

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

ITEM #3

DATE: FEBRUARY 9, 2015

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: A NEGATIVE DECLARATION, ZONING ORDINANCE AND MUNICIPAL CODE TEXT AMENDMENT ZTA14-0001, AND LOCAL COASTAL PROGRAM AMENDMENT LCPA14-0001 TO AMEND THE CITY'S ZONING ORDINANCE TO ALLOW POULTRY –SPECIFICALLY CHICKENS IN ALL SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS.

RECOMMENDATION: That the Planning Commission takes one of the following actions:

1. Adopt Resolution No. 14-12-08-XX recommending that the City Council adopt a Negative Declaration for the Zoning Ordinance and Municipal Code Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) and Adopt Resolution No. 14-12-08-XX recommending that the City Council amend the City's Zoning Ordinance for the allowance of poultry – specifically chickens, in all single family residential districts.

OR

2. Make a motion to not recommend approval to the City Council for the Zoning Ordinance and Municipal Code Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) for the allowance of poultry –specifically chickens in all single family residential districts.

APPLICANT: City of Dana Point

REQUEST: Request for approval and adoption of a Negative Declaration, Zoning and Municipal Code Text Amendment ZTA14-0001 and Local Coastal Program Amendment LCPA14-0001 to amend the City's Zoning Ordinance to allow poultry – specifically chickens, in all single family residential districts.

LOCATION: Citywide

NOTICE: A Notice of Intent to adopt a Negative Declaration and a public hearing was published in the Orange County Register on November 14, 2014, and was mailed to the County of Orange, County Clerk's office. It was also posted at the Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, the Dana Point Library, and the City's web

site. This notice was also mailed to the "interest list" for this project. Additionally the Notice of Availability of the documents related to the LCPA will be posted at the City Hall, the City's web site, and local library. The duly noticed public meeting held at the regular Planning Commission meeting on December 8, 2014, was continued to February 9, 2015 for additional discussion. As a result, no additional notification was required.

ENVIRONMENTAL

The City conducted an environmental review of the proposed project pursuant to the provisions of the California Environmental Quality Act (CEQA). As a result of that review, a Negative Declaration (ND) was issued for the project with the accompanying initial study. The ND was circulated for a twenty day public review period from November 14, 2014 to December 3, 2014. At the end of the comment period, the City received a total of ten (10) written comments.

The ND, its accompanying initial study and the comment letters are attached to the December 8, 2014 Planning Commission report.

ISSUES

1. Is the proposal consistent with the goals and policies of the Dana Point General Plan?
2. Is the proposal consistent with the Dana Point Zoning Ordinance?
3. Is the proposal consistent with the California Coastal Act?
4. Is the proposal consistent with the Local Coastal Program Amendment procedures as set forth in Dana Point Zoning Ordinance, Section 9.61.080?

BACKGROUND

On December 8, 2014, the Planning Commission conducted an initial review and discussion of whether or not to allow poultry in residential areas. The staff report and minutes of the December 8, 2014 Planning Commission meeting are attached as Supporting Document 3 and 4, respectively. Following the staff presentation and detailed discussions by the Commissioners, it was determined that additional information was needed relative to the type of permit process that would be needed to allow poultry, specifically chickens, in residential areas. Further refinement of the definition of "poultry" was requested along with a re-evaluation of what would be an appropriate setback from the window or door of the nearest adjacent residential structure. As a result, the Planning Commission public hearing was continued to February 9, 2015. At this time, additional details are being provided for consideration by the Commission.

DISCUSSION

Permit Process for Keeping Chickens:

Of the neighboring City's surveyed, Newport Beach, Huntington Beach and San Marino require a special permit to further regulate poultry in residential areas. Newport Beach requires a minor use permit and Huntington Beach and San Marino require a similar type of administrative permit. San Clemente does not currently allow chickens in their residential areas, but is considering allowing them as part of an update to their General Plan.

Planning Staff spoke with Kim Cholodenko, General Manager for Coastal Animal Services Authority (CASA), which provides animal services for both Dana Point and San Clemente. After reviewing the City's draft zone text changes, she made several suggestions, including providing specific language for when a residential animal permit could be revoked and increasing the chicken coop setback to the nearest adjacent residential structure to 35'. Planning Staff has incorporated these suggestions into the revised zone text amendment.

The Municipal Code allows for certain number of animals allowed by right. CASA currently issues permits for greater numbers of animals than allowed without a permit. If the City of Dana Point decides that it wants to allow poultry – specifically chickens, in all single family residential zones with a permit, then CASA, in concert with the Planning Division, would be able to issue the necessary permit, subject to the standards put in place in Title 10 – Chapter 10.13 of the City's Municipal Code.

Revised Definition of Poultry:

Based upon direction from the Planning Commission meeting of December 8, 2014, Planning staff has proposed to revise the definition of "poultry" in Title 10 of the City's Municipal Code to include only chicks or chickens and not include any other domesticated or wild game birds. As revised, the definition reads as follows:

"Poultry" means all-domesticated fowl, exclusively chicks or chickens and all-game bird which are held in captivity. Poultry does not include wild game birds such as grouse, partridge, pheasants, quail, peacocks or other domestic fowl such as turkeys, geese, guinea fowl, pea fowl, pigeons/squabs, doves, or ducks.

In order to allow poultry – specifically chickens, in all single-family residential districts, the City will have to amend the Zoning Ordinance, Title 9 of the Municipal Code, to allow this specific use, as an accessory use, in all single-family residential districts. It is also necessary to add another chapter to Municipal Code Title 10 - ANIMAL CONTROL, WELFARE AND LICENSING REQUIREMENTS. The specific standards and

specifications for the keeping of poultry would be included in this new Chapter (Chapter 10.13) within Title 10.

Today's Planning Commission hearing is to consider such Zoning Ordinance and Municipal Code Text Amendments and a Local Coastal Program Amendment. The proposed Zoning Ordinance and Municipal Code Amendments (Attached as Exhibit 2) encompasses revisions to Section 9.07.190 and Title 10 of the Municipal Code, which upon adoption by the City Council and the California Coastal Commission will allow chickens in all single family residential zoning districts, subject to Chapter 10.13 of the City's Municipal Code.

The proposed Amendment includes specific standards related to poultry – specifically chickens, should the City determine that poultry be allowed in single family residential areas. These standards include no more than six (6) hens, requirement for a coop/enclosure to house the hens, a minimum distance of 35 feet for the coop/enclosure from any adjacent dwelling or occupied structure, required five (5) foot setbacks for coops from the rear and side property lines with a prohibition of coops within the front yard and maintenance requirements for keeping coops in a clean and sanitary condition at all times. The proposed Zoning Ordinance and Municipal Code Text Amendments also include a prohibition for outdoor slaughtering of poultry and keeping of roosters as well as the establishment of a residential animal permit through the local animal services agency for those residents who desire to keep poultry.

Local Coastal Program Amendment:

The Planning Commission is also considering a Local Coastal Program Amendment (LCPAs) for this project. A LCPA is required for modifications to the text contained in the Zoning Ordinance. Should the City Council's final decision on this project be to allow poultry in residential areas, the LCPA request would be forwarded to the California Coastal Commission for approval.

Public Comments:

During the public comment period of the Negative Declaration, the City received a total of ten (10) letters. All of the letters received at this time expressed support for revising the Zoning Code to allow poultry within the City limits. Since the December 8, 2014 Planning Commission meeting, Staff has received additional e-mails in support and opposition to allowing poultry in the city. These e-mails and other additional correspondence are attached as Supporting Document 5.

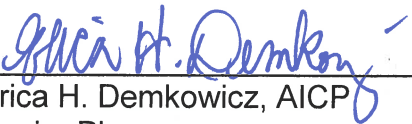
One commenter has requested specific exemptions from the proposed setback standard. More specifically, the commenter has requested that the 5 foot side or rear yard setback requirement be waived if the adjacent property owner provides documentation of some kind that they are in agreement. To implement this request a number of considerations must be made: What form does the 'agreement' take? What happens if the adjacent neighbor moves and the new neighbor don't agree to the waiver? What happens if the

adjacent neighbor changes their mind because the coop isn't being maintained? Staff hasn't been able to find good answers to these questions and therefore recommends that the Planning Commission not incorporate the requested changes into the code text amendment.

CONCLUSION

The proposed amendment to the City's Zoning Ordinance is consistent with the City's General Plan, Local Coastal Program and Municipal Code. The environmental review conducted for the project, in compliance with CEQA, concludes that there will be no impacts on the environment since no development is proposed at this time and the project is for amendments to the City's Zoning Ordinance and Municipal Code.

Therefore, staff is recommending that the Planning Commission take one of the two actions listed under the Recommendation section of the report.


Erica H. Demkowicz, AICP
Senior Planner


Ursula Luna-Reynosa, Director
Community Development Department

ATTACHMENTS:

Action Documents

1. Draft Planning Commission Resolution No. 15-02-09-xx (ND)
2. Draft Planning Commission Resolution No. 15-02-09-xx (ZTA and LCPA)

Supporting Documents

3. PC Staff Report and attachments thereto dated December 8, 2014
4. PC Minutes dated December 8, 2014
5. E-mails & Other Correspondence Received Related to Allowing Poultry in SFR zones

RESOLUTION NO. 15-02-09-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A NEGATIVE DECLARATION FOR THE ZONING AND MUNICIPAL CODE TEXT AMENDMENTS (ZTA14-0001) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA14-0001) TO AMEND THE CITY'S ZONING ORDINANCE FOR THE ALLOWANCE OF POULTRY IN ALL SINGLE FAMILY RESIDENTIAL DISTRICTS

Applicant: City of Dana Point

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

WHEREAS, the applicant, City of Dana Point, filed a verified application for Amendment to the Zoning Ordinance and Municipal Code, and Local Coastal Program Amendment to amend the Zoning Ordinance of the City of Dana Point to allow poultry in all single family residential districts; and

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

WHEREAS, the Planning Commission did, on the 8th day of December, 2014, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, examining the attached initial study, analyzing the information submitted by staff, and considering any written comments received, said Commission considered all factors relating to the Negative Declaration.

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

- A) That the above recitations are true and correct.
- B) That based on the evidence presented at the public hearing, the Planning Commission hereby recommends that City Council adopt a Negative Declaration for the proposed project.
 - 1) That the Negative Declaration was circulated for a twenty (20) day review period effective November 14, 2014, to December 3, 2014, to the County of Orange County Clerk, and a Notice of Intent to Adopt was published in the Orange County Register.

ATTACHMENT #1

- 2) That ten (10) comment letters were received during the comment period. None of the letters received identified any potential environmental impacts. Letters are attached to the Planning Commission staff report.
- 3) That the attached Initial Study (City of Dana Point Environmental Checklist Form) shows that the project will not have a significant impact on the environment.
- 4) That the proposed project would not have a potential adverse impact on the environment. No mitigation measures are identified in the document.
- 5) That there was no evidence before the City that the proposed project would have any potential adverse affect on wildlife. As a result, the proposed project qualified for the De Minimis impact exemption from the Department of Fish and Game environmental review fees. The Director of Community Development is hereby authorized to declare the same on behalf of the City and Planning Commission.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 9th day of February, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Liz Claus, Chairwoman
Planning Commission

ATTEST:

Ursula Luna-Reynosa, Director
Community Development Department

NEGATIVE DECLARATION

**IS ON FILE IN THE COMMUNITY
DEVELOPMENT DEPARTMENT**

(ZTA14-0001/LCPA14-0001)

RESOLUTION NO. 15-02-09-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA RECOMMENDING CITY COUNCIL AMEND THE DANA POINT ZONING ORDINANCE AND MUNICIPAL CODE AND APPROVE ZTA14-0001 TO ALLOW POULTRY IN ALL SINGLE-FAMILY RESIDENTIAL DISTRICTS, AND SUBMISSION OF LOCAL COASTAL PROGRAM AMENDMENT LCPA14-0001, FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point

The Planning Commission of the City of Dana Point does hereby resolve 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 poultry in all single-family residential districts and Municipal Code Title 10 to establish standards for keeping of poultry; and

WHEREAS, the Zone Text Amendment and amendments to Title 10 of the Municipal Code 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 December 8, 2014 that was continued to February 9, 2015, to consider said Zoning and Municipal Code 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 ZTA14-0001 and LCPA14-0001; and

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

- A. That the above recitations are true and correct;
- B. The Zoning Ordinance and Municipal Code Text Amendment is attached hereto as Exhibit “A” and incorporated herein by reference;

ATTACHMENT #2

- C. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- D. That the Amendment, ZTA14-0001, is in the public interest;
- E. The Planning Commission has reviewed the Negative Declaration and forwarded it to the City Council for review and adoption;
- 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 Ordinance and Municipal Code is consistent with the City's General Plan;
- H. The Planning Commission recommends that the City Council adopt Zone Text Amendment ZTA14-0001 for the reasons outlined herein including but not limited to: requiring that property owners of chickens/poultry maintain their hens and respective coop or enclosure in accordance with new Chapter 10.13 of the Dana Point Municipal Code to safeguard the peace, safety and general welfare of the residents of Dana Point by eliminating excessive noise and odors related to chickens/poultry;
- I. That the Planning Commission 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 policies of Chapter Three of the Coastal Act. **The amendment to the Zoning Ordinance and Municipal Code is 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 the 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 and Municipal Code are being amended concurrently with the LCP amendment.**
- J. That the Planning Commission recommends that the City Council include the following findings in the City Council resolution 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 includes the proposed amendment to the Zoning Ordinance and Municipal Code in its submittal to the Coastal Commission and states that the amendment to the Local Coastal Program is to the Implementation Plan (IP) only.
 3. The City certifies that the Land Use Plan is in conformance 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 that the implementing actions (Zoning Ordinance) 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 includes the Zone Text and Municipal Code Amendments, and Local Coastal

Program Amendment numbers ZTA14-0001 and LCPA14-0001 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 a De Minimis Amendment to the Local Coastal Program. Said amendments are in accordance with Section 9.61.080 (e)(2)(C) of the City's Zoning Code and will have no impacts on public access or visitor serving resources and/or recreational opportunities.

- K. That the Planning Commission recommends that the City Council adopt the amendments to the City's Zoning Ordinance and Municipal Code as follows:

The allowance of poultry in all single-family residential districts shall be added in Chapter 9.07 of the Zoning Ordinance as shown in the attached "Exhibit A". This amendment to the Zoning Ordinance and Municipal Code constitutes the LCPA.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 9th day of February, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Liz Claus, Chairwoman
Planning Commission

ATTEST:

Ursula Luna-Reynosa, Director
Community Development Department

Exhibit "A"

ZONING ORDINANCE AND MUNICIPAL CODE TEXT AMENDMENT ZTA14-0001

Chapter 9.07 – Special Use Standards, to be amended as follows (deletions are shown as ~~strikeout~~ and additions are underlined):

Chapter 9.07 – SPECIAL USE STANDARDS

Section 9.07.190 – Keeping of Animals in Residential Districts

The keeping of animals in residential districts shall be allowed subject to Title 10 of the Dana Point Municipal Code. ~~subject to the following provisions:~~

~~(a) Number of Animals. The keeping of three (3) or fewer dogs, cats, or other small animals over the age of four (4) months is permitted in all residential districts. The keeping of between four (4) and six (6) domesticated animals over the age of four (4) months shall be in compliance with the applicable provisions of Section 10.03.190 of the Municipal Code. The use agreement shall serve as an official acknowledgement by the permit applicant of the provisions of this Section.~~

~~(b) Domesticated Livestock. The keeping of up to two (2) domesticated livestock, as defined in Section 9.75.120, is permitted in all residential districts subject to the execution of a use agreement with the City of Dana Point and the issuance of an animal permit by the Orange County Health Care Agency. The use agreement shall serve as an official acknowledgement by the permit applicant of the provisions of this Section. Approval of the permit shall be subject to the following findings as determined by the Director of Community Development:~~

~~(1) That the domesticated livestock animal(s) at the proposed location will not jeopardize, endanger, or otherwise constitute a menace to the public health or safety; and~~

~~(2) That the proposed site is adequate in size and shape to accommodate the number and type of animal(s) for which the permit is requested without harm to the animal(s) or material detriment to the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site.~~

~~(3) That there shall be no more than one (1) animal on lots less than fifteen thousand (15,000) square feet in size and that a maximum of two (2) animals may be permitted on lots over fifteen thousand (15,000) square feet in size.~~

- ~~(4) — That lots containing domesticated livestock shall have a solid, impenetrable fence or wall in accordance with the provisions of Section 9.05.120.~~
- ~~(5) — That domesticated livestock shall be spayed or neutered and continuously registered with an applicable, nationally recognized animal association or organization.~~
- ~~(e) — Location. Structures for the keeping of animals overnight (i.e. pens, cages, aviaries, corrals, stables, etc.) excepting dog houses or rabbit hutches, other than inside the subject residence are not permitted:

 - ~~(1) — Within twenty five (25) feet of any adjoining existing residential structure, or any area where a residential structure may be legally located if no residential structure exists; or~~
 - ~~(2) — Within any required front yard setback area. —~~~~
- ~~(d) — Prohibited Uses. The following animal related uses are prohibited in residential districts:

 - ~~(1) — The keeping of livestock (as defined in Section 9.75.120), poultry or bees;~~
 - ~~(2) — The keeping of more than six (6) animals over the age of four (4) months;~~
 - ~~(3) — Kennels, unless approved in accordance with a use agreement and animal permit pursuant to subsection (a) above;~~
 - ~~(4) — Grooming parlors; or~~~~
- (a) Animals. Animals as defined in Chapter 10.01.010 of the City's Municipal Code are allowed in residential districts subject to requirements and standards specified in Title 10 of the Municipal Code.
- (b) Poultry. Poultry as defined in Chapter 10.13 of the City's Municipal Code are allowed in all single-family residential districts. Requirements and standards for poultry in single-family residential districts are stipulated in Chapter 10.13.
- (c) Prohibited Uses. The following animal related uses are prohibited in residential districts:
 - (1) Commercial breeding and sales of animals.

Chapter 9.75 – DEFINITIONS AND ILLUSTRATION OF TERMS

Section 9.75.110 –“K” Definitions

~~Kennel — See Section 9.75.270. —~~

Section 9.75.120 –“L” Definitions

Land Use Decision — a discretionary decision of the City, including the issuance of a land use permit or a conditional use permit, the granting of a variance, the subdivision of property, and the modification of existing property lines pursuant to the Government Code. A land use decision also means a discretionary decision of the City concerning hazardous waste facility project pursuant to the Health and Safety Code.

Land Use Plan, Coastal — the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the City of Dana Point General Plan. (Coastal Act/30108.5).

Landscape Coverage — the percentage of the net lot area, excluding the area of the parking lot, which is covered by landscaping as seen from a plan view.

Landscaping Plan — a plan which indicates the type, size and location of vegetative and accent material proposed for the covering of all areas of a site not covered by a building, including all irrigation and other devices necessary to maintain such landscaping.

Landscaping — areas devoted to or developed and maintained primarily with native or exotic plant materials including lawn, ground cover, trees, shrubs, and other plant materials. Landscaping may also include small amounts of accessory decorative outdoor landscape elements such as ponds, fountains, and paved or decorated surfaces, (excluding driveways, parking, loading, or storage areas), and sculptural elements, all of which are suitably designed, selected, installed, and maintained to enhance a site.

Lateral Access — (See “Coastal Access, Lateral”). (Coastal).

Level of Service (LOS) — a measure of the operational quality of a road or intersection ranging from LOS A (best) to LOS F (worst).

Livestock — any animal in the bovine (cow), caprine, (goat), equine, (horse), ovine (sheep), or porcine (pig) families.

~~Livestock, Domesticated — any animal that requires an animal permit from the applicable animal control agency and can be reasonably kept in a residential environment without damage to the health, safety or welfare of adjacent property owners. Domesticated livestock require continuous registration with a nationally recognized association or organization. A list of approved domesticated livestock shall be kept by the Director of Community Development.~~

Loading Space — an off-street space or berth which is on the same lot as the building(s) it services, abuts a street, alley, or other appropriate means of access, and is used for the temporary parking of a commercial vehicle which is being loaded or unloaded with merchandise, materials or people.

Local Coastal Program (LCP) — a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of the California Coastal Act of 1976 (as amended) at the local level. The Local Coastal Program for the City of Dana Point is comprised of the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the General Plan, the Zoning Code, the Dana Point Specific Plan/Local Coastal Program, and the Capistrano Beach Specific Plan/Local Coastal Program. (Coastal Act/30108.6).

Locker Facilities — an area containing enclosures that can be locked for storage of clothing and valuables in conjunction with shower facilities.

Lot — land which abuts at least one public street or any numbered or otherwise designated parcel of land which is shown on: (1) a recorded tract map, (2) a record of survey map recorded pursuant to an approved division of land, or (3) a parcel map.

Lot, Corner — a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, Cul-de-Sac — a lot located at any position on the circular portion of a cul-de-sac street.

Lot, Flag — a lot having access to a street by means of a private driveway access easement, or parcel of land not meeting the requirements of this Code for lot width, but having a dimension of at least twenty (20) feet at its narrowest point.

Lot, Interior — a lot other than a corner lot.

Lot, Key — the first interior lot to the rear of a reversed corner lot which is not separated therefrom by an alley.

Lot, Reversed Corner — a corner lot in which the rear lot line abuts the side lot line of the nearest lot to its rear.

Lot, Substandard — any lot which does not meet the minimum dimensions required by this Code. The area of any easement which restricts the normal usage of the lot may be included.

Lot, Through — a lot which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot Coverage — the maximum percentage of the net lot area which is covered by all the buildings on a lot as seen from a plan view.

Lot Depth — the average linear measurement between the front and rear lot lines when measured at 90 degree angles from the front lot line.

Lot Line — the lines bounding a lot as defined herein.

Lot Line, Exterior Side — a side lot line adjacent to a street.

Lot Line, Front — the line separating the narrowest street frontage of the lot from the street right-of-way.

Lot Line, Interior Side — a side lot line not adjacent to a street.

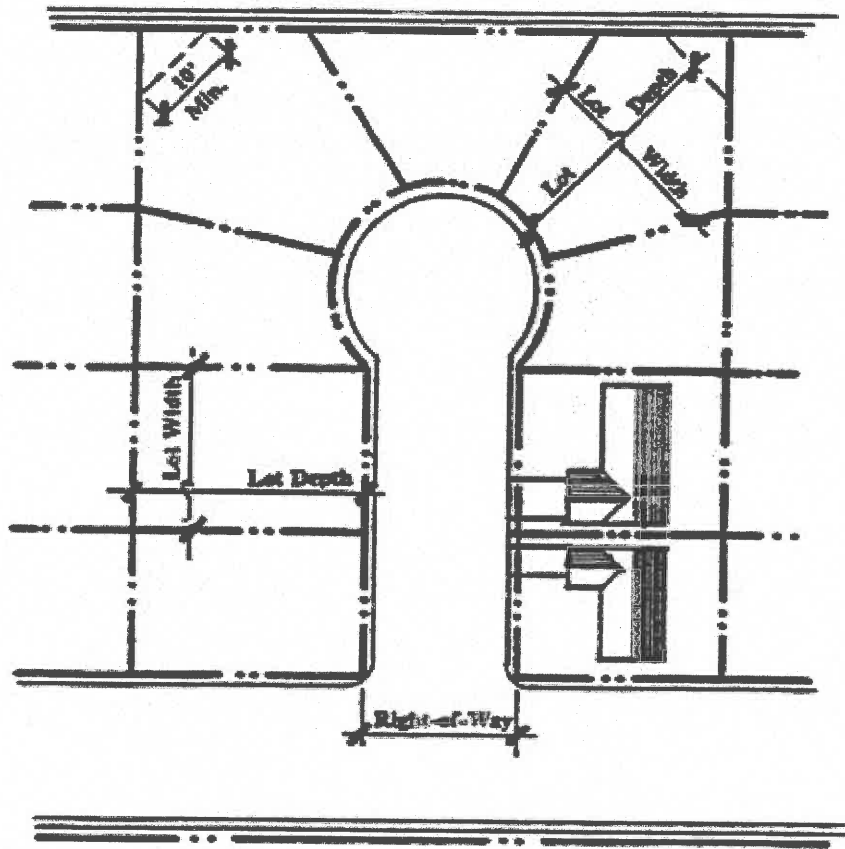
Lot Line, Rear — the lot line opposite and most distant the front lot line; or in the case of an irregularly shaped lot, a straight line not less than ten (10) feet long, within the lot, and most nearly parallel to and at the maximum distance from the front lot line.

Lot Line, Side — any lot lines other than the front or rear lot lines.

Lot Merger — the joining of two or more contiguous parcels of land under one ownership into one parcel pursuant to the Subdivision Map Act.

Lot Width — the average linear distance between side lot lines when measured parallel to the front lot line.

Lowest Floor — the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Chapter 9.31.



Section 9.75.160 – “P” Definitions and Illustrations

Parapet — the extension of the main walls of a building above the roof level.

Parcel — an area of land under one ownership that has been legally subdivided, has a Certificate of Compliance or was combined in accordance with the Subdivision Map Act and which is shown as a single parcel on the latest equalized assessment roll.

Parcel Map — an instrument, processed in compliance with the Subdivision Map Act, for subdividing property into four (4) or less parcels, condominiums, a community apartment project with four (4) or less units or to convert a dwelling to a stock cooperative containing four (4) or less dwelling units. A parcel map may also be used to create more than four (4) lots where (1) the land before division contains less than five (5) acres, each parcel created abuts a public street and no dedications or improvements are required; (2) each parcel created has a gross area of more than 20 acres or more with approved access to a public street; (3) the land to be subdivided has access to a public street, is zoned for industrial or commercial development and has previous

approvals with regard to street widths and alignments; or (4) each parcel created has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

Parking Area, Private — an area, other than a street, designed for the parking of vehicles and available for general public use, whether free or for a fee.

Parking Area, Public — an area, other than a private parking area or street, used for the parking of vehicles and available for general public use, either free or for a fee.

Parking Stall — a permanent area for the parking of one motor vehicle which meets the minimum dimension and access requirements as established by the City.

Parking Stall, Off-Street — a permanent parking space which is not located on a dedicated street right-of-way.

Parking Stall, On-Street — a permanent parking space which is located on a dedicated street right-of-way.

Parking Structure — a structure that is designed and built for the purpose of providing off-street parking stalls with single or multiple levels which may include secondary uses such as storage, walkways, stairways, elevator shafts, mechanical or electrical equipment rooms and parking management facilities.

Parking, Subterranean or Underground — a parking structure that is built with a maximum of four (4) feet above the exterior finished grade provided that the four (4) feet is included in the structure's building height measurement.

Park, Public — see Section 9.75.270.

Parkway — the area of a public right-of-way that lies between the curb of a street and the adjacent property line or physical boundary definition such as fences or walls, which is used for landscaping and/or passive recreational purposes.

Peak-Period — those hours of the business day between 6 a.m. and 10 a.m., and 4 p.m. to 7 p.m. inclusive, Monday through Friday.

Permit — written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

Permitted Use — a use listed by the provisions of any particular district as a permitted use within that district and permitted therein as a matter of right when conducted in accord with the regulations established by the Code.

Person — any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, State of California, and its political subdivisions or instrumentalities, receiver, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver or assignee.

Phase — any independent and contiguous part or portion of a project which is developed as a unit in the same time period.

Pilaster — an upright architectural member that is structurally a pier, but architecturally is treated as a column.

Plat — a map representing a tract of land, showing the boundaries and location of individual properties and streets.

Police Power — the authority of government to exercise controls to protect the public health, safety, morals, and general welfare.

Porch — a covered pedestrian entrance to a building which is located on the first floor level.

Porte Cochere — a roofed structure open on at least two sides, through which a motor vehicle may be driven and which is attached to a principal building by a continuous roof leading to the principal entrance.

~~Poultry — any domesticated bird which can be kept or raised for eggs or meat.~~

Premises — a lot or building site, or a specified portion of a lot or building site, that meets the requirements needed for the location, maintenance and operation of a use on the property.

Principal Use — a use that constitutes the primary function of a household, building, structure, establishment, or property.

Property Owner — The legal owner of a parcel of real property.

Public Access Structures — structures, including but not limited to, stairways, ramps, and bike paths, which provide the general public access to the coast.

Public Lifeguard Towers — structures owned and operated by a public agency and used as an observation platform/shelter by a certified lifeguard employed to safeguard swimmers at a beach or pool.

Public Piers — a platform available for use by the general public, extending from a shore over water and supported by piles or pillars, which may be used to secure, protect and provide access to ships, boats, fishing opportunity, or commercial activities.

Public/Private Local Telecommunication Systems — local wireless telecommunication systems that are utilized only by local businesses, public agencies, utility services and emergency services, not including licensed commercial wireless telecommunication services.

Public Restrooms — a lavatory available for use by the general public.

Public Trust Lands — all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation and other public purposes. Public Trust lands include tidelands, submerged lands, beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(f)).

Public Vantage Point — any publicly accessible location on dedicated or publicly owned property, including but not limited to roadways, parks, and cultural or recreational facilities, which affords a view of the ocean, a coastal lagoon, a canyon or hillside area, or any other open space area identified in an adopted community plan. (Coastal)

Public Works — includes the following:

- (1) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities.
- (2) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.
- (3) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.
- (4) All community college facilities. (Coastal Act/30114).

Section 9.75.270 – Definitions of Use

~~Kennel — shall mean any lot or property where four or more dogs, cats, or other small animals over the age of four months are kept, whether such keeping is for pleasure, profit, breeding, or exhibiting, including places where said animals are boarded, kept, bred, or trained.~~

Title 10 – ANIMAL CONTROL, WELFARE AND LICENSING REQUIREMENTS

Chapter 10.01- GENERAL PROVISIONS

Section 10.01.010 – Definitions

As used in this Title:

“Adoption fee” means any compensation or monetary exchange for the purpose of taking ownership or custody of an animal.

“Animal” means any vertebrate creature, domestic or wild, including, but not limited to, birds, fishes, reptiles and nonhuman mammals.

“Animal menagerie” means a place where wild and/or exotic animals are kept or maintained for any commercial purposes.

“Animal services officer” means any person designated by the General Manager of the Authority as a law enforcement officer who is qualified to perform such duties under the laws of this State.

“Animal shelter” means any facility operated by the cities served by the Authority or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Title or State law.

“Approved rabies vaccine” means a vaccine which is approved for use in the animal concerned by the California Department of Health.

“Approved research institution” means a college, hospital, university or research laboratory conducting research under humane conditions, if the General Manager so finds and certifies in writing.

At large. A dog or cat shall be deemed to be “at large” when off the property of the owner and not under restraint.

“Auction” means any place or facility where animals (excluding dogs and cats) are regularly bought, sold or traded, except for those facilities otherwise defined in this Title. This definition does not apply to individual sales of animals by owners.

“Authority” means the person or persons designated to enforce the provisions of this Title. The Authority refers to the Coastal Animal Services Authority.

“Birth control measures” means the surgical alteration of female and male cats and dogs, popularly referred to as spaying and neutering; utilization of approved mechanical birth control devices, such as intrauterine devices; chemical birth control agents as approved by the Southern California Veterinary Medical Association.

“Board of Directors” means the policy-making body for the Authority consisting of elected officials from each jurisdiction served by the Authority and support staff.

“Care and Evaluation Committee” means an advisory committee to the General Manager or the Authority, whose purpose is to make recommendations to improve the quality of life and future well-being of animals.

“Cat” means and includes domesticated members of the species *Felis Catus*. This definition excludes other members of the family *Felidae*.

“Charitable auction” means any and all auctions carried out by a charitable organization for the purpose of fundraising.

“Charitable organization” means a non-profit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization.

“Circus” means a commercial variety show featuring animal acts for public entertainment.

“Coastal Animal Services Authority” or “CASA” means a joint powers authority created to facilitate the animal control, welfare, and licensing requirements of the cities served.

“Commercial” means operated or carried on primarily for financial gain.

“Commercial animal establishment” means any pet shop, commercial animal rescue shop, grooming parlor, animal auction, animal dealer who operates for profit, riding school or stable, zoological park, circus, performing animal exhibition, commercial kennel/cattery, or animal shelter.

“Commercial animal exhibition” means any display containing one (1) or more animals which are exposed to public view for entertainment, instruction or advertisement, excluding fairs, livestock shows, rodeos, purebred dog and pedigree cat shows, obedience trials and competitions, field trials, and any other fair or exhibition intended to advance agricultural arts and sciences.

“Commercial animal rescue shop” means a commercial establishment that offers dogs and/or cats for a non-profit adoption fee, and such dogs and/or cats are made available to the establishment by non-profit humane societies, animal shelters, bona fide animal rescue organizations, or the San Clemente-Dana Point Animal Shelter.

“Commercial breeder” means an owner/lessor/breeder of dogs and cats who is licensed to breed animals for resale, individually or in litter lots, whether any of these animals are also kept for personal use.

“Commercial exhibitor” means any person exhibiting any animals to the public for compensation, such term including carnivals, circuses and animal acts exhibiting such animals whether operated for profit or not.

“Commercial kennel/cattery” means any person maintaining, for profit, an establishment where animals of any species are kept for the purpose of breeding, grooming, boarding, or exhibiting such animals; or selling animals of any species (excluding dogs and cats); or engaged in the training of dogs.

“Dangerous animals” means any animal of a species which presents a threat to the safety of persons or property, as determined by the General Manager.

“Dealer” means any person who, for compensation or profit, buys for resale any animals (excluding dogs and cats), whether alive or dead, for research, experimentation, testing or exhibition (except as an exhibitor as herein described) or for use as pets.

“Dog” means and includes domesticated members of the species *Canis Familiaris*. This definition excludes other members of the family *Canidae*.

“Enclosed space” means a space other than a motor vehicle enclosed by four (4) walls of such dimensions that the animal could not escape the enclosure.

“Euthanasia” means the humane death of an animal brought about by an authorized person and by a method approved by the Authority and the local veterinary doctors.

“Garbage” means any waste consisting in whole or in part of animal wastes resulting from the handling, preparing, cooking and consuming of food, including the offal from animal carcasses or parts thereof.

“General Manager” means the individual serving as the director of the Authority.

“Grooming parlor” means any place where animals are groomed, clipped, bathed, or otherwise conditioned as pets and/or for show in exchange for a fee

except as a service offered by commercial or service kennel and cattery, or by a licensed veterinary hospital.

“Guard dog (sentry dog)” means any dog utilized, on a commercial basis, to guard any property within the cities served by the Authority, including guarding against fire or theft or both.

“Guide dog” means a properly trained dog certified by a licensed guide (Seeing Eye) dog agency and actually being used by a blind person.

“Horse stable” means any location where three (3) or more horses are maintained for any purpose.

“Humane society” means any nonprofit organization existing for the purpose of prevention of cruelty to animals, incorporated under the laws of any U.S. State.

“Impounded” means having been received into the custody of any animal shelter, or into the custody of the General Manager or authorized agent or deputy.

“Infectious disease” means any infectious, contagious or communicable disease sufficiently dangerous to the public health or to the health of animals within the cities served by the Authority to warrant putting into effect the provisions of this Title and any rules or regulations adopted pursuant thereto.

“Kennel” means any premises wherein any person engages in the business of boarding, breeding, letting for hire, or training for a fee, animals of any species; or buying and/or selling animals of any species (excluding dogs and cats).

“Kitten” means any *Felis Catus* under four (4) months of age.

“License” means a fee collected by the Authority program for: (a) commercial establishments keeping animals; (b) commercial establishments providing services related to animals; (c) commercial establishments selling domestic or nondomestic animals (excluding dogs and cats); and (d) individual household pets.

“Licensing authority” means the General Manager of the Authority or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this Chapter.

“Livestock” means any domesticated animals including cattle, horses, ponies, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, confined and domesticated hares and rabbits, ~~poultry~~, and equines which are kept in captivity or under the control or ownership of any person for any purpose.

“Neutered” means rendered permanently incapable of reproduction. To be acceptable, the neutering must be certified to by a licensed veterinarian.

“Nuisance” means a condition in which an animal: damages, soils, defiles or defecates on private property other than the owner’s or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous or offensive conditions; causes a disturbance by excessive barking if confirmed by three (3) independent witnesses, or other noise making; or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

“Operator” means the legal owner or person in actual control of any activity involving animals.

“Owner” means the actual custodian of an animal, whether or not that person is the legal owner, the caretaker, or merely the possessor of an animal. Legal ownership is established by a person being registered as the owner on a license or other legal document.

“Performing animal exhibition” means any spectacle, display, act or event other than circuses, in which performing animals are used.

“Permit” means an authorization from the Authority or any city served by the Authority, stipulating conditions under which nondomesticated animals may be kept in commercial and private establishments.

“Person” means any individual or business, partnership, firm, joint stock company, corporation, association, society, trust, estate, other legal entity, and every officer, agent or employee thereof who own, harbor, or keep animals within the cities served by the Authority.

“Pest breeding hazard” means the accumulation, existence or maintenance of any substance, matter, material or condition resulting in the breeding of flies, cockroaches, rats or other insects or rodents in an amount or manner such as to endanger public health or safety, or to create unreasonable interference with the comfortable enjoyment and use of life and property by others.

“Pet” means any animal kept for pleasure rather than utility.

“Pet shop” means any person, partnership or corporation, whether operated separately or in connection with another business enterprise, that buys for resale and sells at retail, any species of animal (excluding dogs and cats) bred by others, whether as owner, agent, or on consignment, and that sells or offers to sell to the general public at retail.

"Poultry" means all-domesticated fowl, exclusively chicks or chickens and all game bird which are held in captivity. Poultry does not include wild game birds such as grouse, partridge, pheasants, quail, peacocks or other domestic fowl such as turkeys, geese, guinea fowl, pea fowl, pigeons, squabs, doves, or ducks.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, coop, compartment or hutch.

"Private animal owner" means a person having bred, adopted or purchased a dog, cat or other animal permitted by this Title, for his or her personal use and enjoyment, and who keeps or maintains said animal within the cities served by the Authority for a period of more than seven (7) days.

"Private animal refuge" means owners and harborers of unwanted animals of any species, including cross-breeds, who provide food, shelter, confinement, licensing, and spaying/neutering for a group of animals.

"Private breeder" means a dog or cat owner/fancier who breeds an occasional litter of purebred animals for his or her personal use and enjoyment, from animals personally owned or leased for the breeding, who neither sells the resultant offspring for resale to commercial outlets, nor for purposes of research, testing or laboratory experimentation.

"Private exhibitor" means any organization sponsoring and all persons participating in fairs, livestock shows, rodeos, purebred dog and cat shows, obedience trials, field trials, and any other fairs or exhibitions intended to advance agricultural arts and sciences.

"Private kennel/cattery" means the home and premises of a person who owns four (4) or more dogs and/or cats that are four (4) months of age or older for the pleasure and enjoyment of the owner.

"Public nuisance" means any animal or animals which (a) molests passersby or passing vehicles; (b) attacks other animals; (c) trespasses on school grounds; (d) is repeatedly at large; (e) damages private or public property; or (f) barks, whines or howls in an excessive, continuous or untimely fashion.

"Puppy" means any Canis Familiaris under four (4) months of age.

"Quarantine" means the strict confinement of an animal upon the premises of the owner or elsewhere as approved by the General Manager.

"Registration" means the method of identifying animals through an identification number at the animal shelter. It shall not be the same as a license.

Restraint. A dog or cat shall be considered under "restraint" if it is within the real property limits of its owner or secured by a leash or lead or under the control of a responsible person.

"Riding school or stable" means any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro.

"Run" means floor or surface and cage, exclusive of the sleeping box, used to continually contain or maintain dogs or cats.

"Spayed" means rendered permanently incapable of reproduction. To be acceptable, the spaying must be certified to by a licensed veterinarian.

"Stockyard" means any stockyard, corral or premises wherein public trading in livestock is carried on, or where yarding, feeding and watering facilities are provided and where federal, state or local inspection is maintained for the inspection of livestock for infectious diseases.

"Unaltered" means an animal which has not been spayed or neutered.

"Veterinarian" means a veterinarian with a valid license to practice veterinary medicine, dentistry and surgery, issued by the Board of Examination Veterinarian Medicine of the State of California.

"Veterinary medical facility" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

"Vicious animal" means any animal or animals that constitute a physical threat to human beings or other animals. An animal is "known to be vicious" when said animal has previously attacked either a person engaged in a lawful activity or another animal and such attack causes an injury involving a breaking of the skin, when that animal has caused a person of reasonable sensitivities, engaged in a lawful activity to believe that he or she or a domestic animal in his or her custody and under proper restraint are in imminent danger of great bodily harm, or when that animal has been declared to be vicious pursuant to the provisions of this Title.

"Vivisection" means the cutting of or operation on a living animal usually for physiological or pathological investigations.

"Wild/exotic animals" means animals which are being kept for exhibition purposes or as private pets including monkeys, raccoons, skunks, fox, snakes, leopards, panthers, tigers, lions, birds or any other warm-blooded animal which can normally be found in the wild state.

"Zoo" means a collection of living animals for public display.

“Zoological park” means any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of nondomesticated animals operated by a person, partnership, corporation or government agency. (Ord. 96-01, 1/9/96; amended by Ord. 12-01, 1/31/12; Ord. 12-02, 1/31/12)

Title 10 – ANIMAL CONTROL, WELFARE AND LICENSING REQUIREMENTS

Chapter 10.06 – ANIMALS AT LARGE

Chapter 10.06.010 – Keeping Animals Near Residences

It is unlawful for any person to keep or maintain on his or her premises or premises leased or occupied any animals, birds, fish, mammals or reptiles within one hundred (100) feet of any other family residence, his or her own not included, except as follows: (a) if expressly allowed by the Zoning Code Municipal Code in the jurisdictions served by the Authority; (b) poultry as specified in Chapter 10.13 (b) (c) domestic pets, including dogs, cats, caged birds, fish aquariums or other similar household pets; ~~(e)~~ (d) the use shall be deemed commercial if more than three (3) adult dogs, cats or other similar household pets are maintained on one (1) property. Animals shall be deemed adults at four (4) months of age. (Ord. 96-01, 1/9/96)

Chapter 10.08- HUMANE TREATMENT

Section 10.08.080 – Sale as Novelty Prohibited

It is unlawful for any unlicensed business or person to display, sell, offer for sale, barter or give away any rabbits, baby chicks, ducklings or other poultry or fowl: (a) as pets or novelties, whether or not dyed, colored or otherwise artificially treated; (b) which have been dyed, colored, or otherwise treated so as to impart to them an artificial color; (c) under two (2) months of age in any quantity less than six (6); (d) unless such person provides proper brooder facilities for the care of such fowl during the time they are in possession of such person. This Section shall not be construed to prohibit the display or sale of rabbits, natural chicks, ducklings, or other fowl in proper facilities by dealers, hatcheries, or stores engaged in the business of selling the same to be raised for food purposes. (Ord. 96-01, 1/9/96)

Title 10 – ANIMAL CONTROL, WELFARE AND LICENSING REQUIREMENTS

Chapter 10.13 – Poultry

Sections:

- 10.13.10 Residential Animal Permit**
- 10.13.11 Number of Hens Allowed**
- 10.13.12 Setbacks**
- 10.13.13 Enclosure**

- 10.13.14 Sanitation
- 10.13.15 Slaughtering
- 10.13.16 Roosters

10.13.10 Residential Animal Permit

- (1) A residential animal permit shall be required for the keeping of poultry in all single-family residential districts. Said permit shall be issued by the local animal services agency serving Dana Point. All residential animal permits shall comply with the regulations listed in Sections 10.13.11-10.13.16.
- (2) An application for a residential animal permit shall be submitted that contains the following information:
 - (a) The name, phone number, mailing address and e-mail address of the applicant.
 - (b) The size and location of the property.
 - (c) A detailed site plan that includes property lines, dwelling or other habitable structure, proposed location of coop or cage to house the hens, etc.
 - (d) A written proposal containing the number of poultry the applicant seeks to keep on the property and a description of any coops or cages outdoor enclosures in relation to property lines and adjacent properties.
- (3) Prior to issuance of a residential animal permit, a detailed site plan as specified in 2(c) and a written proposal as specified in 2(d) shall be submitted to the Community Development Department/Planning Division for review and approval.
- (4) Following the review and approval of the site plan and written proposal by the Community Development Department/Planning Division, the property owner shall take approved plan to the local animal services agency where the residential animal permit will be issued.
- (5) Any authorized animal services agency employee may inspect the premises for which an application has been granted for a residential animal permit.
- (6) A residential animal permit shall be revoked when it is found, based upon the preponderance of evidence, that any of the following has occurred:

- (a) Failure to comply with the maximum number of poultry allowed, required setback from the door or window of an adjacent occupied structure or coop, cage or enclosure requirements.
- (b) Inhumane and/or cruel treatment of one or more hens.
- (c) Attraction of an inordinate number of rats, mice, flies or other vermin.
- (d) Violation of noise and/or nuisance ordinances.
- (e) Violation of health and/or sanitation code.
- (f) False statements on the residential animal permit form.

10.13.11 Number of Hens Allowed

No more than six (6) hens shall be allowed for each single-family dwelling. Hens shall only be permitted in single-family residential districts.

10.13.12 Setbacks

Coops or cages housing poultry shall be kept at least thirty-five (35) feet from the door or window of any dwelling or occupied structure other than the owner's dwelling. Coops or cages shall not be located within five (5) feet of the side or rear property line. Coops or cages shall not be located in the front yard.

10.13.13 Enclosure

Hens shall be provided with a covered, predator-proof coop or cage that is well-ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property and to prevent predators from access to the birds. Hens shall not be allowed out of these enclosures unless a responsible individual, over 18 years of age, is directly monitoring the hens and able to immediately return the hens to the cage or coop if necessary.

10.13.14 Sanitation

The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure shall be cleaned on a regular basis to prevent the accumulation of waste.

10.13.15 Slaughtering

There shall be no outdoor slaughtering of poultry.


10.13.16 Roosters

Roosters – It is unlawful for any person to keep roosters.

DRAFT

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

DATE: DECEMBER 8, 2014

TO: DANA POINT PLANNING COMMISSION 

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: A NEGATIVE DECLARATION, ZONE TEXT AMENDMENT ZTA14-0001, AND LOCAL COASTAL PROGRAM AMENDMENT LCPA14-0001 TO AMEND THE CITY'S ZONING ORDINANCE TO ALLOW POULTRY IN ALL SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS.

RECOMMENDATION: That the Planning Commission takes one of the following actions:

1. Adopt Resolution No. 14-12-08-XX recommending that the City Council adopt a Negative Declaration for the Zone Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) and Adopt Resolution No. 14-12-08-XX recommending that the City Council amend the City's Zoning Ordinance for the allowance of poultry in all single family residential districts.

OR

2. Make a motion to not recommend approval to the City Council for the Zone Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) to amend the City's Zoning Ordinance for the allowance of poultry in all single family residential districts.

APPLICANT: City of Dana Point

REQUEST: Request for approval and adoption of a Negative Declaration, Zone Text Amendment ZTA14-0001 and Local Coastal Program Amendment LCPA14-0001 to amend the City's Zoning Ordinance to allow poultry in all single family residential districts.

LOCATION: Citywide

NOTICE: A Notice of Intent to adopt a Negative Declaration and a public hearing was published in the Orange County Register on November 14, 2014, and was mailed to the County of Orange, County Clerk's office. It was also posted at the Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, the Dana Point Library, and the City's web site. This notice was also mailed to the "interest list" for this

ATTACHMENT #3

CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES

FILE COPY

December 8, 2014
6:02 – 8:42 p.m.

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Commissioner Denton stated that the location is the most unique piece of land in Town Center and that the findings to allow a variance for both curb cuts are appropriate.

Vice-Chairwoman O'Connor agreed with Commissioner Denton.

ACTION: Motion made (Whittaker) and seconded (Denton) to adopt Resolution No. 14-12-08-42 approving Coastal Development Permit CDP14-0014, Variance V14-0002, Site Development Permit SDP14-0017 and Minor Conditional Use Permit CUP14-0004(M) to allow the demolition of an existing boat storage facility and the construction of a new, single-story, 4,900 square foot commercial structure at 34215 Pacific Coast Highway (PCH) within the City's Town Center/Lantern District. Variances are requested to locate on-grade parking within the first 40 feet of frontage as well as to permit driveways from PCH and Del Prado Streets; a Minor Conditional Use Permit is requested to allow the establishment of a new bank use. Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Whittaker NOES: None ABSENT: Newkirk ABSTAIN: None)

ITEM 6:

A Negative Declaration, Zone Text Amendment ZTA14-0001, and Local Coastal Program Amendment LCPA14-0001 to amend the City's Zoning Ordinance to allow poultry in all single family residential zoning districts.

Project Applicant: City of Dana Point
Location: Citywide

Request: Request for approval and adoption of a Negative Declaration, Zone Text Amendment ZTA14-0001 and Local Coastal Program Amendment LCPA14-0001 to amend the City's Zoning Ordinance to allow poultry in all single family residential districts.

Environmental: The City conducted an environmental review of the proposed project pursuant to the provisions of the California Environmental Quality Act (CEQA). As a result of that review, a Negative Declaration (ND) was issued for the project with the accompanying initial study. The ND was circulated for a twenty day public review period from November 14, 2014 to December 3, 2014. At the end of the comment period, the City received a total of ten (10) written comments.

The ND, its accompanying initial study and the comment letters are attached to this report as Exhibits 6 and 7.

ATTACHMENT #4

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

December 8, 2014
6:02 – 8:42 p.m.

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Recommendation: That the Planning Commission takes one of the following actions:

1. Adopt Resolution No. 14-12-08-XX recommending that the City Council adopt a Negative Declaration for the Zone Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) and Adopt Resolution No. 14-12-08-XX recommending that the City Council amend the City's Zoning Ordinance for the allowance of poultry in all single family residential districts.

OR

2. Make a motion to not recommend approval to the City Council for the Zone Text Amendment (ZTA14-0001) and Local Coastal Program Amendment (LCPA14-0001) to amend the City's Zoning Ordinance for the allowance of poultry in all single family residential districts.

Erica Demkowicz (Senior Planner) presented the staff report.

Chairwoman Claus opened the Public Hearing.

Nancy F. Weagley (Capistrano Beach) spoke in support of the request stating that she is represented by hundreds who signed a petition to keep chickens.

Karen George (Capistrano Beach) spoke against the request because of noise problems.

Chad George (Capistrano Beach) spoke against the request because of inadequate living space of chickens.

Nancy Rohr (Capistrano Beach) spoke in favor of the request stating that she allowed her neighbor to move chickens closer to her adjacent property.

John Pierini (Capistrano Beach) stated that allowing chickens within the five foot setback is acceptable.

Phillip Alan Duke (Capistrano Beach) spoke in favor of the request stating that chickens are like pets.

Chairwoman Claus closed the Public Hearing.

CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES

December 8, 2014
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Vice-Chairwoman O'Connor stated that she has concerns with allowing chickens in residential areas.

Commissioner Whittaker stated that she is not opposed to allowing chickens in residential districts, but she is not open to other poultry (such as geese). She expressed concerns related to bird type and number allowed. She requested additional information on the rules implemented by neighboring jurisdictions that allow chickens. As it is written, she would not support the ordinance.

Commissioner Denton also expressed concerns about the definition of poultry being too broad and would like it revised to limit type of birds and was interested in further discussion on what the appropriate setback should be.

Ursula Luna-Reynosa (Director) suggested continuing the item for staff to return with modifications to include more specificity.

ACTION: Motion made (Whittaker) and seconded (Denton) to continue and re-open the Public Hearing to the meeting of February 9, 2015. Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Whittaker, NOES: None ABSENT: Newkirk ABSTAIN: None)

E. OLD BUSINESS

There was no Old Business.

F. NEW BUSINESS

There was no New Business.

G. STAFF REPORTS

There were no Staff Reports.

To: Erica Demkowicz (Senior Planner)

From: John Pierini

Regarding: Poultry (setback)

Date: 2/3/15

RECEIVED

FEB - 3 2015

**CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT**

Dear Erica,

Erica would you please share this letter with anyone who might be directly involved in the decision making process regarding poultry in residential areas of Dana Point.

I'm suggesting that the staff/planning commission consider an exception to the five foot property line setback requirement for those families directly involved.

My neighbor and I share a property line in the end area of our yards where it makes total sense for a coop far away from any structures. However, the way the ordinance may be written would prohibit the coop within five feet of the fence. We (my neighbor and I) would have no issues with locating the coop on the fence line well beyond the 35 foot recommended coop to dwelling setback. With neighbors like us willing to share the property line within the five foot setback for a coop, we would appreciate an exception process.

Thank You,

John Pierini

33091 Daniel Drive

Dana Point

Cell# 949-683-3926

ATTACHMENT #5

Ann Worthington
34691 Camino Capistrano
Capistrano Beach, CA 92624
(949) 496-1738

December 26, 2014

RECEIVED

JAN -7 2015

**CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT**

Dana Point Planning Commission
33282 Golden Lantern
Dana Point, CA 92629
uluna@danapoint.org

Re: Hens in Dana Point

Dear Madam Chairwoman and Commissioners:

After listening to the ongoing debate about whether people in Dana Point should be permitted to keep hens in residential neighborhoods, I felt the need to add my opinion. I have lived in Dana Point for 19 years, very happily without seeing, hearing, or smelling chickens. If I want brown, organic, free range, grain fed, or grass fed hen eggs, I simply visit the grocery store.

Our town is a rather dense residential area, not rural countryside, and I think it's perfectly acceptable to maintain the status quo and prohibit the keeping of farm animals in our neighborhoods. I personally do not want to live next door to anyone who keeps a chicken coop because of the constant noise and smell from the animals. Keeping these animals on the farm and not in our backyard goes a long way to promoting happy neighbors and maintaining high property values.

Please, no hens in Dana Point.

Sincerely



Ann Worthington

cc: Norman Denton III

April O'Connor

Gary Newkirk

Susan Whittaker

Carlyn K. W. Nelson
64 Saint Michael
Dana Point, CA 92629

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT DEPT

2015 JAN -5 P 2:34

January 2, 2015

Dana Point Planning Commission
City of Dana Point
33282 Golden Lantern
Dana Point, California 92629

Commissioners: Liz Claus, Chairwoman; April O'Connor, Vice Chairwoman;
Norman Denton III, Gary Newkirk, Susan Whittaker

This letter addresses the permitting of chickens and other poultry in the City of Dana Point. We oppose the sanctioning of "backyard poultry farming" for the following reasons:

- Predators. Already coyotes have been roaming the city. We have seen many raccoons and opossum in our yard. Rats have also been an issue. All of these are poultry predators.
- Cleanliness and health standards. While some residents might be "good" chicken farmers, others may not. Case in point-- Our house backs up against the neighborhood across Golden Lantern from City Hall. About a year ago, the residents behind us kept chickens and possibly a rooster, as suggested by the crowing and clucking at all hours. Some were often loose and wandered the unkempt yard.
- Abandonment. Many persons don't realize that the reproductive egg laying period for a hen is two years, but the hen can live for ten years. What happens when the fad wears off and there are no eggs? Where do the chickens go then?
- Policing. Will the City have to hire a Chicken Cop? Will I, as a resident, have to report the chicken noise, odor, or some other violation?

Hen keeping is a fad. It would be best for Dana Point to retain current restrictions and not fall under the spell of fanciful thinking. We speak for many in our neighborhood when we adamantly oppose keeping poultry in our urban environment.

Below are listed just a few web site articles with excerpts supporting reasons for our opposition.

Sincerely,



Carlyn K. Nelson

Websites and excerpts in opposition to urban poultry farming

<http://www.forbes.com/sites/jamesmcwilliams/2013/11/21/five-reasons-why-owning-backyard-chickens-is-for-the-birds/>

Forbes Magazine: 11/2013

“Somehow or other, it has become the mark of twenty-first century urban hipness to keep a bunch of birds out back. We’re mostly talking hens. Exact numbers are unavailable, but the trend has become popular enough for dozens of major cities to revise their animal ordinances, thereby opening the legal floodgates for the emergence of urban animal agriculture, an endeavor that most American cities legislated out of existence (primarily for health reasons) back in the nineteenth century.

Cons:

Bird abandonment when people become disenchanted.

High cost.

Some turn out to be roosters.”

<http://www.nbcnews.com/health/health-news/backyard-chickens-dumped-shelters-when-hipsters-cant-cope-critics-say-f6C10533508>

NBC News

Reports: July 2013

“Hundreds of chickens, sometimes dozens at a time, are being abandoned each year at the nation’s shelters from California to New York as some hipster farmers discover that hens lay eggs for two years, but can live for a good decade longer, and that actually raising the birds can be noisy, messy, labor-intensive and expensive.

•Health issues:

Salmonella

On August 15, 2013, the [Centers for Disease Control \(CDC\)](#) reported 316 people from 37 states were infected with *Salmonella typhimurium*, believed to be related to backyard poultry flocks. Of the 119 people with available information, 51% had been hospitalized. The majority of the sick were children 10 years of age or younger. Of those that got ill, 97% reported contact with live poultry in the week before their illness began.

•Chicken waste

Disease, odors, flies and other pests such as gnats, cockroaches, beetles, rats, in and around cages which impact neighbors.

•Predators

Coyotes, raccoons. “

https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/AVMA-Welfare-Focus-Featured-Article-April-2011.aspx?utm_source=prettyurl&utm_campaign=redirect&utm_term=urbanchickenoverview
American Veterinary Medical Association

“From the veterinary perspective, however, there are two important challenges associated with the urban chicken movement:

•Increased close contact between people and chickens increases the risk of zoonotic diseases (especially when people are uninformed), and

• Poor husbandry and poor biosecurity due to owner inexperience could lead to poor animal welfare (e.g., infectious diseases, malnutrition, behavioral issues, exposure to predators and adverse environmental conditions).”