCP amendment, as submitted, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act.

All portions of the proposed amendment to the City of Imperial Beach's Implementing Ordinances have been found consistent with and adequate to carry out the policies of the certified land use plan. Any specific impacts associated with individual development projects would be assessed through the environmental review process, and, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that no significant unmitigable environmental impacts under the meaning of CEQA will result from the approval of the proposed LCP amendment as modified.

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JUN 10 2002

ORDINANCE NO. 2002-977

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING THE ZONING ORDINANCE (TITLE 19) BY ADDING SECTION 19.04.756, WHICH DEFINES TIME SHARE UNIT, TO CHAPTER 19.04, ADDING SECTION 19.74.110 TO CHAPTER 19.74 TO PROHIBIT THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY FOR REMUNERATION, AND AMENDING SECTIONS 19.27.020 AND 19.27.140 TO ALLOW SHORT TERM RENTAL OF RESIDENTIAL PROPERTY IN THE C-2 (SEACOAST COMMERCIAL) AND MU-2 (MIXED USE OVERLAY) ZONES. (GPA/LCPA/ZCA 01-03) M.F. 560

WHEREAS, the Imperial Beach City Council adopted an Interim Urgency Ordinance, Ordinance No. 2001-966, on May 2, 2001, temporarily prohibiting the occupancy of a dwelling unit for a period of thirty consecutive calendar days or less in certain Residential Zones, until such time that an appropriate study of the effect of such short-term rentals is conducted and a permanent ordinance is adopted; and

WHEREAS, such study has now been conducted and an ordinance has been presented to the City Council for consideration; and

WHEREAS, a duly noticed public hearing has been conducted by the City Council on January 16, 2002 and public testimony has been heard and considered; and

WHEREAS, it is in the best interests of the residents of the City of Imperial Beach to prohibit the short term rental of dwelling units in certain residential zones; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the proposed regulations would not have a significant impact on the environment and, pursuant to the California Environmental Quality Act Guidelines Section 15061.b3 (General Rule), would be exempt from the California Environmental Quality Act as the proposed amendment would prohibit a land use (short-term rental) in residential zones and would allow, by clarifying through these proposed provisions, short-term rentals in the commercial zones; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the proposed General Plan Amendment/Local Coastal Plan Amendment, pursuant to Government Code Section 65300.5, is internally consistent with the other policies of the General Plan, and also finds the proposed Zoning Ordinance Amendment, pursuant to Government Code Section 65860, is consistent with the General Plan/Local Coastal Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

SECTION 1: Section 19.04.756 is hereby added to Chapter 19.04 (Definitions) of the Imperial Beach Municipal Code to read as follows:

"19.04.756 'Time share unit' means a unit in a project in which a purchaser receives a right in perpetuity, for life, or for a term of years to the recurrent exclusive use or occupancy of a lot, parcel, unit or segment of real property annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods onto which the project has been divided."

SECTION 2: Section 19.74.110 is hereby added to Chapter 19.74 (Miscellaneous Uses)

Exhibit #1
City of Imperial Beach
LCPA 1-2002 A & B
Short-term Rentals
Resolution of Approval

19.74.110 Prohibition of short-term rental of residential property for remuneration.

A. The following defined words shall have the following meanings for the purposes of this section. The following definitions shall prevail in case of conflict with the definitions set out in Chapter 19.04.

1. "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.
2. "Residential property" means any dwelling unit, except those dwelling units lawfully established as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use.
3. "Short-term rental of residential property" means the commercial use, by any person, of residential property for transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than thirty (30) consecutive calendars days.

B. Short-term rental of residential property for remuneration is prohibited, except as otherwise expressly permitted by this title.

C. Until January 1, 2007, those dwelling units located in the R-1500 or R-2000 zone shall be excepted from the prohibition contained in paragraph B of this section for which:

1. appropriate returns have been filed and transient occupancy taxes have been collected from the transient and remitted to the City for all rental periods of less than 30 consecutive calendar days for that dwelling unit, for the period May 2, 2000 to May 2, 2001; and
2. the owner, or management or agent of the property owner, possesses a valid City of Imperial Beach business license; and
3. the City Manager has issued a Provisional Permit pursuant to City Council Resolution No. 2001-5445, adopted on May 16, 2001.

D. After January 1, 2007, those dwelling units excepted in paragraph C shall be subject to the prohibition set forth in paragraph B of this section and rental of such dwelling unit as a short-term rental shall be prohibited and subject to liability and enforcement as set out in this chapter.

E. Liability and Enforcement.

1. Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise, who arranges or negotiates for the use of residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section.
2. Any person who uses, or allows the use of, residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section.

SECTION 3: In subparagraph A, 21 is hereby added to Section 19.27.020 of Chapter 19.27 (C-2 Seacoast Commercial Zone) of the Imperial Beach Municipal Code to read as follows:

21. Short term rental of residential property subject to conditions established by City Council Resolution.

SECTION 4: In subparagraph A, 2 is hereby added to Section 19.27.140 (MU-2 Mixed Use Overlay) of Chapter 19.27 of the Imperial Beach Municipal Code to read as follows:

2. Short term rental of residential property subject to conditions established by City Council Resolution.

SECTION 5: This ordinance shall become effective only when certified by the California Coastal Commission but not sooner than thirty (30) days following its passage and adoption by the City Council.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, held on the 6th day of February, 2002, and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 6th day of March 2002 by the following roll call vote:

AYES:	COUNCILMEMBERS: MCCOY, ROGERS, WINTER, ROSE
NOES:	COUNCILMEMBERS: NONE
DISQUALIFIED:	COUNCILMEMBERS: BENDA (DUE TO A POTENTIAL CONFLICT OF INTEREST)

Diane Rose

DIANE ROSE, MAYOR

ATTEST:

Linda A. Troyan

LINDA A. TROYAN, CITY CLERK

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDUGAL

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be true and exact copy of Ordinance No. 2002-977, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING THE ZONING ORDINANCE (TITLE 19) BY ADDING SECTION 19.04.756, WHICH DEFINES TIME SHARE UNIT, TO CHAPTER 19.04, ADDING SECTION 19.74.110 TO CHAPTER 19.74 TO PROHIBIT THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY FOR REMUNERATION, AND AMENDING SECTIONS 19.26.020, 19.27.020, 19.27.140, AND 19.28.020 TO ALLOW SHORT TERM RENTAL OF RESIDENTIAL PROPERTY IN THE C-1 (GENERAL COMMERCIAL), C-2 (SEACOAST COMMERCIAL), MU-2 (MIXED USE OVERLAY), AND C-3 (NEIGHBORHOOD COMMERCIAL) ZONES. (GPA/LCPA/ZCA 01-03) M.F. 560.

for *Marguerite M. Hall*
CITY CLERK

5/30/02
DATE

**RESOLUTION ADOPTING AN APPLICATION FOR
A SHORT-TERM RENTAL PERMIT,
ESTABLISHING CRITERIA, STANDARDS AND A PROCEDURE
FOR CITY MANAGER REVIEW OF SUCH APPLICATIONS,
AND ESTABLISHING AN APPLICATION FEE**

WHEREAS, on March 6, 2002, the Imperial Beach City Council adopted Ordinance No. 2002-977 amending the zoning ordinance (Title 19) to prohibit short-term rental of residential property for remuneration in residential zones and allowing short-term rental of residential property in the C-2 (Seacoast Commercial) and MU-2 (Mixed Use Overlay) Zones; and

WHEREAS, pursuant to that ordinance, short-term rental of residential property is defined as the commercial use, by any person, of residential property for transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than thirty (30) consecutive calendars days; and

WHEREAS, the City Council desires to establish criteria, standards and conditions to be used by the City Manager in approving Short-Term Rental Permits for those units engaging in short-term rental of residential property for remuneration within the C-2 (Seacoast Commercial) and MU-2 (Mixed Use Overlay) Zones; and

WHEREAS, the City Council has also determined that it is in the best interests of the residents of the City to adopt a fee for processing an application for a Short-Term Rental Permit, which fee shall not exceed the cost of processing the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

1. All property owners, managers or agents who rent dwelling units as short-term rentals within the C-2 (Seacoast Commercial) and MU-2 (Mixed Use Overlay) Zones shall apply for a Short-Term Rental Permit (hereinafter "Short-Term Permit").
2. A property owner, or manager or agent of the property owner, shall make application with the City for a Short Term Permit, as set forth herein.
3. Application shall be made on the form designated by the City Manager.
4. The application for a Short-Term Permit shall be accompanied by a non-refundable application fee of one hundred dollars (\$100).
5. In making a determination as to issuance of a Short-Term Permit for a particular dwelling unit or dwelling units, the City Manager shall consider the following criteria:
 - A. The dwelling unit must be located in the C-2 or MU-2 zones;
 - B. Evidence that the property owner, or manager or agent of the property owner, possesses a valid City of Imperial Beach business license; and
 - C. Evidence that the appropriate returns have been or will be filed and transient occupancy taxes have been or will be collected from the transient and remitted to the City, in accordance with Chapter 3.24 of the Imperial Beach Municipal Code (IBMC), for all rental periods of less than 30 consecutive calendar days for that dwelling unit.
6. All Short-Term Permits issued pursuant to this Resolution shall be subject to the following

Exhibit #2
City of Imperial Beach
LCPA 1-2002 A & B
Short-term rental Permit Criteria

standard conditions:

- A. Within ten (10) days of issuance of a Short-Term Permit, the owner must obtain and pay the appropriate fee for any City of Imperial Beach license, pursuant to the IBMC for each specific rental unit.
- B. The owner or agent must present proof that the Covenants, Conditions and Restrictions (CC&R's) for the subject property do not prohibit the short-term rental of dwelling units.
- C. The owner or agent shall limit overnight occupancy of the short term rental unit to a specific number of occupants, with the number of occupants not to exceed that permitted by the provisions of Uniform Housing Code as adopted by Chapter 15.24 of the IBMC (one person per 200 square feet, plus one person).
- D. The owner or agent shall use best efforts to insure that the occupants and/or guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the IBMC or any State law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs.
- E. A notice not exceeding 8-1/2" by 11" in size shall be posted at each short-term rental unit. This required notice shall be displayed in a window, in a location which is clearly visible from a common area or public right-of-way, and shall clearly state the name of the managing agency, agent, property manager, or owner of the unit, permit number, and a local or toll free telephone number at which that party may be reached on a 24-hour basis, in lettering of sufficient size to be easily read.
- F. The owner or agent shall ensure that a representative is available by telephone through a local or toll free number on a 24-hour basis to respond to calls regarding the condition and/or operation of the short-term rental unit. Failure to respond to calls in a timely and appropriate manner may result in revocation of the Short-Term Permit. For purposes of this section, responding in a timely and appropriate manner shall mean that a response to an initial call shall be made within one (1) hour of the time the call was made, and within twelve (12) hours of the initial call, corrective action shall be commenced to address any violation of this Resolution or the Short-Term Permit.
- G. The owner or agent shall, upon notification that occupants and/or guests of his/her short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the IBMC or any State law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly use best efforts to prevent a recurrence of such conduct by occupants or guests.
- H. The owner or agent of a short-term rental unit shall use best efforts to insure compliance with all the provisions of Chapter 8.36 of the IBMC regarding garbage and refuse.
- I. The owner of the short-term rental unit shall post a copy of the Short-Term Permit and a copy of the conditions set forth in this Resolution in a conspicuous place within the unit.
- J. The City Manager shall have the authority to impose additional conditions as he/she deems necessary to achieve the objectives of this Resolution.
- K. Information as to Ordinance No. 2002-977 and Resolution No. 2002-5575 and any extensions thereof shall be stated in the rental information and rental agreement provided by the owner or agent to prospective renters or prospective purchasers, prior to their occupancy or purchase of the unit.
- L. A violation of the Short-Term Permit constitutes a violation of the Imperial Beach Municipal Code, which may be abated as a public nuisance under Chapter 1.16 of the Code or as an infraction under Chapter 1.12 of the Code.

7. Permits and fees required by this Resolution shall be in addition to any license, permit or fee required under the IBMC. The issuance of a permit pursuant to this Resolution shall not relieve the owner or agent of the obligation to comply with all provisions of the IBMC pertaining to the use and occupancy of the dwelling unit or the property on which it is located.
8. The failure of an agent to comply with any provision of this Resolution shall be deemed non-compliance by the property owner.
9. Existing owners of short-term rental units shall make application for a Short-Term Permit pursuant to this Resolution within thirty (30) days after adoption of this Resolution.
10. If an application for a Short-Term Permit is denied by the City Manager, the owner or agent may, within ten days of the date of denial, appeal to the City Council by written notice of appeal filed with the City Clerk. Such appeal shall specifically set forth the basis for such appeal.
11. Upon receipt of such appeal, the City Clerk shall set the matter for public hearing in the manner prescribed and shall forward the findings of fact to the City Council.
12. The City Council may, after the public hearing and consideration of the matter, affirm, modify, or overturn the decision of the City Manager. The decision of the City Council shall be final and conclusive.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 20th of March, 2002, by the following roll call vote:

AYES:	COUNCILMEMBERS: MCCOY, ROGERS, WINTER, ROSE
NOES:	COUNCILMEMBERS: NONE
ABSENT:	COUNCILMEMBERS: NONE
DISQUALIFIED:	COUNCILMEMBERS: BENDA

Diane Rose

DIANE ROSE, MAYOR

ATTEST:

Linda A. Troyan

LINDA A. TROYAN

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2002-5575 – A Resolution adopting criteria, standards and conditions to be used by the City Manager in approving Short-Term Rental Permits for the short-term rental of residential property pursuant to Ordinance No. 2002-977.

Vangelina M. Hald

CITY CLERK

5/30/02

DATE

RECEIVED

ORDINANCE NO. 2001-959

JUN 10 2002

ORDINANCE ADDING SECTIONS 19.04.673 AND 19.74.100
TO THE ZONING ORDINANCE OF THE CITY OF IMPERIAL BEACH
PERTAINING TO STORES SELLING USED OR SECONDHAND MERCHANDISE

WHEREAS, the City of Imperial Beach has determined that the proliferation of "secondhand stores" and "thrift shops," establishments where previously used items are for sale to the general public, may adversely affect the City's ability to attract and retain businesses and shoppers to the City of Imperial Beach; and

WHEREAS, due to these concerns, the City enacted an ordinance, pursuant to Section 65858 of the Government Code, to temporarily prohibit these types of uses so that the City Manager could direct a study of the magnitude of such negative impacts which may adversely affect other land uses in the City and, if necessary, devise a zoning proposal to mitigate such impacts; and

WHEREAS, prior to the temporary prohibition, stores selling secondhand or used merchandise were locating in the City of Imperial Beach with increasing frequency and many of these establishments are "clustered" in key commercial areas; and

WHEREAS, after study, it appears that secondhand stores and thrift shops experience significant problems with the control of trash, handling of merchandise, access and site circulation and that these uses tend to generate a higher volume of traffic and vehicle turnover in relation to the dollar volume of merchandise purchased; and

WHEREAS, while these types of businesses serve a recognized need for members of the community, there currently exists a more than adequate number of these businesses to meet the needs of the residents of the City of Imperial Beach; and

WHEREAS, after study and consideration, there appears to be no demonstrated need for additional stores selling secondhand or used merchandise in the City; and

WHEREAS, allowing additional stores selling used or secondhand merchandise to locate within the City of Imperial Beach would create a further proliferation of such stores in a community more than adequately served by those currently operating in the City; and

WHEREAS, through its zoning ordinances, the City Council seeks to maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions which make the Imperial Beach community a pleasant place to live and work; and

Exhibit #3
City of Imperial Beach
LCPA 1-2002 A & B
Secondhand Stores
Resolution of Approval

WHEREAS, on February 7, 2001, a duly noticed public hearing was held and public comment was received regarding the need and necessity for amendment of the Zoning Ordinance regarding stores offering Secondhand and Used Merchandise within the City; and

WHEREAS, said public hearing was continued to February 21, 2001; and

WHEREAS, in order to promote, preserve and protect the public health, safety and general welfare of its residents and pursuant to the authority of Government Code Section 65850, the City Council of the City of Imperial Beach may adopt ordinances to regulate the intensity of land use; and

WHEREAS, the City Council of the City of Imperial Beach hereby finds that the proposed regulations would not have significant impact on the environment and, pursuant to the California Environmental Quality Act Guidelines Section 15061.b3 (General Rule), would be exempt from the California Environmental Quality Act; and

WHEREAS, the City Council of the City of Imperial Beach finds that the proposed Zoning Ordinance Amendment, pursuant to Government Code Section 65860, is consistent with General Plan/Local Coastal Plan; and

WHEREAS, the City Council of the City of Imperial Beach finds that the regulations contained herein are in furtherance of a compelling governmental interest and are the least restrictive means of furthering that compelling that governmental interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

SECTION 1: Section 19.04.673 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

"19.04.673. Secondhand or Used Merchandise.

"Secondhand or Used Merchandise" means merchandise that has been owned or used by any person other than the original manufacturer or distributors of that merchandise when new, or which has ever been used in a manner that is consistent with an ultimate or final consumer, whether or not wear or deterioration can be found."

SECTION 2: Section 19.74.100 is hereby added to Chapter 19.74 of the Imperial Beach Municipal Code to read as follows:

"19.74.100. Stores Offering Secondhand or Used Merchandise.

Stores offering Secondhand or Used Merchandise, as defined in Section 19.04.673 of this code, are prohibited in all zones.

- A. The following establishments are hereby excluded from this section. Those establishments offering for sale, exclusively:
1. used automobiles,
 2. antiques, meaning any item over one hundred years of age, including such items that have been repaired or renovated without changing their original form or character, or
 3. fine art, meaning a painting, sculpture, drawing, work of graphic art (including an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), a work of calligraphy, or a work in mixed media (including a collage, assemblage, or any combination of the foregoing art media); and
- B. Establishments offering for sale items that have been previously used, other than those set forth above, provided:
1. such used merchandise does not occupy more than fifteen percent (15%) of the floor area devoted to the display of merchandise for sale, and
 2. the gross receipts from the sale of such used merchandise does not constitute more than fifteen percent (15%) of the total gross receipts from the sale of all merchandise by the establishment.
- C. Stores offering for sale Secondhand or Used Merchandise lawfully in existence within the City upon the adoption of this ordinance may continue to operate as legal non-conforming uses."

SECTION 3: This ordinance shall become effective thirty (30) days following its passage and adoption and following its ratification by the California Coastal Commission.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 21st day of February, 2001; and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 7th day of March, 2001 by the following roll call vote:

AYES:	COUNCILMEMBERS:	ROSE, BENDA, WINTER, ROGERS, McCOY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE

Diane Rose

DIANE ROSE, MAYOR

ATTEST:

Linda A. Troyan

LINDA A. TROYAN, CMC
City Clerk

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDOUGAL, CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2001-959 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH ADDING SECTIONS 19.04.673 AND 19.74.100 TO THE ZONING ORDINANCE OF THE CITY OF IMPERIAL BEACH PERTAINING TO STORES SELLING USED OR SECONDHAND MERCHANDISE ZONE


CITY CLERK

8/29/01
DATE



