

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	X

DATE: JULY 19, 2022

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MICHAEL KILLEBREW, CITY MANAGER
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT
PATRICK MUNOZ, CITY ATTORNEY

SUBJECT: READING OF ORDINANCE – AMENDMENT TO MUNICIPAL CODE SECTION 5.38 (SHORT-TERM RENTAL PERMITS)

RECOMMENDED ACTION:

That the City Council:

That the City Council introduce an ordinance amending Section 5.38 of the Municipal Code to create permit limitations and regulations for short-term rentals located outside of the Coastal Zone that are similar to those approved by the Council by way of Coastal Development Permit CDP22-0010 for short-term rentals within the Coastal Zone, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT CALIFORNIA, AMENDING SECTION 5.38 OF THE DANA POINT MUNICIPAL CODE TO CREATE PERMIT LIMITATIONS AND REGULATIONS FOR SHORT-TERM RENTALS LOCATED OUTSIDE OF THE COASTAL ZONE

BACKGROUND:

In response to the CDP approved last week for STRs in the Coastal Zone, the Mayor requested Staff to prepare an amendment to Chapter 5.38 to implement a similar “program” for STRs outside of the Coastal Zone, and to present it this evening for consideration for a first reading.

DISCUSSION:

The thinking is that a first reading occurs at this time, and a second reading occur after the CDP becomes final if there is no appeal, or if the Coastal Commission does not make a finding of substantial issue in the event of an appeal. Should either circumstance occur, a second reading can be scheduled to adopt the amendment to Chapter 5.38, which would then accomplish having, in essence, a uniform program throughout the City, without giving up jurisdictional control over the issue to the Coastal Commission for areas

outside the Coastal Zone. If an appeal occurs, and the Commission modifies the CDP, additional changes to the proposed ordinance could occur in the future to accomplish this.

The proposed draft is nearly identical to the CDP that was adopted, with the only meaningful substantive change applying to the cap on Non-Primary STR Permits. The proposal sets this number at 70, which when combined with the 115 permit cap in the Coastal Zone would result in a total permitted cap of 185 Citywide. The proposal, like the CDP, reduces the 70 Permit cap by one (1) each time a Home Stay, Primary Residence, or Multi Family Home Stay STR Permit is issued outside the Coastal Zone. And, like the CDP, the proposal reduces the 70 Permit cap by one (1) each time a Mixed-Use Parcel STR Permit is issued outside the Coastal Zone.

FISCAL IMPACT:

No impact.

ALTERNATIVE ACTIONS:

Other City Council directed action.

ACTION DOCUMENTS:

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A. [Ordinance 22-XX](#) 3

SUPPORTING DOCUMENTS:

None.

ACTION DOCUMENT A**ORDINANCE NO. 22-XX****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.38 OF THE DANA POINT MUNICIPAL CODE AND ESTABLISHING PERMIT LIMITATIONS FOR SHORT-TERM RENTALS LOCATED OUTSIDE OF THE CITY'S COASTAL OVERLAY ZONE**

WHEREAS, on April 2, 2013, the City Council adopted Ordinance No. 13-01 and thereby added Chapter 5.38, Short Term Rental Permits, to the Dana Point Municipal Code, and thereafter adopted Ordinance 21-02 amending Chapter 5.38 to add additional regulations and permit requirements applicable to short-term rentals (STRs) operating in the City in order to prohibit nuisance conditions that might otherwise exist in connection with such use; and

WHEREAS, the Planning Commission did, on the 9th day of May, 2022, hold a duly noticed public hearing as prescribed by law to consider a Coastal Development Permit (CDP) establishing an STR Program in the City; and

WHEREAS, at said public hearing, the Planning Commission approved Coastal Development Permit CDP22-0010; and

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

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

WHEREAS, on the 12th day of July, 2022, the City Council held a public hearing on the appeal of the Planning Commission's determination with respect to CDP22-0010, and denied the appeal by approving the CDP, but also amended the STR Program, which was part of it, including by making clear it only applied in the City's Coastal Overlay Zone; and

WHEREAS, the City Council now desires to amend Chapter 5.38 to create permit limitations for short-term rental uses outside the Coastal Overlay Zone in a manner consistent with its actions related to CDP22-0010; and

WHEREAS, since adoption of Ordinances 13-01 and 21-02 various court decisions have occurred which hold short-term rental uses are permitted as part of a residential use, unless the City's zoning specifically prohibits or regulates them, and hence the City's position at the time such Ordinances were adopted (that the City's permissive zoning scheme prohibited such uses) is no longer tenable.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the adoption of the amendments to Chapter 5.38 of the Municipal Code does not qualify as a “project” because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Alternatively, if the adoption of the amendments to Chapter 5.38 is a “project” subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by applicable case law), and the City’s adoption of the amendments to Chapter 5.38 would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council’s actions in adopting this Ordinance is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08 relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the project would have new or more severe environmental impacts, or any new or more feasible mitigation measures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Amendment to Chapter 5.38. The provisions of Chapter 5.38 of the Dana Point Municipal Code shall be amended in their entirety and replaced with the provisions of the attached Exhibit A.

SECTION 2: CEQA. the City Council finds that the amendment to Chapter 5.38 does not qualify as a “project” because it does not authorize any new construction or development in the City, and rather, only establishes regulations limiting the potential uses of certain existing residential dwelling units, and as such would not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Alternatively, if the adoption of this Ordinance is a “project” subject to CEQA, it falls within Categorical Exemption Class 1 - Section 15301 (Existing Facilities), in that the STR use is an already established residential use in the City (as determined by applicable case law), and the City’s adoption of the amendments to Chapter 5.38 would not result in intensification or expansion of that use, and rather would limit it. Further, in the event the City Council’s actions in adopting this Ordinance is not exempt, the City has satisfied its CEQA obligations and no additional review is required pursuant 14 CCR 15162, as the City has previously adopted a Mitigated Negative Declaration by Resolution 13-12-03-08 relating to short term rentals, and (a) there are no substantial changes related to the involvement or severity of any potential environmental impacts, (b) there are no substantial changes related to the circumstances under which the project is undertaken that would require major revisions to the previously approved MND, and (c) there is no new information of substantial importance showing that the

project would have new or more severe environmental impacts, or any new or more feasible mitigation measures.

SECTION 3: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

Section 4: Effective Date. This Ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED and ADOPTED this XX day of XXXX, 2022.

JOSEPH L. MULLER, MAYOR

ATTEST:

SHAYNA SHARKE, CITY CLERK

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

I, Shayna Sharke, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 22-XX was duly introduced at a regular meeting of the City Council on the 19th day of July 2022, and was duly adopted and passed at a regular meeting of the City Council on the XX day of XX, 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

SHAYNA SHARKE, CITY CLERK

Exhibit A

5.38.010 Purpose.

The purpose of this Chapter is to require the Property Owner of a residential Dwelling that operates as a Short-Term Rental ("STR"), as those terms are defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this Chapter in order to safeguard the peace, safety and general welfare of the residents of Dana Point and their visitors and guests by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to short-term rentals. It is the express purpose of this Chapter to prohibit nuisances that might exist in the absence of regulations, including specific nuisances associated with special events such as weddings, parties, bachelor/bachelorette parties, conferences, corporate meetings, or similar events that might negatively impact residents. As of the effective date hereof, there are existing STRs permitted in the City. These existing STRs are subject to the provisions of this Chapter on a go forward basis, including the provisions hereof related to renewals; but, they are "grandfathered" in the sense they continue to remain valid and the holders of related STR Permits do not need to submit a new initial application.

5.38.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

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

- (j) "Multi-Family Home Stay Short-Term Rental" shall mean an STR at a parcel upon which a multi-family Dwelling (i.e., a duplex, tri-plex, etc.) lawfully exists, and at which all the following conditions also exist: (i) the Property Owner owns two or more Dwellings on the parcel, and (ii) the Property Owner resides in one of the Dwellings on the parcel and such Dwelling unit is the Property Owner's Primary Residence, and (iii) one of the Dwellings owned by the Property Owner is used for STR purposes.
- (k) "Non-Primary Short-Term Rental" shall mean a Dwelling used for Short-Term Rental purposes other than a Home Stay, Multi-Family Home Stay or Primary Residence Short-Term Rental.
- (l) "Permittee" shall mean the holder of an STR Permit.
- (m) "Primary Residence" shall mean a Dwelling which a Permittee uses as his or her domicile and permanent principle home for legal purposes.
- (n) "Primary Residence Short-Term Rental" shall mean an STR at a Dwelling which is the Property Owner's Primary Residence, as evidenced per the provisions hereof, which is being rented for STR purposes when the Property Owner is traveling or living elsewhere.
- (o) "Property Owner" shall mean a person who holds a recorded interest in a parcel upon which a Dwelling exists which is used for, or proposed to be used for an STR. In the case of a trust, both the trustees and any person or entity holding a beneficial interest of more than 5% in the trust are deemed to be the Property Owner. In the case of a business entity, any person having an ownership interest of more than 5% in the entity shall be deemed to be a Property Owner.
- (p) "Short-term rental" is defined as the rental of any structure or any portion of any structure for occupancy, dwelling, lodging or sleeping purposes for at least two (2) consecutive nights, but no more than thirty (30), consecutive calendar days in duration in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes and multiple-family dwellings. "Short-term rental" historically and continues to be included in the definition of "hotel" for purposes of collecting transient occupancy tax pursuant to Chapter [3.25](#) of this Code.
- (q) "STR Permit" means a permit issued to a Property Owner to authorize use of a Dwelling for STR purposes pursuant to this Chapter.
- (r) "Transient" means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior and subsequent to the effective date of the ordinance codified in this Chapter may be considered.

5.38.030 Permit Required.

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

5.38.040 Permit Holders/Agents.

- (a) STR Permits shall be issued only to the Property Owner of the parcel upon which a Dwelling exists that is proposed to be used as an STR. The Property Owner shall

be responsible for compliance with the provisions of this Chapter, and any STR Permit.

- (b) A Property Owner may retain an Agent or a representative to comply with the requirements of this Chapter, including, without limitation, the filing of an application for an STR Permit, the management of the STR, and the compliance with the conditions to the STR Permit. The Property Owner shall sign and notarize an agreement satisfactory to the Community Development Director demonstrating the creation of an Agent relationship. The failure of an Agent to comply with this Chapter or any STR Permit condition shall be deemed non-compliance by both the Property Owner and Agent, and both shall be subject to any adverse action by the City related to a violation, including imposition of fines and STR Permit revocation.

5.38.050 Permit Limitations/Transfers.

- (a) A maximum of 70 STR Permits may be issued for Non-Primary STRs in the City, for STRs located outside the City's Coastal Zone. Any STR Permits issued prior to the effective date of this provision for Non-Primary STRs shall continue to be valid, and shall count towards this numerical cap.
- (b) There shall be no limit on the number of STR Permits that may be issued for Multi-Family Home Stay, Home Stay or Primary Residence STRs for such STRs located outside City's Coastal Zone. Any STR Permits issued as of the effective date of this provision for STRs that meet the definition of a Multi-Family Home Stay, Home Stay or Primary Residence STR shall continue to be valid.
- (c) Adjustments to cap when new Home Stay, Multi Family Home Stay or Primary Residence STR Permits are issued:
- i. Each time a new STR Permit is issued for a Home Stay, Multi Family Home Stay or Primary Residence STR located outside of the City's Coastal Zone, the cap for Non-Primary STR Permits noted in Section 5.38.060(a) shall be reduced by one (1).
 - ii. The reduction to the numerical cap noted in the preceding subsection shall have no impact on, or application to an existing Non-Primary STR Permit, including when such STR Permit is considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist.
- (d) Adjustments to cap when new Mixed-Use Parcel STR Permits are issued :
- i. A maximum of 190 new Mixed-Use Parcel STR Permits may be issued for Non-Primary STRs that are located on Mixed-Use Parcels City wide, regardless of whether located within or outside the Coastal Zone.
 - ii. Mixed-Use Parcel STR Permits shall be required to pay the STR Permit fee established by the City Council in an amount calculated as follows (Total STR Permit Fee x 0.75).

- iii. Mixed-Use Parcel STR Permits may be issued without regard to the numerical cap noted in Section 5.38.060(a), and do not count towards determining such numerical cap.
 - iv. Each time a Mixed-Use Parcel STR Permit is issued for a Non-Primary STR located outside of the City's Coastal Zone, the numerical cap for such category of STR Permits noted in Section 5.38.060(a) [as such cap may be adjusted pursuant to the provisions of Section 5.38.060(c)] shall be reduced by one (1). This reduction to the numerical cap shall have no impact on or application to an existing Non-Primary STR Permit, including when such STR Permit is considered for annual renewal. Rather, it shall only apply to either: (1) reduce the number of Non-Primary STR Permits available to be issued in the event less than the total number of applicable, permissible STR Permits have been issued, or (2) limit the availability of Non-Primary STR Permits that would otherwise be available to Property Owners on the STR Permit waitlist.
- (e) When a parcel upon which a Dwelling exists for which an STR Permit has been issued is sold, the STR Permit shall expire upon the date the title to such parcel transfers, and the STR Permit shall not transfer to the new Property Owner. Should the new Property Owner desire to use any Dwelling on the parcel as an STR, such new Property Owner must apply for and receive an STR Permit.
 - (f) Notwithstanding the foregoing, if a parcel upon which a Dwelling exists for which an STR Permit has been issued changes ownership through an inheritance, or as a result of a family transfer that results in no new property tax assessment of the parcel, the STR Permit may be transferred provided the new Property Owner(s) is/are family members of the prior Property Owner. In such circumstance, the new Property Owner may apply for an STR Permit transfer. The STR Permit transfer shall be subject to such requirements as may be imposed by the Community Development Director to confirm the new Property Owner(s) is/are a family member(s) of the prior Property Owner(s). Prior to the first use of any Dwelling on a parcel as an STR after a change of ownership as a result of an inheritance, an STR Permit transfer shall have been approved by the City. The Community Development Director shall determine if a familial relationship exists, and shall base that decision on the totality of the facts of any given circumstance in a manner that carries out the intent of this provision consistent with applicable laws.
 - (g) Upon reaching the maximum number of Non-Primary STR Permits, the City will establish a waitlist for the issuance of Non-Primary STR Permits when they become available.
 - (h) STR Permits shall be limited to one STR Permit per Property Owner without regard to the category of STR to which such STR Permit applies (i.e., whether for a Home Stay, Non-Primary, Multi-Family Home Stay, or Primary Residence STR.) Any STR Permits issued prior to the effective date of this provision which conflict herewith shall be deemed to be "grandfathered" and will remain valid, subject to all other provisions of this Chapter, until such time as the pre-existing STR Permit(s) expire(s) or is (are) revoked.
 - (i) An STR Permit shall not be issued for a Dwelling located in a multi-family structure if issuance of such Permit would result in the creation of a "hotel", as defined by the City's Zoning Code.

5.38.060 Application for Permit.

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

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

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

5.38.070 Permit Fee.

A fee for issuance of an STR Permit shall accompany a STR Permit Application, in an amount as established by Resolution of the City Council. Such fee shall be paid annually as a condition to renew a STR Permit, and shall be paid concurrent with an application for STR Permit renewal. If a STR Permit is not issued, or not renewed, as a result of the Community Development Director determining the application should not be granted or renewed based on the provisions of this Chapter, the fee shall be used to cover the City's costs associated therewith and shall not be returned.

5.38.080 Application for Waitlist

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

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

5.38.090 Renewal of Permit

- (a) All Property Owners holding STR Permits shall apply for and renew their STR Permit annually on March 1st or an alternative date as determined by the Community Development Director.
- (b) STR Permit renewal applications shall include any changes to the information or requirements set forth in this Chapter, as well as proof of current general liability insurance as required by this Chapter.
- (c) In the case of renewal of STR Permits issued for Primary Residence and Home Stay STRs, the Property Owner shall provide evidence that the Dwelling proposed to be used as an STR continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and continues to receive a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (d) In the case of renewal of STR Permits issued for Multi-Family Home Stay STRs, the Property Owner shall provide evidence that one of the Dwellings on the parcel where the proposed STR is located continues to be the Property Owner's Primary Residence which shall at a minimum include evidence that the Property Owner has filed for and received a homeowner's exemption for the Dwelling as part of its most recent property tax assessment and a secondary form of evidence designating the Dwelling as the Property Owner's domicile such as an income tax return, car registration, Driver's License or similar official record satisfactory to the Community Development Director.
- (e) Any STR Permit that is inactive during a permit year (meaning no rentals occurred during the year) are not eligible to be renewed. This inactivity requirement may be waived if the Dwelling to which the STR Permit renewal applies is under renovation, as evidenced by validly issued, unexpired building permits, or for good cause as determined by the Community Development Director. Any STR Permit inactive for two permit years shall not be renewed.

5.38.100 Conditions of Permit Issuance and Renewal

- (a) STR Permits and renewals issued pursuant to this Chapter are subject to the following standard conditions:
 - (1) The Property Owner (or Agent if applicable) shall provide proof that the STR complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
 - (2) The Property Owner (or Agent if applicable) shall provide proof that STR to which the Permit applies is not prohibited by any Homeowners Association Conditions, Covenants, and Restrictions ("CC&Rs") or any other community standards/guidelines applicable to the parcel where the Dwelling to be used as an STR is located.
 - (3) Concurrent with the issuance of the STR Permit and annually upon its renewal, City Staff shall provide notice of the proposed action on the STR Permit to all

property owners and tenants abutting the parcel, or in the case of an STR in a multi-family Dwelling the owners and tenants of all other Dwelling Units on the parcel and/or in the same structure, upon which the Dwelling proposed to operate as an STR is located. The notice shall also provide the contact information for the Property Owner (and Agent if applicable) and their twenty-four (24) hour emergency contact phone number. The notification package shall also identify the City's twenty-four (24) hour STR hotline phone number, Code Enforcement phone number, and Orange County Sheriff's Department phone number. The notice shall not afford the abutting owners/tenants any protest, appeal, or other related rights; rather, its intent is to provide the abutting property owners/tenants with an annual reminder as to the contact information for the various individuals and entities responsible for enforcement in the event that an issue arises with the operation of the STR.

- (4) The Dwelling for which an STR Permit is requested must pass an initial inspection by the City prior to STR Permit issuance. The City may conduct additional inspections as deemed necessary or prudent at any reasonable time, including prior to subsequent renewals.
- (5) The Property Owner shall provide a twenty-four (24) hour emergency contact that will be available to respond to issues at the STR.
- (6) The STR must have and maintain a minimum of two (2) off-street parking spaces.
- (7) The STR must have a visible house number easily seen from the street, day or night.
- (8) All advertising for the STR shall include the City issued STR Permit number in the subject line and in the description of the STR. In addition, all photographs, maps, and diagrams of the STR that are used for advertising purposes shall impose the City-issued STR Permit number in the lower right-hand corner in a font, style, size, and color to be reasonably legible, with any dispute as to the meaning of this provision subject to interpretation by the Community Development Director.
- (9) The primary overnight and daytime renter, who shall also be residing as a guest in the STR during any STR rental period must be an adult twenty-five (25) years of age or older. This adult must provide a telephone number to the Property Owner (or Agent if applicable) and shall be accessible to the Property Owner by telephone at all times.
- (10) Prior to occupancy, the Property Owner (or Agent if applicable) shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the STR. The Property Owner (or Agent if applicable) shall require that same adult to sign a formal acknowledgment that he or she is legally responsible for compliance by all occupants and guests of the STR with the provisions of this Chapter, as well as a copy of the City's Good Neighbor Acknowledgment. An unsigned copy of the City's Good Neighbor Acknowledgment shall be posted in a conspicuous location within the STR, along with a copy of the City's STR regulations. This information shall be readily available upon request of any police officer or employee of the City authorized to enforce this Chapter or State law.

- (11) The Property Owner (or Agent if applicable) shall rent the STR for a minimum stay of two (2) consecutive nights.
- (12) The maximum overnight occupancy of the STR shall be limited to two (2) persons per bedroom plus two (2) additional persons within the STR. The Community Development Director may, when unusual size, interior layout, parking, or other physical characteristics are shown, approve a greater maximum number of overnight occupants as part of an STR Permit application or renewal. The maximum daytime occupancy shall be limited to two and a half (2.5) times the overnight occupancy and not exceed twenty (20) persons; however, the Community Development Director may, when unusual size, or other physical characteristics, approve a greater maximum number of daytime occupants as part of an STR Permit application or renewal.
- (13) The maximum number of vehicles allowed at the STR shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms within the STR. The Community Development Director may, when unusual size, parking, or other physical characteristics are shown, approve a greater maximum number of vehicles as part of an STR Permit application or renewal. The Property Owner must ensure a sufficient number of parking spaces are accessible to tenants to accommodate the maximum number of vehicles allowed.
- (14) No on-site exterior signs are to be posted on a parcel advertising an STR at the location.
- (15) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler and between the hours of 5:00 p.m. the day before and 8:00 a.m. the day after the scheduled trash collection days, as provided in Chapter 6.10 of the Dana Point Municipal Code. In the event the Property Owner fails to comply with this provision, he/she shall be required to sign up for walk-up trash service provided by the City's waste disposal franchisee and provide proof to the City of the same. The Property Owner shall provide sufficient trash collection containers and services to meet the demand of the occupants of the STR.
- (16) Each lease or rental agreement for an STR shall include the following terms, notifications, and disclosures, which shall also be posted in a conspicuous location inside the STR:
 - (A) The maximum number of occupants that are permitted and notification that failure to conform to the maximum occupancy is a violation of this Chapter.
 - (B) The number of parking spaces provided and, if not adjacent to the STR, the location of assigned parking and the maximum number of vehicles that are permitted.
 - (C) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of buildings on the parcel.
 - (D) Notification that the occupant may be cited or fined by the City and/or immediately evicted by the Property Owner (or Agent as applicable) for violating any and all applicable laws.

- (E) The name of the Property Owner or Agent, and a telephone number at which that party may be reached at all times and 9-1-1 Emergency information.
 - (F) Summary of applicable Homeowners Association Conditions, Covenants, and Restrictions (CC&Rs) and bylaws, including pool location and hours.
 - (G) The terms, notifications, and disclosures must be posted during the registration process.
- (17) The Property Owner shall ensure that the occupants of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, alcohol consumption, or the use of drugs. Property Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the tenant, calling for law enforcement services or City code enforcement officers, evicting the tenant, or any other action necessary to immediately abate the disturbance.
- (18) The Property Owner or Agent as applicable shall, upon notification that occupants or tenants of an STR have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, and/or overcrowding, take action to abate the issue within thirty (30) minutes of the Property Owner or Agent being notified of a complaint and prevent a recurrence of such conduct by those occupants or guests. In some instances, the Property Owner or Agent may be required to arrive on site within thirty (30) minutes of a received complaint to address the issue and ensure there is not a re-occurrence.
- (19) No outside noise from the STR shall be heard during quiet hours of 10:00 p.m. to 7:00 a.m.
- (20) The Property Owner or Agent as applicable shall include ADA information, if available, in all advertisements for the STR (e.g., stairs, signage, ingress/egress, parking, storage, utilities, showers and lavatories, air conditioning, etc.).
- (21) Advertisements, and information provided in the STR itself, shall disclose whether bicycles or other means of transport (scooters, skateboards, carpooling, rideshare, etc.) are available.
- (b) The Community Development Director shall have the authority at any time to impose additional standard conditions, applicable to all STRs, as necessary to achieve the objectives of this Chapter.
- (c) The Community Development Director shall have the authority to impose additional conditions on any STR Permit in the event of any violation of the conditions to the STR Permit or the provisions of this Chapter subject to compliance with the related procedures specified in this Chapter.
- (d) The Property Owner or Agent as applicable shall maintain a valid transient occupancy tax registration certificate issued by the City for the STR, and shall collect and remit transient occupancy tax as required by Chapter 3.25 of the Municipal Code.

5.38.110 Short-Term Rental Operator Regulations

The following are additional regulations applicable to all Property Owners or Agents, if applicable, for the operation of STRs. These regulations may be updated periodically by the Community Development Director for clarification of situations that may develop based on the implementation of this Chapter, and any updates shall be memorialized as a written STR Regulation which shall be provided to each STR Permittee upon becoming effective.

- (a) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR if such Dwelling is an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, created as part of Single-Family Residential Duplex (as defined by Zoning Code Section 9.72), or designated as an affordable housing unit, and no STR Permit shall be issued for any such Dwelling.
- (b) No person shall rent, offer to rent, or advertise for rent a Dwelling for use as an STR unless such Dwelling is in a zoning district where residential uses are allowed, including, but not limited to, detached single-family dwellings, condominiums, duplexes, triplexes, townhomes, and multiple-family dwellings, and no STR Permit shall be issued for a Dwelling that does not meet this criteria.
- (c) Home Stay STR and Multi-Family Home Stay STR shall be subject to the following:
 - (1) Notwithstanding any other provision of this Chapter to the contrary, the Property Owner of a Home Stay STR or Multi-Family Home Stay STR shall be present at the parcel upon which the STR is located during the rental period between the hours of 10:00 p.m. to 7:00 a.m.
 - (2) A maximum of one Home Stay STR Permit may be issued for any parcel upon which multiple Dwellings exist.
 - (3) In no instance shall a Home Stay STR Permittee allow the use of an on-site camper, RV, or tent by renters as part of the STR use on a parcel.
- (d) Primary Residence STR shall be subject to the following:
 - (1) A Property Owner to whom an STR Permit for a Primary Residence STR is issued shall be limited to renting the Dwelling to which the STR Permit applies for a maximum of 60 days per 12-month period, (with the date starting on the date the STR Permit is issued) unless further restricted by CC&R regulations.

5.38.120 Violations and Penalties

- (a) The following conduct shall constitute a violation for which the penalties as specified in this Chapter may be imposed, or for which a STR Permit may be revoked:
 - (1) The Property Owner and/or Agent has failed to comply with any provisions of, including the standard conditions specified in this Chapter.
 - (2) The Property Owner and/or Agent has failed to comply with conditions imposed by the Community Development Director pursuant to the provisions of this Chapter.
 - (3) The Property Owner and/or Agent has willfully violated the provisions of this Chapter;

- (4) The Property Owner and/or Agent has failed to comply with any notice of violation and/or pay any fines imposed pursuant to subsection (b) below within thirty (30) days of the date of notification; or
 - (5) The Property Owner and/or Agent has failed to comply with the requirement to pay the transient occupancy tax or submit a related report as required by Chapter 3.25 of the Municipal Code within the required time limit.
- (b) Penalties. The penalties for violations imposed per subsection (a) above, or the Municipal Code, shall be the responsibility of the Property Owner, and/or the Agent if applicable, and are issued on a per day per violation basis as follows:
- (1) For the first violation, the penalty shall be the maximum monetary amount allowed per State law;
 - (2) For a second violation, the penalty shall be the maximum monetary amount allowed per State law;
 - (3) For a third violation, the penalty shall result in the immediate revocation of the STR Permit. In the event the STR Permit has been revoked, the Property Owner shall thereafter be ineligible to receive an STR Permit for any category of STR to be operated on the same parcel upon which the STR for which the Permit was revoked existed.

5.38.130 Procedure for Imposition of Penalties/Revocation

(a) Penalties, including notice of violation, shall be imposed in any manner authorized by law, including the provisions of this Section.

(b) STR Permits shall be revoked in the manner provided in this Section.

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

The written notice shall be served on the Property Owner, and the Agent if applicable, and shall specify the facts which, in the opinion of the Community Development Director, constitute substantial evidence to establish grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or the STR Permit will be revoked within thirty (30) days from the date the notice is given unless the Property Owner, or Agent if applicable, files with the City Clerk before the penalties or revocation becomes effective, a request for hearing, and pays any applicable fee, in the manner applicable to administrative citations set forth in Chapter 1.10 related to administrative citations.

5.38.140 Permits and Fees Not Exclusive.

Permits and fees required by this Chapter shall be in addition to any license, permit or fee required under any other Chapter of this Code. The issuance of any permit pursuant to this

Chapter shall not relieve the owner of the obligation to comply with all other provisions of this Code pertaining to the use and occupancy of the short-term rental, or the Dwelling used for such purpose or the property on which it is located.